

## CHAPTER 92

## ( HB 360 )

AN ACT relating to fiscal matters and declaring an emergency.

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

➔Section 1. KRS 48.115 is amended to read as follows:

- (1) The revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. The ~~planning report,~~ preliminary revenue estimates~~,~~ and official revenue estimates required by KRS 48.120 shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director and the Legislative Research Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial conditions of the Commonwealth.
- (2) If the Legislative Research Commission or state budget director determines that a revision to the official revenue estimates is needed, the Legislative Research Commission or state budget director shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.
- (3) The enacted budget reduction plan required by KRS 48.130 shall be implemented only:
  - (a) Upon the issuance of an official revenue estimate from the consensus forecasting group reflecting a revenue shortfall of five percent (5%) or less; or
  - (b) At the end of a fiscal year, upon the existence of an actual revenue shortfall of five percent (5%) or less, as determined by the Office of State Budget Director.
- (4) The state budget director shall coordinate with the Department of Revenue and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.
- (5) Staff for the consensus forecasting group shall be provided by the Legislative Research Commission.

➔Section 2. KRS 48.120 is amended to read as follows:

- (1) By ~~September 30~~~~August 15~~ of each odd-numbered year, the Office of State Budget Director, in conjunction with the consensus forecasting group, shall provide to each branch of government **preliminary revenue estimates**~~a budget planning report~~. The **preliminary revenue estimates**~~budget planning report~~ shall include:
  - (a) A baseline analysis and projections of economic conditions and outlook;
  - (b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition;
  - (c) The revenue estimates and implications for the general fund and road fund for the current fiscal year and next ~~two (2)~~~~four (4)~~ fiscal years; and
  - (d) Projections of personal income, employment, and economic indicators that reflect economic conditions.
- ~~(2) [By October 15 of each odd-numbered year, the Office of State Budget Director shall provide to each branch of government preliminary revenue estimates made by the consensus forecast group for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.]~~
- ~~(3) [On or before the fifteenth legislative day, the Office of State Budget Director shall certify and present to the Legislative Research Commission~~~~General Assembly~~ the official revenue estimates made by the consensus forecasting group for the general fund and road fund for the current and next two (2) fiscal years.
- ~~(3)~~~~(4)~~ Appropriations made in the branch budget bills enacted for each branch of government shall be based upon the official revenue estimates presented to the **Legislative Research Commission**~~General Assembly~~ by the Office of State Budget Director under subsection ~~(2)~~~~(3)~~ of this section, as modified by the General Assembly.

~~(4)(5)~~ The enacted estimates shall become the official revenue estimates of the Commonwealth upon the branch budget bills becoming law, and shall remain the official revenue estimates of the Commonwealth until revised by the consensus forecasting group as provided in KRS 48.115.

➔Section 3. KRS 132.0225 is amended to read as follows:

- (1) (a) A taxing district that does not elect to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating tax rate as defined in KRS 132.010 shall establish a final tax rate within forty-five (45) days of the department's certification of the county's property tax roll.
- (b) *For boards of education, the forty-five (45) days shall begin from the date of the department's certification to the chief state school officer as required by KRS 160.470(4).*
- (c) A city that does not elect to have city ad valorem taxes collected by the sheriff as provided in KRS 91A.070(1) shall be exempt from *the forty-five (45) day~~this~~* deadline.
- (d) Any nonexempt taxing district that fails to meet *the forty-five (45) day~~this~~* deadline shall be required to use the compensating tax rate for that year's property tax bills.
- (2) A taxing district that elects to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating tax rate as defined in KRS 132.010 shall follow the provisions of KRS 132.017.

➔Section 4. KRS 138.472 is amended to read as follows:

- (1) As used in this section:
  - (a) "Department" means the Kentucky Department of Revenue;
  - (b) "Gross receipts" means the total consideration received for the:
    1. Rental of a vehicle, including the daily or hourly rental fee, fees charged for using the services, charges for insurance protection plans, fuel charges, pickup and delivery fees, late fees, and any charges for any services necessary to complete the rental transaction made by a:
      - a. Peer-to-peer car sharing company; or
      - b. Motor vehicle rental company; and
    2. Charges made to provide the service to a user, including any charges for time or mileage, fees for using the services, and any charges for any services necessary to complete the transaction made by a:
      - a. TNC;
      - b. Taxicab; or
      - c. Limousine service provider;
  - (c) The following terms have the same meaning as in KRS 281.010:
    1. *"Human service transportation delivery";*
    2. "Limousine";
    - 3.~~{2.}~~ "Peer-to-peer car sharing certificate";
    - 4.~~{3.}~~ "Peer-to-peer car sharing company";
    - 5.~~{4.}~~ "Peer-to-peer car sharing driver";
    - 6.~~{5.}~~ "Peer-to-peer car sharing program";
    - 7.~~{6.}~~ "Shared vehicle";
    - 8.~~{7.}~~ "Shared vehicle driver";
    - 9.~~{8.}~~ "Taxicab";
    - 10.~~{9.}~~ "Transportation network company" or "TNC";

- ~~11.10.~~ "Transportation network company service" or "TNC service"; and
- ~~12.11.~~ "U-Drive-It";
- (d) "Motor vehicle rental company" has the same meaning as in KRS 281.687; and
- (e) "Person" means *the individual or the entity required to be* the holder of any of the following certificates in KRS 281.630:
1. Limousine;
  2. Peer-to-peer car sharing;
  3. Taxicab;
  4. Transportation network; and
  5. U-Drive-It.
- (2) (a) An excise tax is imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent, with or without a driver, within the Commonwealth.
- (b) The tax is imposed at the rate of six percent (6%) of the gross receipts derived from the:
- ~~1.(a)~~ Rental of a shared vehicle by a peer-to-peer car sharing company;
  - ~~2.(b)~~ Rental of a vehicle by a motor vehicle renting company;
  - ~~3.(c)~~ Sales of TNC services;
  - ~~4.(d)~~ Sales of taxicab services; and
  - ~~5.(e)~~ Sales of limousine services.
- (c) *Excluded from the tax are receipts derived from the provision of human service transportation delivery.*
- (3) (a) The tax imposed under subsection (2) of this section shall be administered and collected by the department. Revenues generated from the tax shall be deposited into the general fund.
- (b) *On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department by every person required to pay the tax in a form prescribed by the department.*
- (4) The tax imposed by subsection (2) of this section shall be the direct obligation of the peer-to-peer car sharing company, the motor vehicle renting company, the TNC, the taxicab service provider, and the limousine service provider, but it may be charged to and collected from the user of the service. The tax shall be remitted to the department each month on forms and pursuant to administrative regulations promulgated by the department.
- (5) (a) As soon as practicable after each return is received, the department shall examine and audit the return. If the amount of taxes computed by the department is greater than the amount returned by the person, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the person.
- (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the amount of taxes computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the person, the excess shall be assessed by the department within six (6) years from the date the return was filed.
- (6) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle Regulation to void the certificate issued to a:
- (a) Limousine certificate holder;
  - (b) Peer-to-peer car sharing certificate holder;

- (c) Taxicab certificate holder;
  - (d) TNC certificate holder; or
  - (e) U-Drive-It certificate holder.
- (7) If a person fails or refuses to file a return or furnish any information requested in writing, the department may, from any information in its possession, make an estimate of the certificate holder's total trip costs and issue an assessment against the certificate holder based on the estimated trip cost charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.
- ~~(8) If any person fails to make and file a return required by subsection (4) of this section on or before the due date of the return, or if the taxes, or portion thereof, is not paid on or before the date prescribed for its payment, then, unless it is shown to the satisfaction of the department that the failure is due to a reasonable cause, five percent (5%) of the taxes found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars (\$10).~~
- ~~(9)~~ If the tax imposed by subsection (2) of this section is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made.
- ~~(9)~~~~(10)~~ Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
- ~~(10)~~~~(11)~~ Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership, or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this chapter, shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company, partner of a limited liability partnership, and general partner of a limited liability limited partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
- ~~(11)~~~~(12)~~ Any person who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- ➔Section 5. KRS 138.475 (Effective January 1, 2024) is amended to read as follows:
- (1) As used in this section:
- (a) "Electric motorcycle" means the same as "motorcycle" or "motor scooter" as defined in KRS 186.010, that is powered by a:
    1. Battery or equivalent energy storage device that can be charged with an electric plug using an external electricity source; or

2. Combination of an internal combustion engine and electric motor;
  - (b) "Electric vehicle" means any vehicle that has plug-in charging capability, regardless of whether the vehicle is powered by:
    1. An electric motor only; or
    2. A combination of an internal combustion engine and electric power; and
  - (c) "Hybrid vehicle" means any vehicle that does not have plug-in charging capability and is powered by a combination of an internal combustion engine and an electric motor.
- (2) At the time of initial registration, and each year upon annual vehicle registration renewal, the county clerk shall collect, as required under KRS 186.050, from the registrants of electric motorcycles, electric vehicles, and hybrid vehicles the electric vehicle ownership fees established under subsections (3) and (4) of this section.
  - (3) The electric vehicle ownership fees shall be:
    - (a) One hundred twenty dollars (\$120) for electric vehicles; and
    - (b) Sixty dollars (\$60) for electric motorcycles or hybrid vehicles.
  - (4) The Department of Revenue shall adjust the fees established in subsection (3) of this section, on the same schedule and in the same manner as the adjustments to the electric vehicle power taxes under KRS 138.477, except that:
    - (a) Adjustment to the fees shall be rounded to the nearest dollar; and
    - (b) Any adjustment of fees shall not result in a decrease below the base fees established in subsection (3) of this section.
  - (5) The electric vehicle ownership fees collected under this section shall be transferred:
    - ~~(a) Fifty percent (50%) to the general fund; and~~
    - ~~(b) Fifty percent (50%) to the road fund.~~

➔Section 6. KRS 139.010 is amended to read as follows:

As used in this chapter, unless the context otherwise provides:

- (1) (a) "Admissions" means the fees paid for:
  1. The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and
  2. The privilege of using facilities or participating in an event or activity, including but not limited to:
    - a. Bowling centers;
    - b. Skating rinks;
    - c. Health spas;
    - d. Swimming pools;
    - e. Tennis courts;
    - f. Weight training facilities;
    - g. Fitness and recreational sports centers; and
    - h. Golf courses, both public and private;

regardless of whether the fee paid is per use or in any other form, including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof.
- (b) "Admissions" does not include:
  1. Any fee paid to enter or participate in a fishing tournament; or

2. Any fee paid for the use of a boat ramp for the purpose of allowing boats to be launched into or hauled out from the water;
- (2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;
- (3) "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) (a) "Cosmetic surgery services" means modifications to all areas of the head, neck, and body to enhance appearance through surgical and medical techniques.
- (b) "Cosmetic surgery services" does not include *surgeries services that are medically necessary to reconstruct or correct dysfunctional areas of the face*~~[reconstruction of facial]~~ and body~~[defects]~~ due to birth disorders, trauma, burns, or disease;
- (6) "Department" means the Department of Revenue;
- (7) (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.
- (b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.
- (c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;
- (8) (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.
- (b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.
- (c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;
- (9) (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.
- (b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;
- (10) (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.
- (b) "Digital code" shall not include a code that represents:
1. A stored monetary value that is deducted from a total as it is used by the purchaser; or
  2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;
- (11) (a) "Digital property" means any of the following which is transferred electronically:
1. Digital audio works;
  2. Digital books;
  3. Finished artwork;
  4. Digital photographs;
  5. Periodicals;
  6. Newspapers;
  7. Magazines;

8. Video greeting cards;
  9. Audio greeting cards;
  10. Video games;
  11. Electronic games; or
  12. Any digital code related to this property.
- (b) "Digital property" shall not include digital audio-visual works or satellite radio programming;
- (12) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address;
- (13) "Directly used in the manufacturing or industrial processing process" means the process that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;
- (14) (a) ***"Executive employee recruitment services" means services provided by a person to locate potential candidates to fill open senior-level management positions.***
- (b) ***"Executive employee recruitment services" includes but is not limited to making a detailed list of client requirements, researching and identifying potential candidates, performing pre-screening interviews, and providing contract and salary negotiations;***
- (15) (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property, digital property, ~~or~~ real property, ***or prewritten computer software access services*** according to the terms of the contract.
- (b) "Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in KRS 136.602 or broadband;
- ~~(16)~~~~(15)~~ (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.
- (b) "Finished artwork" includes:
1. Assemblies;
  2. Charts;
  3. Designs;
  4. Drawings;
  5. Graphs;
  6. Illustrative materials;
  7. Lettering;
  8. Mechanicals;
  9. Paintings; and
  10. Paste-ups;
- ~~(17)~~~~(16)~~ (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold,

leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

1. The retailer's cost of the tangible personal property, digital property, or services sold;
  2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
  3. Charges by the retailer for any services necessary to complete the sale;
  4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
  5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
  6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.
- (b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:
1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
  2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
  3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
  4. One (1) of the following criteria is met:
    - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
    - b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or
    - c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.
- (c) "Gross receipts" and "sales price" shall not include:
1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;
  2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
  3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or
  4. Local alcohol regulatory license fees authorized under KRS 243.075 that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.
- (d) As used in this subsection, "third party" means a person other than the purchaser;
- ~~(18)~~~~(17)~~ "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;
- ~~(19)~~~~(18)~~ "Industrial processing" includes:



- (a) Refining;
  - (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
  - (c) Mining, quarrying, fabricating, and industrial assembling;
  - (d) The processing and packaging of raw materials, in-process materials, and finished products; and
  - (e) The processing and packaging of farm and dairy products for sale;
- ~~(19)~~ (20) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:
- 1. Purchase the property; or
  - 2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).
- (b) "Lease or rental" shall not include:
- 1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
  - 2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or
  - 3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- (21) (a) ***"Lobbying services" means the act of promoting or securing passage of legislation or an attempt to influence or sway a public official or other public servant toward a desired action, including but not limited to the support of or opposition to a project or the passage, amendment, defeat, approval, or veto of any legislation, regulation, rule, or ordinance;***
- (b) ***"Lobbying services" includes but is not limited to the performance of activities described as executive agency lobbying activities as defined in KRS 11A.201, activities described under the definition of lobby in KRS 6.611, and any similar activities performed at the local, state, or federal levels;***
- ~~(20)~~ (22) (a) "Machinery for new and expanded industry" means machinery:
- 1. Directly used in the manufacturing or industrial processing process of:
    - a. Tangible personal property at a plant facility;
    - b. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
    - c. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;
  - 2. Which is incorporated for the first time into:
    - a. A plant facility established in this state; or
    - b. Licensed premises located in this state; and
  - 3. Which does not replace machinery in the plant facility or licensed premises unless that machinery purchased to replace existing machinery:
    - a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);

- b. Performs different functions;
  - c. Is used to manufacture a different product; or
  - d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.
- (b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;
- ~~(22)~~~~(21)~~ (23) "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;{
- ~~(22)~~ "Marketing services" means developing marketing objectives and policies, sales forecasting, new product developing and pricing, licensing, and franchise planning;}
- (24)~~(23)~~ "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell tangible personal property, digital property, or services, or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;
- (25)~~(24)~~ (a) "Marketplace provider" means a person, including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:
1. The person directly or indirectly:
    - a. Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;
    - b. Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, digital property, or services between a marketplace retailer and a purchaser in a forum including a shop, store, booth, catalog, Internet site, or similar forum;
    - c. Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace retailers to purchasers for the purpose of making retail sales of tangible personal property, digital property, or services;
    - d. Provides a marketplace for making retail sales of tangible personal property, digital property, or services, or otherwise facilitates retail sales of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services, that are the subject of the retail sale;
    - e. Provides software development or research and development activities related to any activity described in this subparagraph, if the software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;
    - f. Provides or offers fulfillment or storage services for a marketplace retailer;
    - g. Sets prices for a marketplace retailer's sale of tangible personal property, digital property, or services;
    - h. Provides or offers customer service to a marketplace retailer or a marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or
    - i. Brands or otherwise identifies sales as those of the marketplace provider; and
  2. The person directly or indirectly:
    - a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;

- b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;
  - c. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or
  - d. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.
- (b) "Marketplace provider" includes but is not limited to a person that satisfies the requirements of this subsection through the ownership, operation, or control of a digital distribution service, digital distribution platform, online portal, or application store;
- ~~(26)~~~~(25)~~ "Marketplace retailer" means a seller that makes retail sales through any marketplace owned, operated, or controlled by a marketplace provider;
- ~~(27)~~~~(26)~~ (a) "Occasional sale" includes:
- 1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or
  - 2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.
- (b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;
- ~~(28)~~~~(27)~~ (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.
- (b) "Other direct mail" includes but is not limited to:
- 1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
  - 2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and
  - 3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.
- (c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;
- ~~(29)~~~~(28)~~ "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- ~~(30)~~~~(29)~~ "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;
- ~~(31)~~~~(30)~~ (a) "Photography and photofinishing services" means:
- 1. The taking, developing, or printing of an original photograph; or

2. Image editing, including shadow removal, tone adjustments, vertical and horizontal alignment and cropping, composite image creation, formatting, watermarking printing, and delivery of an original photograph in the form of tangible personal property, digital property, or other media.
- (b) "Photography and photofinishing services" does not include photography services necessary for medical or dental health;
- ~~(32)~~~~(31)~~ "Plant facility" means a single location that is exclusively dedicated to manufacturing or industrial processing activities. A location shall be deemed to be exclusively dedicated to manufacturing or industrial processing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing or industrial processing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;
- ~~(33)~~~~(32)~~ (a) "Prewritten computer software" means:
1. Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;
  2. Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or
  3. Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.
- (b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made.
- (c) The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;
- ~~(34)~~~~(33)~~ "Prewritten computer software access services" means the right of access to prewritten computer software where the object of the transaction is to use the prewritten computer software while possession of the prewritten computer software is maintained by the seller or a third party, wherever located, regardless of whether the charge for the access or use is on a per use, per user, per license, subscription, or some other basis;
- ~~(35)~~~~(34)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
1. Tangible personal property;
  2. An extended warranty service;
  3. Digital property transferred electronically; or
  4. Services included in KRS 139.200;
- for a consideration.
- (b) "Purchase" includes:
1. When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;
  2. A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and
  3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;
- ~~(36)~~~~(35)~~ "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;

- ~~(37)~~~~(36)~~ "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;
- ~~(38)~~~~(37)~~ "Remote retailer" means a retailer with no physical presence in this state;
- ~~(39)~~~~(38)~~ (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.
- (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;
- ~~(40)~~~~(39)~~ (a) "Retailer" means:
1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services in a retail sale included in KRS 139.200;
  2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;
  3. Every person making more than two (2) retail sales of tangible personal property, digital property, or services included in KRS 139.200 during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
  4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.
- (b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property, digital property, or services sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.
- (c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:
- a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;
  - b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and
  - c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.
2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.
3. For purposes of this paragraph, "qualifying entity" means a resident:
- a. Church;
  - b. School;
  - c. Civic club; or
  - d. Any other nonprofit charitable, religious, or educational organization;
- ~~(41)~~~~(40)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;
- ~~(42)~~~~(41)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

- (b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;
- ~~(43)~~~~(42)~~ (a) "Sale" means:
1. The furnishing of any services included in KRS 139.200;
  2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
    - a. Tangible personal property; or
    - b. Digital property transferred electronically;
 for a consideration.
- (b) "Sale" includes but is not limited to:
1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;
  2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
  3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- ~~(44)~~~~(43)~~ "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;
- ~~(45)~~~~(44)~~ (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property, ~~or~~ digital property, *or prewritten computer software access services* purchased from a retailer.
- (b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;
- ~~(46)~~~~(45)~~ "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;
- ~~(47)~~~~(46)~~ "Taxpayer" means any person liable for tax under this chapter;
- ~~(48)~~~~(47)~~ "Telemarketing services" means services provided via telephone, facsimile, electronic mail, *text messages*, or other modes of communications, *including but not limited to various forms of social media*, to another person, which are unsolicited by that person, for the purposes of:
- (a)
    1. Promoting products or services;
    2. Taking orders; or
    3. Providing information or assistance regarding the products or services; or
  - (b) Soliciting contributions;
- ~~(49)~~~~(48)~~ "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and
- ~~(50)~~~~(49)~~ (a) "Use" includes the exercise of:
1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property or tangible personal property where the right of access is granted; or

2. Any right or power to benefit *from* any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~ ~~(ay)~~.
- (b) "Use" does not include the keeping, retaining, or exercising any right or power over:
1. Tangible personal property or digital property for the purpose of:
    - a.~~{1}~~ Selling tangible personal property or digital property in the regular course of business; or
    - b.~~{2}~~ Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state; *or*
  2. *Prewritten computer software access services purchased for use outside the state and transferred electronically outside the state for use thereafter solely outside the state.*

➔Section 7. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

- (1) Retail sales of:
  - (a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and
  - (b) Digital property regardless of whether:
    1. The purchaser has the right to permanently use the property;
    2. The purchaser's right to access or retain the property is not permanent; or
    3. The purchaser's right of use is conditioned upon continued payment; and
- (2) The furnishing of the following services:
  - (a) The rental of any room or rooms, lodgings, campsites, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which rooms, lodgings, campsites, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person;
  - (b) Sewer services;
  - (c) The sale of admissions, except:
    1. Admissions to enter the grounds or enclosure of any track licensed under KRS Chapter 230 at which live horse racing or historical horse racing is being conducted under the jurisdiction of the Kentucky Horse Racing Commission;
    2. Admissions taxed under KRS 229.031;
    3. Admissions that are charged by nonprofit educational, charitable, or religious institutions and for which an exemption is provided under KRS 139.495; and
    4. Admissions that are charged by nonprofit civic, governmental, or other nonprofit organizations and for which an exemption is provided under KRS 139.498;
  - (d) Prepaid calling service and prepaid wireless calling service;
  - (e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;
  - (f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:
    1. For natural gas that is classified as residential use as provided in KRS 139.470(7); or
    2. To a seller or reseller of natural gas;
  - (g) Landscaping services, including but not limited to:

1. Lawn care and maintenance services;
  2. Tree trimming, pruning, or removal services;
  3. Landscape design and installation services;
  4. Landscape care and maintenance services; and
  5. Snow plowing or removal services;
- (h) Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;
- (i) Small animal veterinary services, excluding veterinary services for equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;
- (j) Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;
- (k) Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;
- (l) Non-coin-operated laundry and dry cleaning services;
- (m) Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;
- (n) Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;
- (o) Non-medical diet and weight reducing services;
- (p) Extended warranty services;
- (q) Photography and photofinishing services;
- (r) ~~Marketing services;~~
- ~~(s)~~ Telemarketing services;
- ~~(s)~~~~(t)~~ Public opinion and research polling services;
- ~~(t)~~~~(u)~~ Lobbying services;
- ~~(u)~~~~(v)~~ Executive employee recruitment services;
- ~~(v)~~~~(w)~~ Web site design and development services;
- ~~(w)~~~~(x)~~ Web site hosting services;
- ~~(x)~~~~(y)~~ Facsimile transmission services;
- ~~(y)~~~~(z)~~ Private mailroom services, including:
1. Presorting mail and packages by postal code;
  2. Address barcoding;
  3. Tracking;
  4. Delivery to postal service; and
  5. Private mailbox rentals;
- ~~(z)~~~~(aa)~~ Bodyguard services;
- ~~(aa)~~~~(ab)~~ Residential and nonresidential security system monitoring services, *excluding separately stated onsite security guard services*;
- ~~(ab)~~~~(ac)~~ Private investigation services;
- ~~(ac)~~~~(ad)~~ Process server services;
- ~~(ad)~~~~(ae)~~ Repossession of tangible personal property services;



- ~~(ae)~~~~(af)~~ Personal background check services;
- ~~(af)~~~~(ag)~~ Parking services;
  - 1. Including:
    - a. Valet services; and
    - b. The use of parking lots and parking structures; but
  - 2. Excluding any parking services at an educational institution;
- ~~(ag)~~~~(ah)~~ Road and travel services provided by automobile clubs as defined in KRS 281.010;
- ~~(ah)~~~~(ai)~~ Condominium time-share exchange services;
- ~~(ai)~~~~(aj)~~ Rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events;
- ~~(aj)~~~~(ak)~~ Social event planning and coordination services;
- ~~(ak)~~~~(al)~~ Leisure, recreational, and athletic instructional services;
- ~~(al)~~~~(am)~~ Recreational camp tuition and fees;
- ~~(am)~~~~(an)~~ Personal fitness training services;
- ~~(an)~~~~(ao)~~ Massage services, except when medically necessary;
- ~~(ao)~~~~(ap)~~ Cosmetic surgery services;
- ~~(ap)~~~~(aq)~~ Body modification services, including tattooing, piercing, scarification, branding, tongue splitting, transdermal and subdermal implants, ear pointing, teeth pointing, and any other modifications that are not necessary for medical or dental health;
- ~~(aq)~~~~(ar)~~ **Laboratory** testing services, *excluding laboratory*~~except~~ testing:
  - 1. For medical, educational, or veterinary reasons; *or*
  - 2. **Required by a federal, state, or local statute, regulation, court order, or other government-related requirement;**
- ~~(ar)~~~~(as)~~ Interior decorating and design services;
- ~~(as)~~~~(at)~~ Household moving services;
- ~~(at)~~~~(au)~~ Specialized design services, including the design of clothing, costumes, fashion, furs, jewelry, shoes, textiles, and lighting;
- ~~(au)~~~~(av)~~ Lapidary services, including cutting, polishing, and engraving precious stones;
- ~~(av)~~~~(aw)~~ Labor and services to repair or maintain commercial refrigeration equipment and systems when no tangible personal property is sold in that transaction including service calls and trip charges;
- ~~(aw)~~~~(ax)~~ Labor to repair or alter apparel, footwear, watches, or jewelry when no tangible personal property is sold in that transaction; and
- ~~(ax)~~~~(ay)~~ Prewritten computer software access services.

➔Section 8. KRS 139.202 is amended to read as follows:

Excluded from the additional taxable services imposed by KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ are gross receipts derived from:

- (1) Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a fixed price sales contract executed on or before February 25, 2022; and
- (2) A lease or rental agreement entered into on or before February 25, 2022.

➔Section 9. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property,

digital property, and services sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale of:

- (1) (a) Except as provided in paragraph (b) of this subsection, tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:
  1. Purchased for resale according to the provisions of KRS 139.270;
  2. Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
  3. Purchased according to administrative regulations promulgated by the department governing a direct pay authorization; or
- (b) Tangible personal property to a purchaser claiming an agriculture exemption under KRS 139.480(4) to (9), (11), (13) to (15), ~~for~~(23) to (30), *or* (33) unless the person obtains from the purchaser an agriculture exemption license number or a fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption that contains an agriculture exemption license number in accordance with KRS 139.270;
- (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and
- (3) A service included in KRS 139.200(2)(g) to ~~(ax)~~~~(ay)~~ unless the person takes from the purchaser a certificate to the effect that the service is:
  - (a) Purchased for resale according to KRS 139.270;
  - (b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
  - (c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization.

➔Section 10. KRS 139.310 is amended to read as follows:

- (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property, digital property, and services listed under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ purchased for storage, use, or other consumption in this state at the rate of six percent (6%) of the sales price.
- (2) The excise tax applies to the purchase of digital property regardless of whether:
  - (a) The purchaser has the right to permanently use the goods;
  - (b) The purchaser's right to access or retain the digital property is not permanent; or
  - (c) The purchaser's right of use is conditioned upon continued payment.

➔Section 11. KRS 139.340 is amended to read as follows:

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.
- (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:
  - (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

- (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- (c) Any retailer soliciting orders for tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
- (e) Any retailer soliciting orders for tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;
- (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; or
- (g) 1. Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state, including retail sales facilitated by a marketplace provider on behalf of the remote retailer, if:
  - a. The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or
  - b. The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars (\$100,000).
- 2. Any remote retailer that meets either threshold provided in subparagraph 1. of this paragraph shall register for a sales and use tax permit and collect the tax imposed by KRS 139.310 from the purchaser no later than the first day of the calendar month that is at the most sixty (60) days after either threshold is reached.

➔Section 12. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
  - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
  - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;

- (4) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (5) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses if the sewer services, water, and fuel are purchased and declared by the resident as used in his or her place of domicile.
- (b) As used in this subsection:
1. "Fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood; and
  2. "Place of domicile" means the place where an individual has his or her legal, true, fixed, and permanent home and principal establishment, and to which, whenever the individual is absent, the individual has the intention of returning.
- (c) Determinations of eligibility for the exemption shall be made by the department.
- (d) The exemption shall apply ~~to if~~ charges for sewer service, water, and fuel ~~are~~ billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park if the **owner or operator declares that the** sewer services, water, and fuel are purchased for ~~and declared by the~~ Kentucky **residents to be** ~~resident as~~ used in **the resident's** ~~this or her~~ place of domicile.
- (e) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years if the sewer services, water, and fuel are purchased for and declared by the Kentucky resident as used in his or her place of domicile;
- (8) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;
- (9) (a) Gross receipts derived from the sale of tangible personal property, as provided in paragraph (b) of this subsection, to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of:
1. Tangible personal property at a plant facility;
  2. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
  3. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;
- and which will be for sale.
- (b) The following tangible personal property shall qualify for exemption under this subsection:
1. Materials which enter into and become an ingredient or component part of the manufactured product;

2. Other tangible personal property which is directly used in the manufacturing or industrial processing process, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
  - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;
  - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, and explosives. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; and
  - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, and cutting blades. Normally, for industrial tools to be considered directly used in the manufacturing or industrial processing process, they shall come into direct contact with the product being manufactured or processed; and
3. Materials and supplies that are not reusable in the same manufacturing or industrial processing process at the completion of a single manufacturing or processing cycle. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.
  - (c) The property described in paragraph (b) of this subsection shall be regarded as having been purchased for resale.
  - (d) For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.
  - (e) The exemption provided in this subsection does not include repair, replacement, or spare parts;
- (10) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
- (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.
  - (a) As used in this subsection:
    1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
    2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
  - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (12) Gross receipts from the sale of water used in the raising of equine as a business;
- (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

- (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
  - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (14) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;
- (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;
- (16) Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;
- (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;
- (18) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;
- (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:
- (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or
  - (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
    - 1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
    - 2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;
- (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);
- (21) Gross receipts from the collection of:
- (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
  - (b) The charge imposed by KRS 65.7629(3);
  - (c) The fee imposed by KRS 65.7634; and
  - (d) The service charge imposed by KRS 65.7636;
- (22) Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process of:
- (a) Tangible personal property at a plant facility;
  - (b) Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030; or
  - (c) Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040;
- that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser;
- (23) (a) For persons selling services included in KRS 139.200(2)(g) to (p) prior to January 1, 2019, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars

(\$6,000) during calendar year 2018. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:

1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
  2. All gross receipts are subject to tax in subsequent calendar years.
- (b) For persons selling services included in KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ prior to January 1, 2023, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars (\$6,000) during calendar year 2021. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
  2. All gross receipts are subject to tax in subsequent calendar years.
- (c) The exemption provided in this subsection shall not apply to a person also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f); and
- (24) (a) For persons that first begin making sales of services included in KRS 139.200(2)(g) to (p) on or after January 1, 2019, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
  2. All gross receipts are subject to tax in subsequent calendar years.
- (b) For persons that first begin making sales of services included in KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ on or after January 1, 2023, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
  2. All gross receipts are subject to tax in subsequent calendar years.
- (c) The exemption provided in this subsection shall not apply to a person that is also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f).

➔Section 13. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.
- (b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.
- (c) A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.

- (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:
1. Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;
  2. Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;
  3. Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;
  4. Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and
  5. Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery":
- (a) Means machinery used exclusively and directly in the occupation of:
    1. Tilling the soil for the production of crops as a business;
    2. Raising and feeding livestock or poultry for sale; or
    3. Producing milk for sale;
  - (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
  - (c) Does not include:
    1. Automobiles;



2. Trucks;
  3. Trailers, except combine header trailers; or
  4. Truck-trailer combinations;
- (12) Tombstones and other memorial grave markers;
- (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
- (a) Operate farm machinery as defined in subsection (11) of this section;
  - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;
  - (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of this section;
  - (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
  - (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or
  - (f) Operate on-farm dairy facilities;
- (16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (20) (a) 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and
2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.
- (b) The exemptions provided in this subsection shall be effective for sales made:
1. On and after July 1, 2018; and
  2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- (21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

- (22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (26) Baling twine and baling wire for the baling of hay and straw;
- (27) Water sold to a person regularly engaged in the business of farming and used in the:
  - (a) Production of crops;
  - (b) Production of milk for sale; or
  - (c) Raising and feeding of:
    - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
    - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
  - (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
  - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

- (a) Feed and feed additives;
  - (b) Water;
  - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
  - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
  - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
  - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and
- (c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes;
- (32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy; ~~and~~
- (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased by a person regularly engaged in the business of farming and used in the treatment of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, or cervids;
- (34) (a) ***Building materials, fixtures, or supplies purchased by a construction contractor if:***
- 1. ***Fulfilled by a construction contract for a sewer or water project with:***
    - a. ***A municipally owned water utility organized under KRS Chapter 96;***
    - b. ***A water district or water commission formed or organized under KRS Chapter 74;***
    - c. ***A sanitation district established under KRS Chapter 220 or formed pursuant to KRS Chapter 65;***
    - d. ***A nonprofit corporation created under KRS 58.180 to act on behalf of a governmental agency in the acquisition and financing of public projects;***

- e. *Regional wastewater commissions formed under KRS Chapter 278;*
  - f. *A municipally owned joint sewer agency formed under KRS Chapter 76; or*
  - g. *Any other governmental agency; and*
2. *The building materials, fixtures, or supplies:*
- a. *Will be permanently incorporated into a structure or improvement to real property, or will be completely consumed, in fulfilling a construction contract for the purpose of furnishing water or sewer services to the general public; and*
  - b. *Would be exempt if purchased directly by the entities listed in subparagraph 1. of this paragraph.*
- (b) *As used in this subsection, "construction contract" means a:*
- 1. *Lump sum contract;*
  - 2. *Cost plus contract;*
  - 3. *Materials only contract;*
  - 4. *Labor and materials contract; or*
  - 5. *Any other type of contract.*
- (c) *The exemption provided in this subsection shall apply without regard to the payment arrangement between the construction contractor, the retailer, and the entities listed in paragraph (a)1. of this subsection or to the place of delivery for the building materials, fixtures, or supplies;*
- (35) (a) *On or after February 25, 2022, the rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events, as referenced in Section 7 of this Act, if the tax established in Section 7 of this Act, is paid by the primary lessee to the lessor.*
- (b) *For the purpose of this subsection, "primary lessee" means the person who leases the space and who has a contract with the lessor of the space only if:*
- 1. *The contract between the lessor and the lessee specifies that the lessee may sublease, subrent, or otherwise sell the space; and*
  - 2. *The space is then sublet, subrented, or otherwise sold to exhibitors, vendors, sponsors, or other entities and persons who will use the space associated with the event to be conducted under the primary lease; and*
- (36) *Prewritten computer software access services sold to or purchased by a retailer that develops prewritten computer software for print technology and uses and sells prewritten computer software access services for print technology.*

➔Section 14. KRS 139.481 is amended to read as follows:

- (1) On and after January 1, 2023, every person claiming an exemption provided under KRS 139.480(4) to (9), ~~KRS 139.480(11)~~, ~~KRS 139.480(13)~~ to (15), ~~and KRS 139.480(23)~~ to (30), **and (33)** shall provide to the seller or retailer a valid agriculture exemption license number issued by the department.
- (2) A person is eligible to apply for an agriculture exemption license number if the person is:
  - (a) Regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business;
  - (b) Regularly engaged in the occupation of raising and feeding livestock of a kind the products of which ordinarily constitute food for human consumption;
  - (c) Raising and feeding poultry;
  - (d) Producing milk for sale; or
  - (e) Regularly engaged in raising ratite birds, llamas, alpacas, buffalos, cervids, or aquatic organisms as an agricultural pursuit.

- (3) (a) On and after January 1, 2023, persons that receive an agriculture exemption license number and choose to claim the exemptions outlined in subsection (1) of this section shall, at least one (1) time, provide the seller or retailer from whom they purchase exempt tangible personal property with one (1) of the following:
1. The agriculture exemption license number issued by the department; or
  2. A fully completed Streamlined Sales Tax Certificate of Exemption which shall include the agriculture exemption license number.
- (b) A purchaser that has met the requirements of paragraph (a) of this subsection may issue the agriculture exemption license number to the seller or retailer for subsequent purchases as evidence of an exempt purchase for as long as the agriculture exemption license number is valid.
- (c) Persons that meet the requirements of subsection (2) of this section but have not yet received an agriculture exemption license number from the department prior to January 1, 2023, may issue a fully completed exemption certificate or a fully completed Streamlined Sales Tax Certificate of Exemption without the agriculture exemption license number prior to January 1, 2023.
- (4) (a) The department, by administrative regulation, shall develop an application form for the agriculture exemption license number and procedures by which the application form may also be submitted either electronically or by paper filing.
- (b) The application shall include:
1. The person's name and mailing address;
  2. The farm address, if different from the person's mailing address;
  3. An affirmation that the person meets at least one (1) of the criteria outlined in subsection (2) of this section;
  4. The person's driver's license number; and
  5. One (1) of the following forms of documentation:
    - a. IRS Schedule F, Profit or Loss from Farming;
    - b. IRS Form 4835, Farm Rental Income and Expenses;
    - c. The farm service agency number or numbers assigned by the United States Department of Agriculture pertaining to the parcels of land on which agriculture activity will take place; or
    - d. Any other type of information that may establish to the satisfaction of the Commissioner that the applicant qualifies for the agriculture exemption license number.
- (5) (a) The agriculture exemption license number shall expire on December 31, 2026, and every four (4) years thereafter, or when the person ceases to engage in the agriculture activity for which the agriculture exemption license number was granted, whichever comes first.
- (b) When a person ceases to engage in the agriculture activity for which the license number was granted, the person shall notify the department within sixty (60) days.
- (c) The person may apply for a renewal of the agriculture exemption license number prior to the expiration date if the person continues to meet the requirements of subsection (2) of this section and provides documentation required by subsection (4)(b)5. of this section. The department shall, by administrative regulation, prescribe the electronic process for renewing an agriculture exemption license number.
- (6) (a) On or before January 1, 2023, the department shall develop and provide an online searchable database on the department's Web site that the seller or retailer may use to confirm the agriculture exemption license number if the purchaser cannot produce documentation of the agriculture exemption license number at the time of sale.
- (b) To search the database, the seller or retailer shall provide the name of the person assigned the agriculture exemption license number and one (1) of the following:
1. The agriculture exemption license number;

2. The agriculture exemption license number expiration date;
  3. The person's driver's license number;
  4. The farm service agency parcel number; or
  5. Any other unique identifier that may be accepted by the department.
- (c) The seller or retailer shall be relieved of the liability for collecting and remitting the sales and use tax if the seller or retailer meets the requirements of KRS 139.260 and 139.270.

➔Section 15. KRS 139.498 is amended to read as follows:

- (1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as described in KRS 139.495 and 139.497, the taxes imposed by this chapter do not apply to:
    1. The sale of admissions, including the sales of admissions to a golf course when the admission is the result of a fundraising event. All other sales of admissions to a golf course by these organizations are not exempt from tax under this section; or
    2.
      - a. Fundraising event sales.
      - b. For the purposes of this paragraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.
  - (b) *For nonprofit civic or other nonprofit organizations, except as described in KRS 139.495 and 139.497, that operate fundraising events solely with volunteers, the taxes imposed by this chapter also do not apply to sales of:*
    1. *Concessions for leisure, recreational, or athletic fundraising purposes; or*
    2. *Leisure, recreational, or athletic services.*
  - (c) The exemption provided in subparagraph 1. of paragraph (a) of this subsection shall not apply to the sale of admissions to a public facility that qualifies for a sales tax rebate under KRS 139.533.
- (2) All other sales made by organizations referred to in subsection (1) of this section are taxable.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *For taxable years beginning on or after January 1, 2022, a pass-through entity may elect to pay the tax liability at the entity level, utilizing the tax rate computation under Section 21 of this Act, on behalf of the individual partner, member, or shareholder of the pass-through entity.*
- (2) *The election shall be:*
  - (a) *Made on a form prescribed by the department;*
  - (b) *Made by the:*
    1. *Fifteenth day of the fourth month upon the close of the taxable year; or*
    2. *Fifteenth day of the tenth month upon the close of the taxable year, if the return is filed under KRS 141.170;*
  - (c) *Made only upon the consent of all partners, members, or shareholders holding more than fifty percent (50%) ownership in the pass-through entity; and*
  - (d) *Binding upon all individual partners, members, or shareholders of the pass-through entity.*
- (3) *For taxable years beginning on or after January 1, 2022, there shall be allowed a pass-through entity tax credit which shall be:*
  - (a) *Equal to one hundred percent (100%) of the tax paid by the pass-through entity on behalf of the individual partner, member, or shareholder of the pass-through entity;*
  - (b) *Claimed against the tax imposed under Section 21 of this Act on a return filed by the individual partner, member, or shareholder of the pass-through entity, with the ordering of credits as provided in Section 22 of this Act;*

- (c) *Nonrefundable; and*
  - (d) *Based on the pro rata share of the individual partner's, member's, or shareholder's income from the pass-through entity.*
- (4) *The pass-through entity shall report to each individual partner, member, or shareholder the individual's proportionate share of the tax paid by the pass-through entity for the taxable year and for purposes of the pass-through entity tax credit created in subsection (3) of this section.*
- (5) *The department shall prescribe forms and may promulgate administrative regulations as needed to administer this section.*

➔Section 17. KRS 141.010 is amended to read as follows:

As used in this chapter, for taxable years beginning on or after January 1, 2018:

- (1) "Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in KRS 141.019;
- (2) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:
  - (a)
    - 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or
    - 2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;
  - (b)
    - 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:
      - a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or
      - b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and
    - 2. For the purposes of this paragraph:
      - a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to KRS 141.200; and
      - b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and
  - (c) The real estate investment trust is not owned by another real estate investment trust;
- (3) "Commissioner" means the commissioner of the department;
- (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;
- (5) "Critical infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission or distribution systems, gas distribution systems, or water or wastewater pipelines that service multiple customers or citizens, including but not limited to real and personal property such as buildings, offices, lines, poles, pipes, structures, or equipment;
- (6) "Declared state disaster or emergency" means a disaster or emergency event for which:
  - (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or
  - (b) A presidential declaration of a federal major disaster or emergency has been issued;
- (7) "Department" means the Department of Revenue;

- (8) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (9) "Disaster or emergency-related work" means repairing, renovating, installing, building, or rendering services that are essential to the restoration of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency;
- (10) "Disaster response business" means any entity:
- (a) That has no presence in the state and conducts no business in the state, except for disaster or emergency-related work during a disaster response period;
  - (b) Whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency-related work in the state during a disaster response period; and
  - (c) That has no registrations, tax filings, or nexus in this state other than disaster or emergency-related work during the calendar year immediately preceding the declared state disaster or emergency;
- (11) "Disaster response employee" means an employee who does not work or reside in the state, except for disaster or emergency-related work during the disaster response period;
- (12) "Disaster response period" means a period that begins ten (10) days prior to the first day of the Governor's declaration under KRS 39A.100, or the President's declaration of a federal major disaster or emergency, whichever occurs first, and that extends thirty (30) calendar days after the declared state disaster or emergency;
- (13) "Doing business in this state" includes but is not limited to:
- (a) Being organized under the laws of this state;
  - (b) Having a commercial domicile in this state;
  - (c) Owning or leasing property in this state;
  - (d) Having one (1) or more individuals performing services in this state;
  - (e) Maintaining an interest in a pass-through entity doing business in this state;
  - (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or
  - (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;
- (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;
- (16) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;
- (17) "Financial institution" means:
- (a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;
  - (b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;
  - (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or
  - (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;



- (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;
- (19) "Gross income":
- (a) In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and
  - (b) In the case of corporations, means the amount calculated in KRS 141.039;
- (20) "Individual" means a natural person;
- (21) "Internal Revenue Code" means for taxable years beginning on or after January 1, ~~2023~~~~{2022}~~, the Internal Revenue Code in effect on December 31, ~~2022~~~~{2021}~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~2022~~~~{2021}~~, that would otherwise terminate;
- (22) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;
- (23) "Modified gross income" means the greater of:
- (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:
    - 1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
    - 2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
  - (b) Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (24) "Net income":
- (a) In the case of taxpayers other than corporations, means the amount calculated in KRS 141.019; and
  - (b) In the case of corporations, means the amount calculated in KRS 141.039;
- (25) "Nonresident" means any individual not a resident of this state;
- (26) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (27) "Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;
- (28) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;
- (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;
- (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;
- (31) "Registered business" means a business entity that owns or otherwise possesses critical infrastructure and that is registered to do business in the state prior to the declared state disaster or emergency;
- (32) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;
- (34) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

- (35) "Taxable net income":
- (a) In the case of corporations that are taxable in this state, means "net income" as defined in subsection (24) of this section;
  - (b) In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (24) of this section and as allocated and apportioned under KRS 141.120;
  - (c) For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (21) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
  - (d) For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;
- (36) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and
- (37) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

➔Section 18. KRS 141.017 is amended to read as follows:

- (1) (a) All deductions allowed by this chapter shall be limited to amounts directly or indirectly allocable to income subject to taxation under the provisions of this chapter.
  - (b) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter shall not be allowed.
  - (c) This subsection does not apply to deductions allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans and deductions attributable to those loans for taxable years ending on or after March 27, 2020, but before taxable years beginning January 1, 2022.
  - (d) ***This subsection shall not apply to deductions allowed under Pub. L. No. 117-2, sec. 9673, relating to amounts allocable to income from grants to restaurants and other food service eligible entities under the restaurant revitalization grants program for taxable years beginning on or after January 1, 2020, but before March 11, 2023.***
- (2) Nothing in this chapter shall be construed to permit the same item to be deducted more than once.

➔Section 19. KRS 141.019 is amended to read as follows:

In the case of taxpayers other than corporations:

- (1) Adjusted gross income shall be calculated by subtracting from the gross income of those taxpayers the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusting as follows:
  - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
  - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Pub. L. No. 89-699;
  - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
  - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
  - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

- (f) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
- (g)
  - 1.
    - a. For taxable years beginning after December 31, 2005, but before January 1, 2018, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans; and
    - b. For taxable years beginning on or after January 1, 2018, exclude up to thirty-one thousand one hundred ten dollars (\$31,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
  - 2. As used in this paragraph:
    - a. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code;
    - b. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution; and
    - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
- (h)
  - 1.
    - a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
    - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
  - 2. The shareholder's basis of stock held in an S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (i) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primaries or regular or special elections;
- (j) Exclude any capital gains income attributable to property taken by eminent domain;
- (k)
  - 1. Exclude all income from all sources for members of the Armed Forces who are on active duty and who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred.
  - 2. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;
- (l) Exclude all military pay received by members of the Armed Forces while on active duty;
- (m)
  - 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167 or 168; and
  - 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- (n) Include the amount deducted under 26 U.S.C. sec. 199A;

- (o) Ignore any change in the cost basis of the surviving spouse's share of property owned by a Kentucky community property trust occurring for federal income tax purposes as a result of the death of the predeceasing spouse;~~and~~
  - (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans, deductions attributable to those loans, and tax attributes associated with those loans for taxable years ending on or after March 27, 2020, but before January 1, 2022; and
  - (q) *For taxable years beginning on or after January 1, 2020, but before March 11, 2023, allow the same treatment of restaurant revitalization grants in accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c, related to the tax treatment of the grants, deductions attributable to those grants, and tax attributes associated with those grants; and*
- (2) Net income shall be calculated by subtracting from adjusted gross income all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:
- (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
  - (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering losses allowed under Section 165(d) of the Internal Revenue Code;
  - (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
  - (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
  - (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;
  - (f) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);
  - (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;
  - (h) Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and
  - (i) A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section.

➔Section 20. KRS 141.039 is amended to read as follows:

In the case of corporations:

- (1) Gross income shall be calculated by adjusting federal gross income as defined in Section 61 of the Internal Revenue Code as follows:
  - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
  - (b) Exclude all dividend income;
  - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
  - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
  - (e) Include the amount calculated under KRS 141.205;
  - (f) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

- (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec. 167 or 168; ~~and~~
  - (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans, deductions attributable to those loans, and tax attributes associated with those loans for taxable years ending on or after March 27, 2020, but before January 1, 2022; and
  - (i) ***For taxable years beginning on or after January 1, 2020, but before March 11, 2023, allow the same treatment of restaurant revitalization grants in accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c, related to the tax treatment of the grants, deductions attributable to those grants, and tax attributes associated with those grants; and***
- (2) Net income shall be calculated by subtracting from gross income:
- (a) The deduction for depreciation allowed by KRS 141.0101;
  - (b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;
  - (c) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:
    1. Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
    2. The deductions contained in Sections 243, 245, and 247 of the Internal Revenue Code;
    3. The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
    4. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, except for deductions allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans and deductions attributable to those loans for taxable years ending on or after March 27, 2020, but before January 1, 2022; ***and deductions allowed under Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c, related to the tax treatment of restaurant revitalization grants and deductions attributable to those grants for taxable years beginning on or after January 1, 2020, but before March 11, 2023. Nothing*** ~~and nothing~~ in this chapter shall be construed to permit the same item to be deducted more than once;
    5. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
    6. Any deduction prohibited by KRS 141.205; and
    7. Any dividends-paid deduction of any captive real estate investment trust; and
  - (d)
    1. A deferred tax deduction in an amount computed in accordance with this paragraph.
    2. For purposes of this paragraph:
      - a. "Net deferred tax asset" means that deferred tax assets exceed the deferred tax liabilities of the combined group, as computed in accordance with accounting principles generally accepted in the United States of America; and

- b. "Net deferred tax liability" means deferred tax liabilities that exceed the deferred tax assets of a combined group as defined in KRS 141.202, as computed in accordance with accounting principles generally accepted in the United States of America.
3. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with accounting principles generally accepted in the United States of America, as of January 1, 2019, shall be eligible for this deduction.
4. If the provisions of KRS 141.202 result in an aggregate increase to the member's net deferred tax liability, an aggregate decrease to the member's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, the combined group shall be entitled to a deduction, as determined in this paragraph.
5. For ten (10) years beginning with the combined group's first taxable year beginning on or after January 1, 2024, a combined group shall be entitled to a deduction from the combined group's entire net income equal to one-tenth (1/10) of the amount necessary to offset the increase in the net deferred tax liability, decrease in the net deferred tax asset, or aggregate change from a net deferred tax asset to a net deferred tax liability. The increase in the net deferred tax liability, decrease in the net deferred tax asset, or the aggregate change from a net deferred tax asset to a net deferred tax liability shall be computed based on the change that would result from the imposition of the combined reporting requirement under KRS 141.202, but for the deduction provided under this paragraph as of June 27, 2019.
6. The deferred tax impact determined in subparagraph 5. of this paragraph shall be converted to the annual deferred tax deduction amount, as follows:
  - a. The deferred tax impact determined in subparagraph 5. of this paragraph shall be divided by the tax rate determined under KRS 141.040;
  - b. The resulting amount shall be further divided by the apportionment factor determined by KRS 141.120 or 141.121 that was used by the combined group in the calculation of the deferred tax assets and deferred tax liabilities as described in subparagraph 5. of this paragraph; and
  - c. The resulting amount represents the total net deferred tax deduction available over the ten (10) year period as described in subparagraph 5. of this paragraph.
7. The deduction calculated under this paragraph shall not be adjusted as a result of any events happening subsequent to the calculation, including but not limited to any disposition or abandonment of assets. The deduction shall be calculated without regard to the federal tax effect and shall not alter the tax basis of any asset. If the deduction under this section is greater than the combined group's entire Kentucky net income, any excess deduction shall be carried forward and applied as a deduction to the combined group's entire net income in future taxable years until fully utilized.
8. Any combined group intending to claim a deduction under this paragraph shall file a statement with the department on or before July 1, 2019. The statement shall specify the total amount of the deduction which the combined group claims on the form, including calculations and other information supporting the total amounts of the deduction as required by the department. No deduction shall be allowed under this paragraph for any taxable year, except to the extent claimed on the timely filed statement in accordance with this paragraph.

➔Section 21. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his or her entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.
- (2) (a) As used in this subsection:
  1. "Balance in the BRTF at the end of a fiscal year" means the budget reserve trust fund account established in KRS 48.705 and includes the following amounts and actions resulting from the final close of the fiscal year:
    - a. The amount of moneys in the fund at the end of a fiscal year;

- b. All close-out actions related to a budget reduction plan under KRS 48.130 or as modified in a branch budget bill; and
  - c. All close-out actions related to the surplus expenditure plan under KRS 48.140 or as modified in a branch budget bill;
2. "GF appropriations" means the authorization by the General Assembly to expend GF moneys, excluding:
- a. ***Continuing appropriations;***
  - b. Any appropriation to the budget reserve trust fund; and
  - c. ~~b.~~ Any lump-sum appropriation to a state-administered retirement system, as defined in KRS 7A.210, that is in excess of the appropriations specifically budgeted to meet the recurring statutorily required contributions or recurring actuarially determined contributions for a state-administered retirement system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or 161.550, as applicable;
3. "GF moneys" means receipts deposited in the general fund defined in KRS 48.010, excluding tobacco moneys deposited in the fund established in KRS 248.654;
4. "IIT equivalent" means the amount of reduction in GF moneys resulting from a one (1) percentage point reduction to the individual income tax rate ***and shall be calculated by dividing the actual individual income tax receipts for the fiscal year under consideration by:***
- a. ***The sum of:***
    - i. ***The individual income tax rate, expressed as a percentage, for the first six (6) months of the fiscal year; and***
    - ii. ***The individual income tax rate, expressed as a percentage, for the second six (6) months of the fiscal year; and***
  - b. ***Dividing the sum determined in subdivision a. of this subparagraph by two (2);***
5. "Reduction conditions" means:
- a. The balance in the BRTF at the end of a fiscal year shall be equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and
  - b. GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year; and
6. "Tax rate reduction" means the current tax rate minus five-tenths of one percent (0.5%).
- (b) ***For taxable years beginning on or after January 1, 2023, but prior to January 1, 2024, the tax shall be four and one-half percent (4.5%) of net income.***
- (c) ***For taxable years beginning on or after January 1, 2024, the tax shall be four percent (4%) of net income.***
- (d) ***1. For taxable years beginning on or after January 1, 2025, the income tax rate may be reduced according to the annual process established in subparagraphs 2. to 5. of this paragraph.***
2. ~~1.~~ ~~[Beginning no later than September 1, 2022, the department, with assistance from ]~~The Office of State Budget Director~~]~~ shall review the reduction conditions ***for the fiscal year 2022-2023 no later than September 1, 2023***~~[as they apply to fiscal year 2020-2021 and fiscal year 2021-2022 and make a determination if the reduction conditions have been met for each fiscal year].~~
3. ~~2.~~ After reviewing the reduction conditions under subparagraph 2. ~~1.~~ of this paragraph, the ***Office of State Budget Director***~~[department]~~ shall, ~~[-~~
- a. ~~1.~~ ~~no later than September 5, 2023~~~~[2022]~~, report to the Interim Joint Committee on Appropriations and Revenue:
- a. ~~1.~~ ~~Whether ***the reduction conditions for the fiscal year 2022-2023 have been met***~~~~[a tax rate reduction will occur for the taxable year beginning on January 1, 2023]; and~~

- ~~b.iii. The amounts associated with each item within the reduction conditions used for making that determination; and~~
- ~~b. i. Implement the tax rate reduction for the taxable year beginning on January 1, 2023, if the reduction conditions are met; or~~
- ~~ii. Maintain the current tax rate, if the reduction conditions are not met.~~
4. a. *If the reduction conditions have been met for fiscal year 2022-2023, the General Assembly may take action to reduce the rate in paragraph (c) of this subsection for the taxable year beginning January 1, 2025.*
- b. *If the reduction conditions have not been met for fiscal year 2022-2023 or the General Assembly does not take action to reduce the rate in paragraph (c) of this subsection, the department shall maintain the rate in paragraph (c) of this subsection for the taxable year beginning January 1, 2025.*
5. a.~~(e) 1.~~ The *Office of State Budget Director*~~[department]~~ shall implement an annual process to review and report future reduction conditions at the same time and in the same manner *for each fiscal year subsequent to the fiscal year 2022-2023 and each taxable year subsequent to the taxable year beginning January 1, 2025.*
- b. *The department shall not implement an income tax rate reduction without an action by the General Assembly.*
- c. *The annual process shall continue until the income tax rate is zero*~~[as under paragraph (b) of this subsection, except that the department shall use the next succeeding year related to the dates for review and reporting and the next succeeding fiscal year data to evaluate the reduction conditions].~~
- ~~[2. Notwithstanding subparagraph 1. of this paragraph, the department shall not implement an income tax rate reduction without a future action by the General Assembly.]~~
- ~~(e)(d)~~ For taxable years beginning on or after January 1, 2018, but before January 1, 2023, the tax shall be five percent (5%) of net income.
- ~~(f)(e)~~ For taxable years beginning after December 31, 2004, and before January 1, 2018, the tax shall be determined by applying the following rates to net income:
1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
  2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
  3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
  4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
  5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
  6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3) (a) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
1. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for an unmarried individual; and
  - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for an unmarried individual;
  2. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a



joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; and

- b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
  3. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse; and
    - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;
  4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
  5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
  6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
  7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer; and
  8. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.
- (b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
  2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.
- (c) In the case of a part-year resident, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which

has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed by this section shall not apply to a disaster response employee or to a disaster response business. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔Section 22. KRS 141.0205 is amended to read as follows:

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

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  - (a) The limited liability entity tax credit permitted by KRS 141.0401;
  - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
  - (c) The qualified farming operation credit permitted by KRS 141.412;
  - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (e) The health insurance credit permitted by KRS 141.062;
  - (f) The tax paid to other states credit permitted by KRS 141.070;
  - (g) The credit for hiring the unemployed permitted by KRS 141.065;
  - (h) The recycling or composting equipment credit permitted by KRS 141.390;
  - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;
  - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (s) The Endow Kentucky credit permitted by KRS 141.438;
  - (t) The New Markets Development Program credit permitted by KRS 141.434;
  - (u) The distilled spirits credit permitted by KRS 141.389;
  - (v) The angel investor credit permitted by KRS 141.396;
  - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
  - (x) The inventory credit permitted by KRS 141.408; and
  - (y) The renewable chemical production credit permitted by KRS 141.4231.

- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
  - (b) The credit permitted by KRS 141.066;
  - (c) The tuition credit permitted by KRS 141.069;
  - (d) The household and dependent care credit permitted by KRS 141.067;
  - (e) The income gap credit permitted by KRS 141.066;~~and~~
  - (f) The Education Opportunity Account Program tax credit permitted by KRS 141.522; *and*
  - (g) ***The pass-through entity tax credit permitted by Section 16 of this Act.***
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
  - (b) The individual estimated tax payment credit permitted by KRS 141.305;
  - (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
  - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;
  - (e) The development area tax credit permitted by KRS 141.398; and
  - (f) The decontamination tax credit permitted by KRS 141.419.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
  - (b) The qualified farming operation credit permitted by KRS 141.412;
  - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (d) The health insurance credit permitted by KRS 141.062;
  - (e) The unemployment credit permitted by KRS 141.065;
  - (f) The recycling or composting equipment credit permitted by KRS 141.390;
  - (g) The coal conversion credit permitted by KRS 141.041;
  - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
  - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;

- (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
  - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (t) The railroad expansion credit permitted by KRS 141.386;
  - (u) The Endow Kentucky credit permitted by KRS 141.438;
  - (v) The New Markets Development Program credit permitted by KRS 141.434;
  - (w) The distilled spirits credit permitted by KRS 141.389;
  - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
  - (y) The inventory credit permitted by KRS 141.408;
  - (z) The renewable chemical production tax credit permitted by KRS 141.4231; and
  - (aa) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
  - (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
  - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022; and
  - (d) The decontamination tax credit permitted by KRS 141.419.

➔Section 23. KRS 141.070 is amended to read as follows:

- (1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of *the individual's* ~~his~~ net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable ~~by him~~ under this chapter shall be credited on *the* ~~his~~ return with the income tax ~~so~~ paid by ~~him~~ to the other state, upon ~~his~~ producing to the proper assessing officer satisfactory evidence of the fact of *the* ~~such~~ payment, except that application of *any* ~~such~~ credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.
- (2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which *the* ~~such~~ individual was a resident at the time *the* ~~such~~ income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to *the other* ~~such~~ state, if the state of residence of *the* ~~such~~ nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the department ~~of Revenue~~ from requiring any information reports *under* ~~pursuant to~~ KRS 141.150(2).
- (3) As used in this section, "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.
- (4) *Any resident individual that is a partner, member, or shareholder of a pass-through entity doing business in another state in which the tax is assessed and paid at the entity level shall be allowed a credit in accordance with subsection (1) of this section. The credit shall be based on the individual's distributive share of the pass-through entity's items of income, loss, deduction, and credit.*

➔Section 24. KRS 141.206 is amended to read as follows:

- (1) Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.

- (2) (a) Pass-through entities shall calculate net income in the same manner as in the case of an individual under KRS 141.019 and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code.
- (b) Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (3) Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required:
- (a) For S corporations under KRS 141.040;~~and~~
- (b) For a partnership level audit under KRS 141.211; *and*
- (c) ***For a pass-through entity making an election under Section 16 of this Act.***
- (4) (a) Every pass-through entity required to file a return under subsection (1) of this section, except publicly traded partnerships as described in KRS 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual partner, member, or shareholder.
- (b) Withholding shall be at the maximum rate provided in KRS 141.020.
- (5) (a) Every pass-through entity required to withhold Kentucky income tax as provided by subsection (4) of this section shall pay estimated tax for the taxable year, if for a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars (\$500).
- (b) The payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.
- (6) (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.
- (b) 1. An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner.
2. An exemption so revoked shall be reinstated only with permission of the department.
3. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity.
4. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.
- (7) In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.
- (8) In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection (1) of this section shall take into account:
- (a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or
2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss,

and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (11) of this section; and

- (b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.
- (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:
- (a) 1. For taxable years beginning on or after January 1, 2007, but prior to January 1, 2018, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
  - 2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
  - (b) Credits from the partnership.
- (10) (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection (11) of this section.
- (b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:
- 1. Doing business both within and without this state; and
  - 2. A partner or member in another pass-through entity;
- then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.
- (c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.
  - (d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection (11) of this section.
- (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in KRS 141.901, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).
- (b) For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in KRS 141.120.
- (12) Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.
- (13) An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.
- (14) (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.

- (b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.
- (15) (a) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require.
- (b) A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔Section 25. KRS 148.853 is amended to read as follows:

- (1) The General Assembly finds and declares that:
  - (a) The general welfare and material well-being of the citizens of the Commonwealth depend in large measure upon the development of tourism in the Commonwealth;
  - (b) It is in the best interest of the Commonwealth to provide incentives for the creation of new tourism attractions and the expansion of existing tourism attractions within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the incentives offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth;
  - (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental and public purposes for which public moneys may be expended; and
  - (d) That the creation or expansion of tourism development projects is of paramount importance mandating that the provisions of KRS 139.536 and KRS 148.851 to 148.860 be liberally construed and applied in order to advance public purposes.
- (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the following requirements shall be met:
  - (a) For a tourism attraction project:
    1. The total eligible costs shall exceed one million dollars (\$1,000,000), except for a tourism attraction project located in a county designated as an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6), the total eligible costs shall exceed five hundred thousand dollars (\$500,000);
    2. In any year, including the first year of operation, the tourism attraction project shall be open to the public at least one hundred (100) days; and
    3. In any year following the third year of operation, the tourism attraction project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
  - (b) For an entertainment destination center project:
    1. The total eligible costs shall exceed five million dollars (\$5,000,000);
    2. The facility shall contain a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction project or a major convention facility;
    3. The incentives shall be dedicated to a public infrastructure purpose that shall relate to the entertainment destination center project;
    4. In any year, including the first year of operation, the entertainment destination center project shall:
      - a. Be open to the public at least one hundred (100) days per year;
      - b. Maintain at least one (1) major theme restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large-format theater, motion simulators, family entertainment centers, concert halls,

virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure-time activities; and

- c. Maintain a minimum occupancy of sixty percent (60%) of the total gross area available for lease with entertainment and food and drink options not including the retail sale of tangible personal property; and
  5. In any year following the third year of operation, the entertainment destination center project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (c) For a theme restaurant destination attraction project:
1. The total eligible costs shall exceed five million dollars (\$5,000,000);
  2. In any year, including the first year of operation, the attraction shall:
    - a. Be open to the public at least three hundred (300) days per year and for at least eight (8) hours per day; and
    - b. Generate no more than fifty percent (50%) of its revenue through the sale of alcoholic beverages;
  3. In any year following the third year of operation, the theme restaurant destination attraction project shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; and
  4. The theme restaurant destination attraction project shall:
    - a. At the time of final approval, offer a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;
    - b. In any year, including the first year of operation, maintain seating capacity of four hundred fifty (450) guests and offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public; or
    - c. Within three (3) years of the completion date, the attraction shall obtain a top two (2) tier rating by a nationally accredited service and shall maintain a top two (2) tier rating through the term of the agreement;
- (d) For a lodging facility project:
1.
    - a. The eligible costs shall exceed five million dollars (\$5,000,000) unless the provisions of subdivision b. of this subparagraph apply.
    - b.
      - i. If the lodging facility is an integral part of a major convention or sports facility, the eligible costs shall exceed six million dollars (\$6,000,000); and
      - ii. If the lodging facility includes five hundred (500) or more guest rooms, the eligible costs shall exceed ten million dollars (\$10,000,000); and
  2. In any year, including the first year of operation, the lodging facility shall:
    - a. Be open to the public at least one hundred (100) days; and
    - b. Attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (e) Any tourism development project shall not be eligible for incentives if it includes material determined to be lewd, offensive, or deemed to have a negative impact on the tourism industry in the Commonwealth; and
- (f) An expansion of any tourism development project shall in all cases be treated as a new stand-alone project.
- (3) The incentives offered under the Kentucky Tourism Development Act shall be as follows:
- (a) An approved company may be granted a sales tax incentive based on the Kentucky sales tax imposed on sales generated by or arising at the tourism development project; and



- (b) 1. For a tourism development project other than a lodging facility project described in KRS 148.851(14)(e) or (f), or a tourism attraction project described in subparagraph 2. of this paragraph:
- a. A sales tax incentive shall be allowed to an approved company over a period of ten (10) years, except as provided in ~~subparagraphs~~<sup>subparagraph</sup> 5. **and** 6. of this paragraph; and
  - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed twenty-five percent (25%);
2. For a tourism attraction project located in an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6):
- a. A sales tax incentive shall be allowed to the approved company over a period of ten (10) years; and
  - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed thirty percent (30%);
3. For a lodging facility project described in KRS 148.851(14)(e) or (f):
- a. A sales tax incentive shall be allowed to the approved company over a period of twenty (20) years; and
  - b. The sales tax incentive shall not exceed the lesser of total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);
4. Any unused incentives from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire specified percentage of the approved costs has been received through sales tax incentives;~~and~~
5. If the approved company is an entertainment destination center that has dedicated at least thirty million dollars (\$30,000,000) of the incentives provided under the agreement to a public infrastructure purpose, the agreement may be amended to extend the term of the agreement up to two (2) additional years if the approved company agrees to:
- a. Reinvest in the original entertainment destination project one hundred percent (100%) of any incentives received during the extension that were outstanding at the end of the original term of the agreement; and
  - b. Report to the authority at the end of each fiscal year the amount of incentives received during the extension and how the incentives were reinvested in the original entertainment destination project; **and**
6. ***The term of a tourism development agreement entered into with a tourism attraction project that was in effect on January 1, 2020, shall be extended for one (1) year if the tourism attraction project:***
- a. ***Has historically been open to the public on a seasonal basis consisting of less than six (6) months;***
  - b. ***Has previously met the requirement of being open to the public at least one hundred (100) days during the entire term of the tourism development agreement as required under subsection (2)(a)2. of this section;***
  - c. ***Failed to be open to the public at least one hundred (100) days during the calendar year 2020 solely as a result of complying with one (1) or more executive orders issued by the Governor under the authority of KRS 39A.090 that prevented the tourism attraction project from being open to the public for at least one hundred (100) days during its normal operating season; and***

- d. Applied for a sales tax incentive related to the calendar year 2020 operating season and was denied the sales tax incentive solely on the basis that the tourism attraction project was not open to the public for at least one hundred (100) days in calendar year 2020.*

➔Section 26. KRS 154.30-010 is amended to read as follows:

As used in this subchapter:

- (1) "Activation date" means:
- (a) For all projects except those described in paragraph (b) of this subsection, the date established any time within a two (2) year period after the commencement date. The Commonwealth may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension; and
  - (b) For signature projects approved under KRS 154.30-050(2)(a), the date established any time within a ten (10) year period after the commencement date.

For all projects established after July 14, 2018, the activation date is the date on which the time period for the pledge of incremental revenues shall commence. To implement the activation date, the minimum capital investment must be met and the agency that is a party to the tax incentive agreement shall notify the office;

- (2) "Agency" means:
- (a) An urban renewal and community development agency established under KRS Chapter 99;
  - (b) A development authority established under KRS Chapter 99;
  - (c) A nonprofit corporation;
  - (d) A housing authority established under KRS Chapter 80;
  - (e) An air board established under KRS 183.132 to 183.160;
  - (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
  - (g) A riverport authority established under KRS 65.510 to 65.650; or
  - (h) A designated department, division, or office of a city or county;
- (3) "Approved public infrastructure costs" means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of such public amenities. "Approved public infrastructure costs" includes but is not limited to costs incurred for the following:
- (a) Land preparation, including demolition and clearance work;
  - (b) Buildings;
  - (c) Sewers and storm drainage;
  - (d) Curbs, sidewalks, promenades, and pedways;
  - (e) Roads;
  - (f) Street lighting;
  - (g) The provision of utilities;
  - (h) Environmental remediation;
  - (i) Floodwalls and floodgates;
  - (j) Public spaces or parks;
  - (k) Parking;
  - (l) Easements and rights-of-way;
  - (m) Transportation facilities;
  - (n) Public landings;
  - (o) Amenities, such as fountains, benches, and sculptures; and

- (p) Riverbank modifications and improvements;
- (4) "Approved signature project costs" means:
  - (a) The acquisition of land for portions of the project that are for infrastructure; and
  - (b) Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above;

that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development;
- (5) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
- (6) "Capital investment" means:
  - (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;
  - (b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident 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 a project which is not paid by the contractor or contractors or otherwise provided;
  - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;
  - (e) All costs that are required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of a project; and
  - (f) All other costs of a nature comparable to those described in this subsection that occur after preliminary approval;
- (7) "City" means any city, consolidated local government, or urban-county government;
- (8) "Commencement date" means the final approval date or the date on which a tax incentive agreement is executed;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- (11) "CPI" means the nonseasonally 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;
- (12) "Department" means the Department of Revenue;
- (13) "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- (14) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;
- (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to KRS 154.30-050;
- (16) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made and must be contiguous;

- (17) "Governing body" means the body possessing legislative authority in a city or county;
- (18) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects;
- (19) "Incremental revenues" means:
- (a) The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, or a project within a development area; or
  - (b) The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint;
- (20) "Local participation agreement" means the agreement entered into under KRS 65.7063;
- (21) "Local tax revenues" has the same meaning as in KRS 65.7045;
- (22) ***"Modified new revenues for income tax" means the amount of individual income tax included in state tax revenues that is:***
- (a) ***The result of multiplying the portion of state tax revenues from individual income taxes by the modifier;***
  - (b) ***Used for calculating state tax revenues in calendar years 2023 and 2024; and***
  - (c) ***For projects approved prior to January 1, 2023;***
- (23) ***"Modifier" means the result of dividing the individual income tax rate of five percent (5%), in effect as of December 31, 2022, by the individual income tax rate under KRS 141.020 for the calendar year in which the new revenues for income tax are being computed;***
- (24) "New revenues" means:
- (a) The amount of local tax revenues received by a taxing district with respect to a development area in any calendar year beginning with the year in which the activation date occurred; ***and***
  - (b) The amount of state tax revenues received by the Commonwealth with respect to the footprint in any calendar year beginning with the year in which the activation date occurred.
- For projects approved prior to January 1, 2023, any state tax revenues received by the Commonwealth from individual income tax shall be computed using modified new revenues for income tax;***
- ~~(25)~~~~(23)~~ "Old revenues" means:
- (a) The amount of local tax revenues received by a taxing district with respect to a development area as of December 31 of the year of preliminary approval; or
  - (b) 1. The amount of state tax revenues received by the Commonwealth within the footprint as of December 31 of the year of preliminary approval. If the authority determines that the amount of state tax revenues received as of December 31 of the last calendar year prior to the commencement of preliminary approval does not represent a true and accurate depiction of revenues, the authority may consider revenues for a period of no longer than three (3) calendar years prior to the year of preliminary approval, so as to determine a fair representation of state tax revenues. The amount determined by the authority shall be specified in the tax incentive agreement. If state tax revenues were derived from the footprint prior to the year of preliminary approval, old revenues shall increase each calendar year by:
    - a. The percentage increase, if any, of the CPI or a comparable index; or
    - b. An alternative percentage increase that is determined to be appropriate by the authority.
 The method for increasing old revenues shall be set forth in the tax incentive agreement;
  2. If state revenues were derived from the footprint prior to the year of preliminary approval, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues;

- ~~(26)~~~~(24)~~ "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, 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 increment bonds have been issued; or
  - (c) Increment bonds for the payment, 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;
- ~~(27)~~~~(25)~~ "Preliminary approval" means the action taken by the authority preliminarily approving an eligible project for incentives under this subchapter;
- ~~(28)~~~~(26)~~ "Project" means any property, asset, or improvement located in a development area and certified by the governing body as:
- (a) Being for a public purpose; and
  - (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
  - (c) Contributing to economic development or tourism; and
  - (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-050, or 154.30-060;
- ~~(29)~~~~(27)~~ "Signature project" means a project approved under KRS 154.30-050;
- ~~(30)~~~~(28)~~ "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);
- ~~(31)~~~~(29)~~ "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:
- (a) State real property ad valorem taxes;
  - (b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;
  - (c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;
  - (d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and
  - (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:
    1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and
    2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;
- ~~(32)~~~~(30)~~ "Tax incentive agreement" means an agreement entered into in accordance with KRS 154.30-070; and
- ~~(33)~~~~(31)~~ "Termination date" means:
- (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040 or 154.30-060, a date established by the tax incentive agreement that is no more than twenty (20) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty

(40) years from the establishment date of the development area to which the tax incentive agreement relates; and

- (b) For a project grant agreement satisfying the requirements of KRS 154.30-050, a date established by the tax incentive agreement that is no more than thirty (30) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the tax incentive agreement relates.

➔Section 27. KRS 224.1-420 is amended to read as follows:

- (1) For purposes of this section:

- (a) "Assignor" means the recipient of the tax credit who may assign, sell, or transfer, in whole or in part, the tax credit to any other taxpayer;
- (b) "Department" means the Department of Revenue;
- (c) "Qualifying expenditures" means up to one hundred percent (100%) of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct utility charges for voluntarily performing activities to decontaminate or remediate any preexisting hazardous substance, pollutant or contaminant, or petroleum and petroleum products as defined in KRS 224.60-115, including but not limited to the costs of performing operation and maintenance of the remediation systems and equipment at the qualifying decontamination property beyond the year in which the systems and equipment are built and installed and the costs of performing the remediation activities following the taxpayer's tax year in which the systems and equipment were first put into use at the qualifying decontamination property; and
- (d) "Qualifying decontamination property" includes qualifying voluntary environmental remediation property as defined in KRS 141.418 and shall also include real property under the Brownfield Redevelopment Program as established in KRS 224.1-415, if the guidelines in KRS 141.418(1)(e) are met.

- (2) There is hereby created a decontamination tax credit.

- (3) (a) For taxable years beginning on or after January 1, 2022, but before January 1, 2032, a taxpayer making a qualifying expenditure at a qualifying decontamination property shall be allowed a refundable credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (b) The credit shall be equal to the amount of expenditures made by the taxpayer for the decontamination or remediation of the qualifying decontamination property.
- (c) The total credit awarded per qualifying decontamination property shall not exceed thirty million dollars (\$30,000,000).
- (d) The amount of credit to be taken in a taxable year shall not exceed twenty-five percent (25%) of the total amount of approved credit.
- (e) ***A total of no more than thirty million dollars (\$30,000,000) of tax credit shall be awarded in fiscal year 2022-2023 and fiscal year 2023-2024.***

- (4) The qualifying expenditures:

- (a) Shall be in accordance with a corrective action plan approved by the cabinet under KRS 224.1-400, 224.1-405, or 224.60-135; and
- (b) May include up to one hundred percent (100%) of the costs of demolition that are not directly part of the decontamination or remediation activities, provided that the demolition is:
1. a. On the property where the decontamination or remediation activities are occurring; or
  - b. On adjacent property, so long as it is independently qualified as abandoned or underutilized;
  2. Necessary to accomplish the planned use of the property where the decontamination or remediation activities are occurring; and
  3. Part of a redevelopment plan approved by the municipal or county government and the cabinet.

- (5) The decontamination or remediation shall not be financed through a public grant program or the petroleum storage tank environmental assurance fund under KRS 224.60-115.
- (6) The amount of reasonably anticipated total qualifying expenditures associated with the qualifying decontamination property shall equal or exceed ~~six~~<sup>ten</sup> million dollars ~~(\$6,000,000)~~<sup>(\$10,000,000)</sup>.
- (7) (a) The qualifying decontamination property shall be located:
  1. Within one-half (1/2) mile of a tax increment financing development area; or
  2. In a census tract that qualifies for the use of the Kentucky New Markets Development Program tax credit created under KRS 141.434.
 (b) The amount of reasonably anticipated capital investment in the qualifying decontamination property shall exceed thirty million dollars (\$30,000,000).
- (8) (a) Beginning on or after January 1, 2022, a taxpayer seeking the credit established in this section shall file an application with the cabinet not less than thirty (30) days prior to the date the qualifying expenditures will begin, and on a form as prescribed by the cabinet for determination of eligibility.
 (b) The application shall include supporting documentation, including:
  1. The name, address, and taxpayer identification number of the owner of the qualifying decontamination property;
  2. Detailed description of the property;
  3. The proposed start and completion dates for the project; and
  4. The projected amount of total capital investment and qualifying expenditures associated with the property.
 (c) Taxpayers awarded a credit under this subsection shall submit receipts annually to the cabinet verifying the qualifying expenditures claimed.
 (d) The cabinet shall make a determination of the maximum credit available for the qualifying decontamination property and provide notification of the awarded credit amount to the department and taxpayer within sixty (60) days of the date on which the application was filed.
 (e) Any taxpayer approved for credit under this section shall not also claim or apply for any other credit related to the decontamination or remediation of the same qualifying decontamination property.

➔Section 28. KRS 198A.030 is amended to read as follows:

- (1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.
- (2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.
- (3) The corporation shall be governed by a board of directors, consisting of fifteen (15) members, five (5) of whom shall be the **Commissioner of Agriculture**~~[Lieutenant Governor]~~, the secretary of the Finance and Administration Cabinet, the commissioner of the Department for Local Government, the Attorney General, and the secretary of the Cabinet for Economic Development, or their duly appointed designees, as public directors, and ten (10) private directors who shall be appointed by the Governor, subject to confirmation by the Senate as provided by KRS 11.160, as follows:
  - (a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;
  - (b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;
  - (c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;

- (d) One (1) private director representing the interests of the homeless population within the Commonwealth;
  - (e) One (1) private director representing the interests of local government;
  - (f) One (1) private director representing the interests of the home construction industry in the Commonwealth;
  - (g) One (1) private director representing the interests of consumers in the Commonwealth;
  - (h) One (1) private director representing the interests of the Kentucky State Building Trades Council;
  - (i) One (1) director representing the interests of nonprofit housing organizations located within the Commonwealth; and
  - (j) One (1) director having significant professional experience in auditing, financial accounting, municipal bond financing, or investment banking.
- (4) Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the appointees shall serve until a qualified successor is appointed.
  - (5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold office during the remainder of the term. A vacancy shall be filled in accordance with the requirement and procedures for appointments.
  - (6) The Governor may remove any private director whom he *or she* may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office, and *the Governor*~~he~~ may declare *the*~~his~~ office vacant and may appoint a person for the vacancy as provided in this section.
  - (7) The Governor shall designate a *private* director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his *or her* then current term as a *private* director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating the chairman.
  - (8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, other officers the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of the officers.
  - (9) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that copies are true copies, and all persons dealing with the corporation may rely upon the certificates.
  - (10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. A majority shall be determined by excluding any existing vacancies from the total number of directors.
  - (11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least eight (8) directors.
  - (12) Each private director shall be entitled to a fee of one hundred dollars (\$100) for attendance at each meeting of the board of directors or duly called committee meeting of the board.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*As used in Sections 29 to 34 of this Act:*

- (1) *"Moderate income" means the income of individuals or families that is below one hundred twenty percent (120%) of the area median income for the Commonwealth as determined by the United States Department of Housing and Urban Development;*
- (2) *"Nonprofit organization" has the same meaning as in KRS 198A.700;*
- (3) *"Technical assistance" has the same meaning as in KRS 198A.700; and*



(4) *"Trust fund" means the rural housing trust fund created in Section 31 of this Act.*

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*The General Assembly hereby finds and declares that:*

- (1) *Current economic conditions, federal housing policies, and declining resources at the federal, state, and local levels adversely affect the ability of individuals to obtain safe, decent, and affordable rural housing;*
- (2) *An increasing number of individuals are homeless, at risk of becoming homeless, or live in overcrowded, inadequate, and unsafe rural housing units; and*
- (3) *It is in the public interest to establish a continuously renewable resource known as a rural housing trust fund to assist moderate income individuals in meeting basic housing needs.*

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established in the State Treasury a revolving account to be known as the rural housing trust fund. The fund shall consist of moneys received from state appropriations, gifts, grants, federal funds, and all repayment, interest, or other return on the investment of trust fund dollars as required by subsection (7)(b) of Section 32 of this Act.*
- (2) *The fund shall be administered by the corporation.*
- (3) *Amounts deposited in the fund shall be used as provided in Sections 29 to 34 of this Act. Separate accounts within the fund shall be made for state appropriations, federal funds, and moneys received from other sources.*
- (4) *Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (5) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1)
  - (a) *The corporation shall use moneys from the rural housing trust fund created in Section 31 of this Act to make, or participate in the making, of loans or grants for the eligible activities described in this section.*
  - (b) *Any loan or grant shall be made upon the determination by the corporation that the loan or grant shall be used to create new sources of funding, or to supplement existing sources of funding for eligible activities, and shall not be used to replace existing or available moneys.*
- (2) *Activities eligible for fund shall include:*
  - (a) *Acquisition of housing units for the purpose of preservation of or conversion to rural housing units;*
  - (b) *New construction or rehabilitation of rural housing units;*
  - (c) *Matching funds for technical assistance directly related to providing rural housing for individuals under Sections 29 to 34 of this Act; and*
  - (d) *Administrative costs for rural housing assistance programs or organizations eligible for funding under subsection (3) of this section, if the loans or grants will substantially increase the recipient's access to housing funds other than those available under Sections 29 to 34 of this Act.*
- (3) *Organizations eligible for funding from the rural housing trust fund include:*
  - (a) *Local governments;*
  - (b) *Local government housing authorities;*
  - (c) *Nonprofit organizations;*
  - (d) *Regional or statewide housing assistance organizations; and*
  - (e) *Business organizations that undertake the new construction or rehabilitation of rural housing units for moderate income individuals.*

- (4) *Housing units provided to moderate income individuals or families under Sections 29 to 34 of this Act shall be deed restricted under the following conditions:*
- (a) *Rental housing shall be deed restricted for a minimum of thirty (30) years. Investment from the rural housing trust fund into a specific housing type shall revert to like housing for moderate income individuals; and*
  - (b) *Single-family units or units for sale shall be deed restricted for a minimum of ten (10) years.*  
*The corporation may grant amendments to deed restrictions on a case-by-case basis.*
- (5) *In the development of rural housing under Sections 29 to 34 of this Act, displacement of moderate income individuals or families shall not be permitted unless the project pays all reasonable relocation costs as defined by the corporation in administrative regulations promulgated under KRS Chapter 13A.*
- (6) *Discrimination in the sale or rental, or otherwise making available or denying, a dwelling funded under Sections 29 to 34 of this Act to any buyer or renter because of race, religion, sex, familial status, disability, or national origin is prohibited.*
- (7) (a) *Moneys in the trust fund shall be contributed permanently to a rural project, except when serving as a match for federal housing programs that require all funds to be contributed permanently to the federal program.*
- (b) *All repayment, interest, or other return on the investment of trust fund moneys are required to be returned to the trust fund and used for eligible trust fund activities in accordance with Sections 29 to 34 of this Act.*
- (c) *Trust fund moneys invested in a rural project with federal dollars requiring a permanent contribution shall be recaptured to the federal program account.*
- (8) *Beginning on or before October 1, 2024, and on or before each October 1 thereafter, the corporation shall submit a report to the Legislative Research Commission on the disposition of the rural housing trust fund moneys for the previous fiscal year.*

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

*The corporation shall:*

- (1) *Issue a public notice to eligible recipients regarding the availability of trust fund moneys at least twice each calendar year;*
- (2) *Provide a reasonable opportunity for the filing of applications;*
- (3) *After consultation with the Rural Housing Trust Fund Advisory Committee created in Section 34 of this Act, approve or deny properly submitted and completed applications within ninety (90) days of their receipt;*
- (4) *Approve applications that will effectively use available moneys;*
- (5) *Approve or deny applications by ranking the applications competitively using criteria established by the corporation in consultation with the advisory committee and promulgated in an administrative regulation under KRS Chapter 13A;*
- (6) *Give priority to applications in the following order:*
  - (a) *Applications for projects located in a federally declared disaster area or projects assisting individual recipients displaced by a federally declared disaster area;*
  - (b) *Applications for projects submitted by nonprofit organizations or local governments for new rural housing construction;*
  - (c) *Applications for projects using existing privately owned housing stock, including stock purchased by nonprofit public development activities;*
  - (d) *Applications for projects using existing publicly owned housing stock; and*
  - (e) *Applications from local governments for projects that demonstrate effective zoning, conversion, or demolition controls for single room occupancy units;*

- (7) *Provide technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for moderate income individuals. The corporation may contract with nonprofit organizations to provide the technical assistance required by this subsection; and*
- (8) *Provide the following services:*
- (a) *Financial planning and packaging for housing projects, including alternative ownership programs and bridge financing;*
  - (b) *Project design, architectural planning, siting, and compliance with planning requirements;*
  - (c) *Securing matching resources for project development;*
  - (d) *Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, local and state managed funds, zoning variances, density bonuses for low-rise multifamily projects, or creative local planning;*
  - (e) *Coordination with local planning, economic development, environmental, technical assistance, and recreational activities;*
  - (f) *Construction and material management; and*
  - (g) *Project maintenance and management.*

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby created the Rural Housing Trust Fund Advisory Committee, which shall be composed of the following eleven (11) members:*
- (a) *The Commissioner of Agriculture or the Commissioner's duly appointed designee;*
  - (b) *Two (2) members of the Senate appointed by the President of the Senate, each of whom shall serve while a member of the Senate for the term for which he or she was elected;*
  - (c) *Two (2) members of the House of Representatives appointed by the Speaker of the House, each of whom shall serve while a member of the House of Representatives for the term for which he or she was elected; and*
  - (d) *Six (6) private citizens with a principal residence located in a rural community who shall be appointed by the board of directors of the corporation.*
- (2) (a) *Members appointed under subsection (1)(d) of this section shall serve a three (3) year term or until their successors are appointed and duly qualified, and may be reappointed to one (1) additional term.*
- (b) *A vacancy on the advisory committee shall be filled following the requirements and procedures for original appointments.*
- (3) *The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the rural housing trust fund.*
- (4) *The Commissioner of Agriculture shall be the presiding officer, and the advisory committee may establish its own rules of procedure, which shall not be inconsistent with the housing provisions of this chapter.*
- (5) *Members of the advisory committee shall serve without compensation, but members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the advisory committee.*

➔Section 35. KRS 48.020 is amended to read as follows:

Each branch of government shall have in continuous process of preparation and revision, in the light of its direct studies of the operations, plans and needs of its budget units and of the existing and prospective sources of income, a branch budget recommendation for the next two (2) fiscal years for which a budget recommendation is required to be prepared. Upon receipt of the estimates from its budget units, each branch of government shall check these estimates in the light of its own information, and shall make such further inquiries and investigations and revise its branch budget recommendation as it deems warranted.~~—The branch budget recommendation when approved shall be certified together with the budget statements provided for in KRS 48.110 and submitted as provided for in KRS 48.100.~~

➔Section 36. KRS 48.040 is amended to read as follows:

- (1) On or before April 1 of each odd-numbered year, representatives designated by the Governor, the Chief Justice, and the Legislative Research Commission for their respective branches shall propose drafts of uniform forms to be used by all budget units in submitting their budget estimates, requests and recommendations, and shall recommend to the Legislative Research Commission such rules and regulations deemed necessary for the preparation of such budget estimates, requests and recommendations.
- (2) On or before ~~June~~~~July~~ 1 of each odd-numbered year, the Legislative Research Commission shall prescribe uniform forms, records, and instructions to be used by branch budget units. Included in such forms shall be a section requiring budget units to identify the amount of funds to be spent on agency publications.
- (3)
  - (a) On or before August 15 of each odd-numbered year, each of the state-administered retirement systems as defined by KRS 6.350(5) shall submit to the state budget director's office and the Legislative Research Commission a preliminary projection of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.
  - (b) On or before ~~October 1~~~~November 15~~ of each odd-numbered year, the state-administered retirement systems as defined by KRS 6.350(5) shall submit revised projections to the state budget director's office and the Legislative Research Commission, based upon the most recently completed actuarial valuation, of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.
  - (c) The Legislative Research Commission shall distribute the information received under this subsection to the committee staff and co-chairs of any committee that has jurisdiction over a state-administered retirement system.
- (4) On or before ~~August~~~~September~~ 1 of each odd-numbered year, the Finance and Administration Cabinet shall supply each branch of government with at least three (3) complete sets of the prescribed uniform forms and instructions for the preparation of estimates and statements, and one (1) copy of the complete statement of the expenditures of each budget unit of the branch to aid each branch of government in preparing its estimates and statements.
- (5) Upon request, the Finance and Administration Cabinet shall provide such additional assistance to each branch of government as may be required.

➔Section 37. KRS 48.050 is amended to read as follows:

***On or before October 1 of each odd-numbered year***, the head of each budget unit shall submit its budget unit request to:

- (1) The Office of State Budget Director, in the case of the executive branch;~~[-, to]~~
- (2) The Chief Justice, in the case of the judicial branch;~~[-, to]~~
- (3) The director of the Legislative Research Commission, in the case of the legislative branch; and~~[-, to]~~
- (4) The Legislative Research Commission~~[-, not later than November 15 of each odd-numbered year].~~

➔Section 38. KRS 48.110 is amended to read as follows:

Each branch budget recommendation shall contain a complete financial plan for the branch of government for each of the next two (2) fiscal years. ***Each branch budget recommendation and all supporting documentation shall be submitted in a form and format cooperatively developed by each respective branch of government and the General Assembly and approved by the Legislative Research Commission.*** Each branch budget recommendation shall include:

- (1) A budget message signed by:
  - (a) The Governor for the executive branch;
  - (b) The Chief Justice for the judicial branch; and
  - (c) The co-chairmen of the Legislative Research Commission for the legislative branch;
- (2)
  - (a) Statements of income and receipts for the two (2) fiscal years last concluded, and the estimated income and receipts, for each budget unit of the branch of government for the current fiscal year and each of the next two (2) fiscal years.
  - (b) The statements of income and estimated income shall be itemized by budget unit and fund, and shall show separately receipts from:

1. Current income;
  2. Refunds and reimbursements of expenditures;
  3. The sale of assets; and
  4. Receipts on account of the income of prior years.
- (c) Existing sources of income and receipts shall be analyzed as to their equity, productivity and need for revision, and any proposed new sources of income or receipts shall be explained;
- (3) A statement of the surplus in any account and in any special fund of the branch of government. If a surplus exists in any account of the branch of government the statement shall show the excess of all current assets over all current liabilities as of the beginning of each of the two (2) fiscal years last concluded, and all changes in these accounts during each of such two (2) fiscal years;
- (4) A statement as of the close of the last completed fiscal year and as of the close of the current fiscal year showing, for each budget unit the total funded debt, the value of sinking fund assets, the net funded debt, the floating liabilities as of the end of the current fiscal year, and the total debt as of the close of the last completed fiscal year and as of the close of the current fiscal year;
- (5) Summary and detailed comparative statements of expenditures itemized by budget unit for each of the two (2) fiscal years last concluded and requests for appropriations by funds or accounts, the budget of the current year, and the recommendations for appropriations for each of the next two (2) fiscal years. Following the lists of actual and proposed expenditures of each budget unit there shall be a detailed explanation of the actual and proposed expenditures, to include activities, beneficiaries and expected results of the programs or services of the budget units;
- (6) A draft of the proposed branch budget bill containing:
- (a) Recommendations of the branch of government for appropriations for the next two (2) fiscal years, and drafts of such revenue and other acts as may be recommended for implementing the proposed financial plan;
  - (b) Recommended appropriations for extraordinary expenses and capital outlays, which shall be itemized in the proposed branch budget bill for the branch by budget unit. The title of each budget unit shall be worded to limit each appropriation to the specific use or purpose intended;
  - (c) A plan for the reduction of the branch budget if there is a revenue shortfall of five percent (5%) or less in the general fund or road fund. In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;
  - (d)
    1. A plan for the expenditure of a general fund or road fund surplus of up to two and one-half percent (2.5%).
    2. The plan shall include provisions for the expenditure of a surplus, and may provide for additional moneys for nonrecurring expenditures for which an appropriation was not made in a branch budget bill, or for a program or service authorized by law for which an appropriation was not made, or which was not fully funded.
    3. In lieu of recommending the appropriation of funds, the plan may instead recommend the retention of surplus funds in the surplus account of the general fund or road fund for investment until appropriated by the General Assembly;
  - (e)
    1. A recommended state capital projects program and a recommended program for the purchase of major items of equipment.
    2. The recommended capital construction program shall include:
      - a. A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and
      - b. For each project:

## ACTS OF THE GENERAL ASSEMBLY

- i. The agency and purpose for which it will be used;
  - ii. The justification for the project;
  - iii. Its estimated completion date;
  - iv. The total estimated cost of completing the project;
  - v. The estimated cost of the project during the biennium;
  - vi. The recommended sources of funds for the entire project; and
  - vii. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.
3. All information required by subparagraph 2. of this paragraph shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraph 2.b.v., vi., and vii. of this paragraph.
4. A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, road fund, and any affected restricted fund account.
5. Information in the report shall include but not be limited to the following:
  - a. Debt service on existing appropriation-supported debt, as a percentage of anticipated total revenues;
  - b. Debt service on existing appropriation-supported debt, as a percentage of anticipated available revenues;
  - c. The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of anticipated total revenues;
  - d. The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of anticipated available revenues;
  - e. The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of estimated state total personal income; and
  - f. The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percentage of estimated state total personal income.
6. The recommended program for the purchase of major items of equipment submitted by the head of each branch of government shall include:
  - a. A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and
  - b. For each major item of equipment:
    - i. The agency and purpose for which it will be used;
    - ii. The justification for the purchase;
    - iii. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;
    - iv. The recommended sources of funds; and
    - v. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.
7. All information required by subparagraph 5. of this paragraph shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during

the biennium and, for each item, the information specified in subparagraph 6.b.iii., iv., and v. of this paragraph;

- (f) The branch budget recommendation for the Transportation Cabinet shall include the following information:
1. A separate branch budget bill;
  2. A recommended biennial highway construction plan, which shall be presented as a separate bill, and which shall include a list of individual transportation projects included in the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the recommended biennial highway construction appropriation, which can be advanced if:
    - a. Additional funds are received; and
    - b. All projects included in the biennial highway construction plan have been advanced or completed to the extent possible; and
  3. The six (6) year road plan. The Governor shall have ten (10) working days after submission of the branch budget recommendation and the recommended biennial highway construction plan to submit the six (6) year road plan. The six (6) year road plan shall be submitted in a form and format cooperatively developed by the Transportation Cabinet and the General Assembly and approved by the Legislative Research Commission; and
- (g)
1. In the executive branch budget recommendation, as a separate section, an amount sufficient to meet unexpected contingencies or emergencies, including but not limited to natural or man-made disasters, civil disorders, court orders requiring or resulting in the expenditure of state funds, or other related causes.
  2. The amount shall be based on the nature, type, and frequency of named categories of events which may, from past experience, be reasonably anticipated.
  3. This portion of the budget recommendation shall detail similar incidents and the nature and amount of the expenditures for each during the ten (10) years immediately preceding.

The total amount of appropriations recommended from any fund shall not exceed the cash resources estimated to be available and to become available to meet expenditures under the appropriations;

- (7) A certificate of the branch of government as to the accuracy of the statements of financial condition, of income and receipts, and of expenditures; and
- (8) Such other information as is deemed desirable, or is required by law or regulation.

➔Section 39. KRS 48.120 is amended to read as follows:

- (1) By August 15 of each odd-numbered year, the Office of State Budget Director, in conjunction with the consensus forecasting group, shall provide to each branch of government a budget planning report. The budget planning report shall include:
  - (a) A baseline analysis and projections of economic conditions and outlook;
  - (b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition;
  - (c) The revenue estimates and implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years; and
  - (d) Projections of personal income, employment, and economic indicators that reflect economic conditions.
- (2) By October 15 of each odd-numbered year, the Office of State Budget Director shall provide to each branch of government preliminary revenue estimates made by the consensus forecast group for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.
- (3) **By December 20 of each odd-numbered year**~~On or before the fifteenth legislative day~~, the Office of State Budget Director shall certify and present to the **Legislative Research Commission**~~General Assembly~~ the official revenue estimates made by the consensus forecasting group for the general fund and road fund for the current and next two (2) fiscal years.

- (4) Appropriations made in the branch budget bills enacted for each branch of government shall be based upon the official revenue estimates presented to the *Legislative Research Commission*~~[General Assembly]~~ by the Office of State Budget Director under subsection (3) of this section, as modified by the General Assembly.
- (5) The enacted estimates shall become the official revenue estimates of the Commonwealth upon the branch budget bills becoming law, and shall remain the official revenue estimates of the Commonwealth until revised by the consensus forecasting group as provided in KRS 48.115.

➔Section 40. KRS 48.170 is amended to read as follows:

In addition to the requirements set forth in this chapter, the *standing*~~[appropriations]~~ committees of each house or *interim joint committees* of the Legislative Research Commission, as appropriate, may require additional information and ~~shall~~~~may~~ prescribe the form in which such additional information shall be submitted as a part of, or in support of, a branch budget recommendation. ***The information shall be submitted within fourteen (14) days of the request unless an extension is granted by the requesting staff person. The extension shall not exceed seven (7) days from the date the extension was granted.***

➔Section 41. KRS 48.300 is amended to read as follows:

- (1) The financial plan for each fiscal year~~[as presented in the branch budget recommendation]~~ shall be adopted, with any modifications made by the General Assembly, by the passage of a branch budget bill for each branch of government, and any revenue and other acts as necessary.
- (2) With regard to the Transportation Cabinet, the General Assembly shall:
  - (a) Enact, as a separate bill, a branch budget for the Transportation Cabinet;
  - (b) Enact, as a separate bill, the biennial highway construction plan, as amended by the General Assembly, including identification of projects from the last four (4) years of the six (6) year road plan that may be moved forward, and the conditions and requirements under which the identified projects may be moved forward; and
  - (c) Adopt the last four (4) years of the six (6) year road plan, as amended by the General Assembly, as a joint resolution.

➔Section 42. KRS 48.810 is amended to read as follows:

Each~~[program]~~ cabinet, the Department for Local Government, the Department of Military Affairs, and the Commonwealth Office of Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

- (1) Each strategic plan shall include but not be limited to:
  - (a) A statement of the cabinet or administrative entity's value, vision, and mission;
  - (b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request ***by program*** and the six (6) year capital plan of the cabinet or administrative entity;
  - (c) A brief summary of a situation analysis conducted by the~~[program]~~ cabinet or administrative entity;
  - (d) Identification of measurable goals for the next four (4) years ***by program***;
  - (e) Specification of objectives to meet the stated goals ***by program***;
  - (f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives ***by program***; and
  - (g) A progress report providing data and information on the performance indicators set forth in the ~~program]~~ cabinet or administrative entity's most recent strategic plan.
- (2) On or before September 1 of each even-numbered fiscal year,~~[program]~~ cabinets and administrative entities which have submitted strategic plans in the previous fiscal year shall submit a progress report to the Office of the State Budget Director, or its designee, which provides data and information regarding the progress the ~~program]~~ cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet's or entity's most recent strategic plan.



- (3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by ~~program~~ cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers and their designees who have responsibility for the completion of a strategic plan as required by this section.
- (4) The Commonwealth Office of Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The Commonwealth Office of Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

➔Section 43. KRS 48.950 is amended to read as follows:

- (1) In order to effectuate the constitutional power and duty of the General Assembly to raise and appropriate revenue and approve and adopt a balanced budget, and in order that members and committees of the General Assembly and the Legislative Research Commission may be informed on a continuous basis about current and prospective financial conditions and budgetary needs of the Commonwealth and its budget units, the Kentucky General Assembly finds and declares that uniform detailed budget data and records relating to expenditures, receipts and activities and the budgetary operations of all budget units must be available in electronic and print form to the General Assembly and the Legislative Research Commission on a continuous and timely basis, ***including the electronic accounting and budgeting systems utilized by all branches of state government such as the Enhanced Management Reporting System and the Kentucky Budgeting System.***
- (2) The contents of all electronic and print forms, records, data and procedures established under KRS 48.955 and 48.960 shall pertain to:
  - (a) The submission of budget unit requests and branch budget recommendations;
  - (b) The adoption of budget bills;
  - (c) The allotments under, and authorized adjustments and revisions to, the enacted budget;
  - (d) The receipts and disbursements of budget funds pursuant to appropriations enacted by the General Assembly; and
  - (e) The financial and budgetary conditions of the Commonwealth and branch budget units.

These contents, forms and records shall be standard and uniform for all budget units.

- (3) The Governor, the Chief Justice and the Legislative Research Commission for their respective branches and budget units, shall cause to be created, maintained and transmitted in electronic form the data, records and procedures necessary to fulfill the intent and purposes of KRS 48.955 and 48.960 and which may be provided by KRS 48.955 and 48.960.

➔Section 44. KRS 45A.837 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 45A.800 to 45A.835, the Finance and Administration Cabinet and the Transportation Cabinet may enter into price contracts for architectural, engineering, and engineering-related services. If the agencies choose to enter into a price contract, subsection (2) of this section shall apply.
- (2) Price contracts shall be awarded to firms qualified by the Finance and Administration Cabinet, Department of Facilities Management or by the Transportation Cabinet, Department of Highways. The Finance and Administration Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during each fiscal year to review and make recommendations to the commissioner of the Department for Facilities Management for qualification of interested firms. The Transportation Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during each fiscal year to review and make recommendations to the commissioner of the Department of Highways for qualification of interested firms.
  - (a) The respective committees shall evaluate those firms submitting statements of interest in obtaining a price contract. The submitting firms shall be reviewed according to the following criteria:
    1. Qualifications;
    2. Ability of professional personnel; and

3. Past record and experience.
  - (b) Firms qualified by the commissioner of the Department for Facilities Management or by the commissioner of the Department of Highways shall be awarded price contracts by the respective departments for the type of work for which they have been qualified.
  - (c) The commissioner of the Department for Facilities Management or the commissioner of the Department of Highways may select firms to perform work under price contract for small projects for which the architectural, engineering, or engineering-related fees do not exceed **one hundred fifty**~~seventy-five~~ thousand dollars **(\$150,000)**~~(\$75,000)~~. However, no firm that has received more than **three**~~one~~~~hundred~~~~fifty~~ thousand dollars **(\$300,000)**~~(\$150,000)~~ in price contract fees in any one (1) fiscal year in the contract discipline being awarded shall be selected to work under a price contract unless the secretary of finance and administration or the secretary of transportation makes a written determination that the selection is in the best interest of the Commonwealth and the determination is confirmed by the appropriate cabinet's selection committee established by KRS 45A.810.
- (3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract shall be awarded under the provisions of this section before completion of the review procedure provided for in KRS 45A.695 and 45A.705.

➔SECTION 45. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

*The following classes of property shall be exempt from state and local ad valorem taxes, including the county, city, school, and other taxing district in which it has a taxable situs:*

- (1) *Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his or her farm operations;*
- (2) *Livestock, ratite birds, and domestic fowl;*
- (3) *Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. secs. 81a to 81u, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;*
- (4) *Property that is certified as an alcohol production facility as defined in KRS 247.910;*
- (5) *Property that is certified as a fluidized bed energy production facility as defined in KRS 211.390;*
- (6) *Computer software, except prewritten computer software as defined in Section 6 of this Act;*
- (7) *Trucks, tractors, and buses used on routes or in systems that are partly within and partly outside this state, and that are subject to the fee imposed by KRS 136.188;*
- (8) *Semitrailers and trailers, as defined in KRS 189.010, if the semitrailers or trailers are used on a route or in a system that is partly within and partly outside this state. Semitrailers or trailers required to be registered under KRS 186.655 that are used only in this state shall be subject to the ad valorem tax imposed by KRS 132.487;*
- (9) *All intangible personal property, except intangible personal property assessed under KRS 132.030 or KRS Chapter 136. Nothing in this subsection shall prohibit local taxation of franchises of:*
  - (a) *Corporations;*
  - (b) *Financial institutions as provided in KRS 136.575; or*
  - (c) *Domestic life insurance companies;*
- (10) *All real and personal property owned by another state or a political subdivision of another state that is used exclusively for public purposes, if a comparable exemption is provided in that state or political subdivision for property owned by the Commonwealth of Kentucky or its political subdivisions;*
- (11) *Every fraternal benefit society organized or licensed under Subtitle 29 of KRS Chapter 304 that is a charitable and benevolent institution, and its funds shall be exempt from all state, county, district, city, and school taxes, other than taxes on real property and office equipment; and*
- (12) (a) *Any bridge built by an adjoining state, by the government of the United States, or by any commission created by an Act of Congress, over a boundary line stream between this state and an adjoining state, which is:*

1. *Not operated for profit and, if it connects with a primary highway of this state, is declared to be public property used for public purposes; and*
  2. *Exempt from taxation unless the adjoining state, or other public body constructing the bridge, taxes similar bridges built by this Commonwealth in like manner.*
- (b) *The issuance of bonds for the purpose of amortizing the cost of construction of the bridges, as described in paragraph (a) of this subsection, shall not affect the tax exemption granted.*

➔Section 46. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
- (a) 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;
  - (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of all motor vehicles qualifying for permanent registration as historic motor vehicles under KRS 186.043;
  - (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:
    1. Machinery actually engaged in manufacturing;
    2. Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers; and
    3. Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;
  - (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
  - (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes:
    1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;
    2. Motor vehicles:
      - a. Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to KRS 186A.230; or
      - b. That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;
    3. Raw materials, which includes distilled spirits and distilled spirits inventory;
    4. 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; and
    5. Qualified heavy equipment;
  - (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all:
    1. 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, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

2. Qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;
  3. Tobacco directed to be assessed for taxation;
  4. Unmanufactured agricultural products;
  5. Aircraft not used in the business of transporting persons or property for compensation or hire;
  6. Federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
  7. Privately owned leasehold interests in residential property described in KRS 132.195(2)(g); *and*
- (g) ~~One tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all:~~
1. ~~Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;~~
  2. ~~Livestock and domestic fowl;~~
  3. ~~Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board; and~~
  4. ~~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; and~~
- (h) 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 KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, 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:
    - (a) The assessment of new property as defined in KRS 132.010(8);
    - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
    - (c) 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)(f) 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.
  - (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) 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 department 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 department, 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 department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
  - (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
    - (a) The revenue resulting from new property as defined in KRS 132.010(8);

- (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
- (c) 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 (\$.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.

- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department 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 (2) 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 Office of Energy Policy for the purpose of public education of coal-related issues.

➔Section 47. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- ~~(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;~~
- ~~(2) Livestock, ratite birds, and domestic fowl;~~
- ~~(3) Capital stock of savings and loan associations;~~
- ~~(2) (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;~~
- ~~(3) (5) (a) Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna;~~
  - (b) Equipment directly used or associated with the equipment identified in paragraph (a) of this subsection, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast, but excluding telephone and cellular communications towers; and
  - (c) Equipment used to gather or transmit weather information;
- ~~(4) (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;~~
- ~~(5) (7) All privately owned leasehold interest 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, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;~~
- ~~(6) (8) Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible~~

personal property for purposes of this subsection if the tangible personal property is being used for its intended purposes;{

- ~~(9)~~ Property which has been certified as an alcohol production facility as defined in KRS 247.910;{
- ~~(7)~~~~(10)~~ On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;{
- ~~(11)~~ Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;{
- ~~(8)~~~~(12)~~ Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;{
- ~~(13)~~ Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;{
- ~~(9)~~~~(14)~~ All motor vehicles:
- (a) Held for sale in the inventory of a licensed motor vehicle dealer, including motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;
  - (b) That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer; and
  - (c) With a salvage title held by an insurance company;
- ~~(10)~~~~(15)~~ Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.010;
- ~~(11)~~~~(16)~~ New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- ~~(12)~~~~(17)~~ New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- ~~(13)~~~~(18)~~ Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- ~~(14)~~~~(19)~~ Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- ~~(15)~~~~(20)~~ Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
- (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
  - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;
- ~~(16)~~~~(21)~~ Qualifying voluntary environmental remediation property for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund;

~~(17)(22)~~ Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:

- (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
- (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments;
- (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation;

~~(18)(23)~~ Recreational vehicles held for sale in a retailer's inventory;

~~(19)(24)~~ A privately owned leasehold interest in residential property described in KRS 132.195(2)(g), if an exemption is approved by the county, city, school, or other taxing district in which the residential property is located; and

~~(20)(25)~~ Prefabricated homes held for sale in a manufacturer's or retailer's inventory.

➔Section 48. KRS 139.210 is amended to read as follows:

- (1) Except as provided in ~~subsections~~~~subsection~~ (2) and (3) of this section, the tax shall be required to be collected by the retailer from the purchaser. The tax shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.
- (2) The department may relieve certain retailers from the ~~requirement in~~~~provisions of~~ subsection (1) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. If the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.
- (3) ***Retailers that provide road and travel services that are taxable under Section 7 of this Act shall not be required to state the tax separately from the sales price if the retailer can establish and provide evidence that the sales tax has been added to the total amount of the sales price charged to the purchaser and has not been absorbed by the retailer. The amount of the sales price shall be the amount received exclusive of the tax imposed.***
- (4) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth.

~~(5)(4)~~ The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

➔Section 49. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

- (1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;
- (2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;
- (3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;
- (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;
- (5) "Motor vehicle" means:
  - (a) Any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires; **or**

**(b) Recreational vehicles;**

- (6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;
- (7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;
- (8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;
- (9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional. "Total consideration given" shall not include:
- (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;
  - (b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and
  - (c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;
- (10) "Trade-in allowance" means:
- (a) The value assigned by the seller of a motor vehicle to a motor vehicle registered to the purchaser and offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given; or
  - (b) In the absence of a notarized affidavit, the value of the vehicle being offered in trade as established by the department through the use of the reference manual;
- (11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;
- (12) "Retail price" for:
- (a) New motor vehicles;
  - (b) Dealer demonstrator vehicles;
  - (c) Previous model year motor vehicles; and
  - (d) U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;

means the total consideration given, as determined in KRS 138.4603;

- (13) "Retail price" for historic motor vehicles shall be one hundred dollars (\$100);
- (14) "Retail price" for used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values appear in the reference manual means the trade-in value given in the reference manual;
- (15) "Retail price" for older used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values no longer appear in the reference manual shall be one hundred dollars (\$100);
- (16) (a) "Retail price" for:
1. Used motor vehicles, except those vehicles for which the retail price is established in subsection (13), (14), (15), (17), or (19) of this section; and
  2. U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles;

means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller, as attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the trade-in value, as established by the reference manual, of the motor vehicle offered for registration and the trade-in value,



as established by the reference manual, of any motor vehicle offered in trade as part of the total consideration given.

- (b) The trade-in allowance shall also be disclosed in the notarized affidavit.
  - (c) If a notarized affidavit is not available, "retail price" shall be established by the department through the use of the reference manual;
- (17) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the trade-in value given in the reference manual;
  - (18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of subsection (12) of this section computed as of the date on which the vehicle is transferred;
  - (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525, 186A.530, or 186A.555 means the total consideration given as attested to in a notarized affidavit;
  - (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership;
  - (21) "Department" means the Department of Revenue;
  - (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on which the signature of the buyer and the signature of the seller are individually notarized;~~{and}~~
  - (23) "Reference manual" means the automotive reference manual prescribed by the department; **and**
  - (24) ***"Recreational vehicle" means any motor home, travel trailer, fifth-wheel trailer, pull-behind camper, or pop-up camping trailer, which:***
    - (a) ***Contains living quarters; and***
    - (b) ***Is required to be licensed for use on the public highways.***

➔Section 50. KRS 132.010 is amended to read as follows:

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

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his or her actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;
- (7) "Net assessment growth" means the difference between:

- (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year; and
  - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
- (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
  - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
  - (c) The value of improvements to existing nonresidential property;
  - (d) The value of new residential improvements to property;
  - (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
  - (f) Property created by the subdivision of unimproved property, provided, that when the property is reclassified from farm to subdivision by the property valuation administrator, the value of the property as a farm shall be a deletion from that category;
  - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
  - (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that the property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
  - (i) The value of improvements to real property previously under assessment moratorium.
- "Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;
- (9) "Agricultural land" means:
- (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;
  - (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or
  - (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
- (10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;
- (11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:
- (a) Relative percentages of tillable land, pasture land, and woodland;
  - (b) Degree of productivity of the soil;
  - (c) Risk of flooding;
  - (d) Improvements to and on the land that relate to the production of income;

- (e) Row crop capability including allotted crops other than tobacco;
  - (f) Accessibility to all-weather roads and markets; and
  - (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;
- (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;
- (13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;
- (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;
- (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;
- (16) "Manufactured home" means a structure manufactured after June 15, 1976, in accordance with the National Manufactured Housing Construction and Safety Standards Act, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assignees and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (17) "Mobile home" means a structure manufactured on or before June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (18) "Modular home" means a structure which is certified by its manufacturer as being constructed in accordance with all applicable provisions of the Kentucky Building Code and standards adopted by the local authority which has jurisdiction, transportable in one (1) or more sections, and designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein;
- (19) "Prefabricated home" means a manufactured home, a mobile home, or a modular home;
- (20) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home. As used in this subsection:
- (a) "Travel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms;
  - (b) "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use;
  - (c) "Truck camper" means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck; and

- (d) "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;
- (21) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- (22) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;
- (23) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and KRS 224.60-115;
- (24) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:
- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
  - (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
  - (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
  - (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
  - (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
  - (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, through:
    1. Direct or indirect familial relationship;
    2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
    3. Reorganization of a business entity that was potentially liable;
- (25) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;
- (26) (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and
- (c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (27) "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;
- (28) "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes;
- (29) (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.
- (b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee;

- (30) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- (31) "Heavy equipment rental agreement" means the short-term rental contract under which qualified heavy equipment is rented without an operator for a period:
- (a) Not to exceed three hundred sixty-five (365) days; or
  - (b) That is open-ended under the terms of the contract with no specified end date;
- (32) "Heavy equipment rental company" means an entity that is primarily engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System Manual in effect on January 1, 2019;
- (33) "Qualified heavy equipment" means machinery and equipment, including ancillary equipment and any attachments used in conjunction with the machinery and equipment, that is:
- (a) Primarily used and designed for construction, mining, forestry, or industrial purposes, including but not limited to cranes, earthmoving equipment, well-drilling machinery and equipment, lifts, material handling equipment, pumps, generators, and pollution-reducing equipment; and
  - (b) Held in a heavy equipment rental company's inventory for:
    1. Rental under a heavy equipment rental agreement; or
    2. Sale in the regular course of business;~~and~~
- (34) "Veteran service organization" means an organization wholly dedicated to advocating on behalf of military veterans and providing charitable programs in honor and on behalf of military veterans;
- (35) ***"Government restriction on use" means a limitation on the use of at least fifty percent (50%) of the individual dwelling units of a multi-unit rental housing in order to receive a federal or state government incentive based on low-income renter restrictions, including the following government incentives:***
- (a) ***A tax credit under Section 42 of the Internal Revenue Code;***
  - (b) ***Financing derived from exempt facility bonds for qualified residential rental projects under Section 142 of the Internal Revenue Code;***
  - (c) ***A low-interest loan under Section 235 or 236 of the National Housing Act or Section 515 of the Housing Act of 1949;***
  - (d) ***A rent subsidy;***
  - (e) ***A guaranteed loan;***
  - (f) ***A grant; or***
  - (g) ***A guarantee;***
- (36) ***"Low income" means earning at or below eighty percent (80%) of the area median income as defined by the United States Department of Housing and Urban Development for the location of the multi-unit rental housing; and***
- (37) ***"Multi-unit rental housing" means residential property or project consisting of four (4) or more individual dwelling units and does not include:***
- (a) ***Assisted living facilities; or***
  - (b) ***Duplexes or single-family units unless they are included as part of a larger property that is subject to government restriction on use.***

➔Section 51. KRS 132.191 is amended to read as follows:

- (1) The General Assembly recognizes that Section 172 of the Constitution of Kentucky requires all property, not exempted from taxation by the Constitution, to be assessed at one hundred percent (100%) of the fair cash value, estimated at the price the property would bring at a fair voluntary sale, and that it is the responsibility of the property valuation administrator to value property in accordance with the Constitution.

- (2) The General Assembly further recognizes that property valuation may be determined using a variety of valid valuation methods, including but not limited to:
- (a) A cost approach, which is a method of appraisal in which the estimated value of the land is combined with the current depreciated reproduction or replacement cost of improvements on the land;
  - (b) An income approach, which is a method of appraisal based on estimating the present value of future benefits arising from the ownership of the property;
  - (c) A sales comparison approach, which is a method of appraisal based on a comparison of the property with similar properties sold in the recent past;~~and~~
  - (d) A subdivision development approach, which is a method of appraisal of raw land:
    1. When subdivision and development are the highest and best use of the parcel of raw land being appraised; and
    2. When all direct and indirect costs and entrepreneurial incentives are deducted from the estimated anticipated gross sales price of the finished lots, and the resultant net sales proceeds are then discounted to present value at a market-derived rate over the development and absorption period;  
**and**
  - (e) ***The approaches listed in subsection (5) of this section for multi-unit rental housing that is subject to government restriction on use.***
- (3) The valuation of a residential, commercial, or industrial tract development shall meet the minimum applicable appraisal standards established by:
- (a) The Kentucky Department of Revenue, as stated in its Guidelines for Assessment of Vacant Lots, dated March 26, 2008; or
  - (b) The International Association of Assessing Officers.
- (4) To be appraised using the subdivision development approach, a subdivision development shall consist of five (5) or more units. The appraisal of the development shall reflect deductions and discounts for:
- (a) Holding costs, including interest and maintenance;
  - (b) Marketing costs, including commissions and advertising; and
  - (c) Entrepreneurial profit.
- (5) (a) ***The property valuation of multi-unit rental housing that is subject to government restriction on use may be determined:***
1. a. ***Through an annual net operating income approach to value that uses actual income and stabilized operating expenses that are based on the actual history of the property, when available, and a capitalization rate.***
  - b. ***The methodology employed in the projection of income, expenses, and capitalization rate used shall be consistent with the Uniform Standards of Professional Appraisal Practice.***
  - c. ***The capitalization rate shall be:***
    - i. ***Based on the risks associated with multi-unit rental housing subject to government restriction on use, including diminished ownership control; income generating potential; liquidity; the condition of the property; the class of the property; and the property's location and size;***
    - ii. ***Equal to or greater than the capitalization rate used for valuing multi-unit rental housing that is not subject to government restriction on use; and***
    - iii. ***In the range of fifty (50) to one hundred fifty (150) basis points above the most recent quarterly survey of the national average cap rates of multifamily properties published by realtyrates.com or a successor organization.***
  - d. ***The department shall publish the capitalization rate range for the property valuation administrators to use on its website at the beginning of each year; or***

2. *By adjusting the unrestricted market value of the multi-unit rental housing, computed without regard to any government restriction on use applicable to the multi-unit rental housing, based on the ratio of the average annual rent of those units of the property that are subject to government restriction on use to the average annual rent of comparable multi-unit rental housing that is not subject to government restriction on use.*
- (b) *Income tax credits received under Section 42 of the Internal Revenue Code or from any state or federal program shall not be included in the methods used under paragraph (a) of this subsection in determining the income attributable to the multi-unit rental housing or in any separate intangible assessment.*
- (c) 1. *The owner of multi-unit rental housing shall:*
- a. *Notify the property valuation administrator if:*
- i. *The property is subject to government restriction on use;*
- ii. *The property is no longer subject to government restriction on use; or*
- iii. *A foreclosure action has been brought upon the property; and*
- b. *File with the property valuation administrator, on a form prescribed by the department, the information necessary for the multi-unit rental housing to be valued based on the methods described in paragraph (a) of this subsection.*
2. *The notification shall be in writing and submitted to the property valuation administrator within sixty (60) days of the date on which the applicable circumstance listed in subparagraph 1.a. i., ii., or iii. of this paragraph occurred.*
3. *An owner who fails to comply with this paragraph may be subject to penalties in an amount not to exceed two hundred dollars (\$200) as determined by the department.*
- (d) *The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to adopt forms, penalties, and procedures to carry out this subsection.*

➔Section 52. The following KRS sections are repealed:

- 132.098 Exemption from state and local ad valorem tax of computer software, except prewritten computer software.
- 132.192 Property tax exemption reciprocity.
- 132.205 Exemption of bridges built by adjoining state, United States or commission created by Act of Congress over boundary line stream -- Bonds.
- 132.208 Exemption of intangible personal property from state and local ad valorem taxes -- Local taxation permitted.
- 132.210 Exemption of fraternal benefit societies' funds.
- 132.760 Exemption from ad valorem taxes for trucks, tractors, buses, and trailers used both in and outside Kentucky and subject to KRS 136.188 fee.

➔Section 53. The Department of Revenue shall provide a report on or before November 1, 2023, to the Interim Joint Committee on Appropriations and Revenue outlining the following details related to a centralized tax reporting and distribution system for state and local transient room taxes, including:

- (1) A proposed scope of work considering how a state and local centralized tax reporting and distribution system will integrate with legacy systems currently operational within the department;
- (2) An estimated time line for developing and implementing a centralized system;
- (3) An estimated cost for developing and implementing a centralized system;
- (4) An estimate of the cost of maintaining a centralized system, including temporary or permanent personnel needs;
- (5) Any recommendations for statutory changes which may be necessary to develop and implement a centralized system, considering both the time and cost for development and implementation; and

(6) Experiences, both good and bad, from other states that have developed or implemented a centralized system.

➔Section 54. Notwithstanding subsection (2)(a) of Section 34 of this Act, the initial terms of private citizens appointed to the Rural Housing Trust Fund Advisory Committee under subsection (1)(d) of Section 34 of this Act shall be staggered as follows:

- (1) Two members shall be appointed for a three-year term;
- (2) Two members shall be appointed for a two-year term; and
- (3) Two members shall be appointed for a one-year term.

➔Section 55. Section 4 of this Act applies retroactively to January 1, 2023, except that any penalty imposed under subsection (11) of Section 4 of this Act and any interest imposed under KRS 131.183 shall not apply to a return required to be filed under subsection (3)(b) of Section 4 of this Act before the effective date of this Act if the return is filed and the tax is paid by the twentieth day of the month following the effective date of this Act. Notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to the amendments made in Section 4 of this Act.

➔Section 56. Section 5 of this Act takes effect on January 1, 2024.

➔Section 57. Sections 6 to 15 of this Act apply retroactively to January 1, 2023. Notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to the amendments made in Sections 6 to 15 of this Act.

➔Section 58. Whereas many of the provisions of this Act impact tax returns currently being filed by taxpayers, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 24, 2023.**