

AN ACT relating to revenue measures and declaring an emergency.

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

➔Section 1. KRS 224.50-868 is amended to read as follows:

- (1) Until June 30, ~~2018~~<sup>2016</sup>, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar (\$1) fee at the time of the purchase of that tire. A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.
- (2) When a person purchases a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. The person purchasing the new motor vehicle tire shall be encouraged by the retailer to leave the waste tire with the retailer or meet the following requirements:
  - (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);
  - (b) Deliver the waste tire to a person registered in accordance with the waste tire program; or
  - (c) Reuse the waste tire for its original intended purpose or an agricultural purpose.
- (3) A retailer shall report to the Department of Revenue on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month. The report shall be filed on forms and contain information as the Department of Revenue may require. The retailer shall remit with the report ninety-five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee.
- (4) A retailer shall:

- (a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and
  - (b) Post notice at the place where retail sales are made that state law requires the retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section. The notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar (\$1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."
- (5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.
  - (6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.
  - (7) The cabinet shall, in conjunction with the Waste Tire Working Group, develop the informational fact sheet to be made publicly available on the cabinet's Web site and available in print upon request. The fact sheet shall identify ways to properly dispose of the waste tire and present information on the problems caused by improper waste tire disposal.

➔Section 2. KRS 42.4582 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Development Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted

or unencumbered balances in the fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be prorated for grants to counties according to the allotment schedule set out in KRS 42.4592.

- (2) (a) **1. For fiscal years beginning prior to fiscal year 2016-2017**, moneys shall be transferred from the general fund in an amount equal to fifty percent (50%) of the severance and processing taxes on coal collected annually, unless otherwise amended by the budget bill; **and**
- 2. Beginning in fiscal year 2016-2017, the following percentages of the coal severance and processing taxes collected annually pursuant to KRS 143.020 shall be transferred to the local government economic development fund from the general fund:**
- a. In fiscal year 2016-2017, sixty-two and one-half percent (62.5%);**
- b. In fiscal year 2017-2018, seventy-five percent (75%);**
- c. In fiscal year 2018-2019, eighty-seven and one-half percent (87.5%); and**
- d. In fiscal year 2019-2020 and each fiscal year thereafter, one hundred percent (100%).**
- (b) The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.
- (c) The quarterly calculation and transfer of funds pursuant to this section shall be made only after distribution of the quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143.024 and 154.27-060.

➔Section 3. KRS 42.4585 is amended to read as follows:

- (1) A portion of each quarterly transfer of moneys provided for in KRS 42.4582 shall be transferred from the local government economic development fund into the local government economic assistance fund.
- (2) The amount transferred annually from the local government economic development fund ~~to~~~~into~~ the local government economic assistance fund under the provisions of subsection (1) of this section shall be as follows:

(a) For fiscal years ending prior to July 1, 2016, an amount not less than ~~an amount equal to~~ fifteen percent (15%);

(b) For fiscal year 2016-2017, not less than twenty-one and one-fourth percent (21.25%);

(c) For fiscal year 2017-2018, not less than twenty-seven and one-half percent (27.5%);

(d) For fiscal year 2018-2019, not less than thirty-three and three-fourths percent (33.75%); and

(e) For fiscal year 2019-2020 and each fiscal year thereafter, not less than forty percent (40%);

of the severance and processing taxes on coal collected annually.

- (3) The quarterly calculation and transfer of funds pursuant to subsections (1) and (2) of this section shall be made only after distribution of the quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143.024 and 154.27-060.

➔Section 4. KRS 42.4588 is amended to read as follows:

- (1) (a) A Local Government Economic Development Program is established to consist of a system of grants to counties to attract new industry. Grants from funds provided for in KRS 42.4592(1)(a) and (b) and (2) shall be administered by the Department for Local Government. Grants from funds provided for in KRS 42.4592(1)(c) shall be administered by the Kentucky

Economic Development Finance Authority.

- (b) All references in this section to the commissioner of the Department for Local Government relate only to the grants or industrial development projects funded through KRS 42.4592(1)(a) and (b). All references in this section to the secretary of the Cabinet for Economic Development or the Kentucky Economic Development Finance Authority relate only to grants or industrial development projects funded through KRS 42.4592(1)(c).
- (2) Grants obtained under this program shall be used for:
- (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority or the Department for Local Government, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government;
  - (b) Industrial development projects if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government; and
  - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government under the provisions of subsection (3) of this section.
- (3) The secretary of the Cabinet for Economic Development or the commissioner of the

Department for Local Government may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary or the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary or the commissioner may also approve privately owned facilities for transient lodging and recreation where the secretary or commissioner finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in subsection (10)(a), (b), and (c) of this section shall be paramount in the case of lodging and recreational facilities.

- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) and (2) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) An industrial development project may include legal, accounting, engineering, and

marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.

- (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) **and (2)** shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b) **and (2)**.
- (9) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government. Award of grants from funds provided for in KRS 42.4592(1)(c) shall be by the Kentucky Economic Development Finance Authority. Award of grants from funds provided for in KRS 42.4592(1)(a) and (b) **and (2)** shall be by the commissioner of the Department for Local Government.
- (10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:
  - (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
  - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
  - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;

- (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
  - (e) The needs of any industrial firm benefiting from the industrial development project;
  - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
  - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
  - (h) The economic feasibility of the facility.
- (11) For purposes of this section:
- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development

incentive grants;

- (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
- (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Department for Local Government pursuant to KRS 42.4592(1)(a) and (b) **and (2)** for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant shall be limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Department for Local Government, the county, the industrial firm, and the Department for Local Government shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:
1. The industrial firm has made at least the minimum investment required;
  2. At least twenty-five (25) new full-time Kentucky jobs have been created

- at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
  4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
  5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
  6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

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

- (d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.
- (12) Findings by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties,

the Governor, and the Legislative Research Commission.

- (13) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development and the commissioner of the Department for Local Government shall each provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.
- (14) (a) Projects specifically authorized by appropriations made by the General Assembly in an enacted budget bill, with the funding source identified as funds allocated to individual counties under KRS 42.4592(1)(a) or (b) or (2), shall be deemed approved and shall not be subject to the application process established in this section.
- (b) Projects described in paragraph (a) of this subsection shall be subject to a memorandum of agreement between the entity identified in the appropriation and the Department for Local Government. The memorandum of agreement shall address the legal requirements for the disbursement and accounting of funds.
- (c) Within thirty (30) days of the receipt of a written request from an entity designated in the appropriation for funding related to a project described in paragraph (a) of this subsection, the Department for Local Government shall prepare and send a memorandum of agreement to the designated entity for review and signature. Upon receipt of the signed memorandum of agreement from the designated entity, the Department for Local Government shall release the funds for the project for use by the designated entity.
- (d) Funds appropriated for specific projects as described in paragraph (a) of this

subsection shall not be expended for any other purpose, provided that the commissioner of the Department for Local Government may, upon written request by a designated entity identifying an extraordinary circumstance or emergency situation, approve the reallocation of funds appropriated for a specific project as described in paragraph (a) of this subsection to the extent necessary to address the extraordinary circumstance or emergency situation. Any approval under this paragraph shall be made in writing, and shall be reported to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue within thirty (30) days of the approval being made.

→Section 5. KRS 42.4592 is amended to read as follows:

- (1) **For fiscal years beginning prior to fiscal year 2016-2017,** moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 shall be allocated as follows:
- (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four (4) years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years;
  - (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal-producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:
    - 1. Percentage of employment in mining in relation to total employment in the respective county;
    - 2. Percentage of earnings from mining in relation to total earnings in the respective county; and

3. Surplus labor rate; and
- (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two (2) or more coal-producing counties. For purposes of this paragraph, "coal-producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.

**(2) Beginning in fiscal year 2016-2017, moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in Section 3 of this Act shall be allocated as follows:**

**(a) Fifty percent (50%) shall be allocated to each coal-producing county on the basis of the ratio of total tax collected in the current and preceding four (4) years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years; and**

**(b) Fifty percent (50%) shall be allocated quarterly to each coal-producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:**

- 1. Percentage of employment in mining in relation to total employment in the respective county;**
- 2. Percentage of earnings from mining in relation to total earnings in the respective county; and**
- 3. Surplus labor rate.**

**(3)**~~(2)~~ (a) For purposes of paragraph (b) of ~~subsections~~~~[subsection]~~ **(1) and (2)** of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the

United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Office of Employment and Training of the Department of Workforce Investment in the Education and Workforce Development Cabinet, as provided in paragraph (b) of this subsection.

- (b) 1. Each year the Office of Employment and Training shall estimate surplus labor for each county and for the Commonwealth and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.
2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Office of Employment and Training may consult with knowledgeable individuals, including but not limited to the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.
3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

~~(4)~~~~(3)~~ The funds allocated under the provisions of paragraphs (a) and (b) of subsections~~subsection~~ (1) and (2) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties.

Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

➔Section 6. KRS 42.4595 is amended to read as follows:

The Department for Local Government may promulgate administrative regulations to implement the provisions of KRS 42.4582, 42.4585, 42.4592, and KRS 42.4588 as it relates to KRS 42.4592(1)(a) and (b) **and (2)**. The Cabinet for Economic Development or the Kentucky Economic Development Finance Authority may promulgate administrative regulations to implement the provisions of KRS 42.4588 as it relates to KRS 42.4592(1)(c).

➔Section 7. KRS 42.460 is amended to read as follows:

Except as provided in KRS 91A.040(4)(b), any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department for Local Government, in the case of assistance granted from the local government economic assistance fund or the local government economic development fund as allocated in KRS 42.4592(1)(a) and (b) **and (2)**, or to the Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

➔Section 8. KRS 139.472 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of:

(a) A drug purchased for the treatment of:

**1.** A human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed

as a free sample to or from a physician's office; or

**2. Beef cattle, dairy cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, cervids, or bees, if purchased on or after August 1, 2016, and before August 1, 2022;**

(b) An over-the-counter drug purchased for the treatment of:

**1. A human being for which a prescription is issued; or**

**2. Beef cattle, dairy cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, cervids, or bees, if purchased on or after August 1, 2016, and before August 1, 2022;**

(c) Medical oxygen and oxygen delivery equipment purchased for home use. Oxygen delivery equipment includes:

1. High pressure cylinders, cryogenic tanks, oxygen concentrators, or similar medical oxygen delivery equipment including repair and replacement parts for the equipment; and

2. Tubes, masks, and similar items required for the delivery of oxygen to the patient;

(d) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;

(e) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;

(f) Prosthetic devices purchased by any health care provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;

(g) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser;

- (h) Mobility enhancing equipment for which a prescription is issued; and
  - (i) Durable medical equipment, including hospital beds for which a prescription is issued.
- (2) Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable.
- (3) As used in this section:
- (a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:
    - 1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or
    - 2. Intended to affect the structure or any function of the human body;
  - (b) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions, regardless of whether the items meet the definition of an over-the-counter drug;
  - (c)
    - 1. "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. sec. 201.66. The "over-the-counter drug" label shall include:
      - a. A "Drug Facts" panel; or
      - b. A statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.
    - 2. "Over-the-counter drug" shall not include grooming and hygiene products;

- (d) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug;
- (e) 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:
- a. Artificially replace a missing portion of the body;
  - b. Prevent or correct a physical deformity or malfunction; or
  - c. Support a weak or deformed portion of the body.
2. "Prosthetic device" shall not include any of the following:
- a. Corrective eyeglasses;
  - b. Contact lenses; or
  - c. Dental prosthesis;
- (f) 1. "Mobility enhancing equipment" means equipment, including repair and replacements part for same, which:
- a. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
  - b. Is not generally used by persons with normal mobility; and
  - c. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.
2. "Mobility enhancing equipment" shall not include durable medical equipment; and
- (g) 1. "Durable medical equipment" means equipment, including repair and replacement parts for same, which:
- a. Can withstand repeated use;
  - b. Is primarily and customarily used to serve a medical purpose;

- c. Generally is not useful to a person in the absence of illness or injury; and
  - d. Is not worn in or on the body.
2. "Durable medical equipment" shall not include mobility enhancing equipment or oxygen delivery equipment that is not worn in or on the body.
  3. As used in this paragraph, "repair and replacement parts" includes all components or attachments used in connection with durable medical equipment.

➔Section 9. 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) 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. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;
- (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) Property which has been certified as a pollution control facility as defined in KRS 224.1-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;
- (13) Tombstones and other memorial grave markers;
- (14) 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;
- (15) 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;
- (16) 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 (14) of this section;
  - (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
  - (d) Operate on-farm ratite facilities defined in subsection (24) of this section;
  - (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
  - (f) Operate on-farm dairy facilities;
- (17) 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;
- (18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (19) 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;
- (20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (21) 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. The exemption provided in this subsection shall be effective for sales made:

- (a) On and after July 1, 2016; and
  - (b) During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- (22) 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;
- (23) 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;
- (24) 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;
- (25) 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;
- (26) 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;
- (27) Baling twine and baling wire for the baling of hay and straw;
- (28) 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;

- (29) 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;
- (30) 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;

(31) 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;

(32) (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;~~and~~

- (33) 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**

**(34) (a) 1. Bees used in a commercial enterprise for:**

**a. The production of honey or wax for sale; or**

**b. The pollination of crops the products of which:**

**i. Constitute food for human consumption; or**

**ii. Are to be sold in the regular course of business; and**

**2. The following items used in a commercial bee enterprise:**

**a. Sugar and high fructose corn syrup;**

**b. Medication and other chemicals used to control mites, fungi, and parasites;**

**c. Hive components, including but not limited to hive bodies, hive stands, and woodenware;**

**d. Hive accessories, including but not limited to queen excluders, bucket feeders, and pollen traps;**

**e. Beeswax foundation and frames;**

**f. Extractors, decapping tanks, and knives;**

**g. Beekeeping apparel; and**

*h. Machinery and equipment designed exclusively for the management of bees and products derived from bees.*

*(b) The exemption provided in this subsection shall apply to sales or purchases made on or after August 1, 2016, and before August 1, 2022.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

*(1) As used in this section:*

*(a) "DNL" means the day-night average sound level as determined by the Federal Aviation Administration in accordance with 14 C.F.R. pt. 150;*

*(b) "Noise mitigation costs" means the cost associated with replacing, repairing, or installing doors, windows, insulation, and other approved products in accordance with a noise compatibility plan of an airport, as approved by the Federal Aviation Administration;*

*(c) "Noise compatibility plan" means a plan developed by or for an airport that addresses noise levels surrounding the airport, and is approved by the Federal Aviation Administration;*

*(d) "Noise contour" means a line on an airport's noise exposure map that represents equal levels of noise exposure; and*

*(e) "Noise exposure map" means the map created and approved in accordance with 14 C.F.R. pt. 150, and currently in effect, that shows the level of noise exposure surrounding a commercial airport.*

*(2) For taxable years beginning on or after January 1, 2016, but before January 1, 2022, there is allowed a refundable credit against the tax imposed by KRS 141.020 or 141.040 and 141.0401 in an amount determined in subsection (3) of this section, and with the ordering of credits as provided in Section 11 of this Act, for a taxpayer who:*

*(a) Owns a residential structure located within the 60 DNL or higher noise*

- contour as shown on the noise exposure map for a commercial airport located within the Commonwealth;
- (b) Incurs noise mitigation costs on the structure referenced in paragraph (a) of this subsection in a manner consistent with the airport's noise compatibility plan; and
- (c) Does not receive any payment or reimbursement pursuant to the airport's noise compatibility plan for noise mitigation costs for the structure referenced in paragraph (a) of this subsection.
- (3) (a) The credit allowed in subsection (2) of this section shall be one hundred percent (100%) of the noise mitigation costs incurred by the taxpayer that would have been paid for or reimbursed if the structure had been located in a higher DNL noise contour and had been mitigated pursuant to an approved noise compatibility plan, and shall include costs incurred on or after January 1, 2009.
- (b) A taxpayer who incurs noise mitigation costs may file an application with the department to apply for the noise insulation credit.
- (c) Credits shall be awarded to applicants based on the earliest receipt of application by the department. Applicants approved for credits shall be notified by the department as approved, but by no later than January 31 of the year following the year of application.
- (d) The maximum credit awarded to all taxpayers for each taxable year shall be three million dollars (\$3,000,000).
- (4) The department shall promulgate an administrative regulation that provides:
- (a) The process and procedures related to claiming the noise insulation credit;
- (b) Forms for and instructions to taxpayers for the purpose of claiming the noise insulation credit; and
- (c) A method of informing the public for each taxable year the amount of credit

available over time when considering the maximum credit awarded to all taxpayers for that taxable year.

(5) The purpose of the credit permitted by this section is to assist taxpayers owning residential structures within certain noise exposure areas surrounding airports in the Commonwealth by mitigating costs associated with insulating the structures from that noise.

(6) Notwithstanding KRS 131.190, on or before November 1, 2017, and every November 1 thereafter as long as the credit permitted by this section is claimed on returns filed in the Commonwealth, the department shall report the following information to the Legislative Research Commission in order to evaluate the effectiveness of the credit in advancing the purpose stated in subsection (5) of this section:

(a) The total number of returns filed for each taxable year within which the noise insulation credit is claimed;

(b) The total amount of noise insulation credit claimed for each taxable year;

(c) Based on the mailing address of the return, the total amount of credit claimed by county;

(d) 1. In the case of taxpayers other than corporations, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000), the total amount of credits claimed for each adjusted gross income range; and

2. In the case of corporations, based on ranges of net income of no larger than fifty thousand dollars (\$50,000), the total amount of credits claimed for each net income range;

(e) The total number of residences where noise mitigation costs have been incurred; and

(f) An annual estimate of the number of residences that remain within the 60

**DNL noise contour that have not incurred noise mitigation costs.**

→Section 11. 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) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
  2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
  - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
  - (c) The 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 coal incentive credit permitted ~~by~~under KRS 141.0405;
  - (k) The research facilities credit permitted ~~by~~under KRS 141.395;
  - (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;

- (m) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (o) The environmental stewardship credit permitted by KRS 154.48-025;
  - (p) The clean coal incentive credit permitted by KRS 141.428;
  - (q) The ethanol credit permitted by KRS 141.4242;
  - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (s) The energy efficiency credits permitted by KRS 141.436;
  - (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (u) The Endow Kentucky credit permitted by KRS 141.438;
  - (v) The New Markets Development Program credit permitted by KRS 141.434;
  - (w) The food donation credit permitted by KRS 141.392;
  - (x) The distilled spirits credit permitted by KRS 141.389; and
  - (y) The angel investor credit permitted by KRS 141.396.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
  - (b) The credit permitted by KRS 141.066;
  - (c) The tuition credit permitted by KRS 141.069;
  - (d) The household and dependent care credit permitted by KRS 141.067; and
  - (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
  - (b) The individual estimated tax payment credit permitted by KRS 141.305;
  - (c) For taxable years beginning after December 31, 2004, and before January 1,

2007, the corporation income tax credit permitted by KRS 141.420(3)(c);

(d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); ~~and~~

(e) The film industry tax credit permitted~~allowed~~ by KRS 141.383; and

(f) *The noise insulation credit permitted by Section 10 of this Act.*

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

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

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

(b) The 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 coal incentive credit permitted by~~under~~ KRS 141.0405;

(k) The research facilities credit permitted by~~under~~ KRS 141.395;

(l) The employer GED incentive credit permitted by~~under~~ KRS 164.0062;

- (m) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (o) The environmental stewardship credit permitted by KRS 154.48-025;
  - (p) The clean coal incentive credit permitted by KRS 141.428;
  - (q) The ethanol credit permitted by KRS 141.4242;
  - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (s) The energy efficiency credits permitted by KRS 141.436;
  - (t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
  - (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (v) The railroad expansion credit permitted by KRS 141.386;
  - (w) The Endow Kentucky credit permitted by KRS 141.438;
  - (x) The New Markets Development Program credit permitted by KRS 141.434;
  - (y) The food donation credit permitted by KRS 141.392; and
  - (z) The distilled spirits credit permitted by KRS 141.389.
- (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 and 171.397(1)(b); ~~and~~
  - (c) The film industry tax credit permitted by~~allowed in~~ KRS 141.383; and
  - (d) The noise insulation credit permitted by Section 10 of this Act.

➔Section 12. KRS 141.010 is amended to read as follows:

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

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December

31, 2015[2013], exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2015[2013], that would otherwise terminate, and as modified by KRS 141.0101;

- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;
- (8) "Modified gross income" means the greater of:
  - (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent 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 (10) 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);
- (9) "Gross income," in the case of taxpayers other than corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income," in the case of taxpayers other than corporations, means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to

amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
- (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 Public Law 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, 61.560, 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) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
- (h) 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;

- (i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

The "applicable amount" shall be:

- a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
  - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
  - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
  - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
  3. As used in this paragraph:
    - a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code;

- and any disability pension distribution;
- b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
  - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, 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;
- (j) 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 a 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;
- (k) Exclude, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for

the taxpayer, the taxpayer's spouse, and dependents, or for any person authorized to be provided excludable coverage by the taxpayer pursuant to the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, or the Health Care and Education Reconciliation Act of 2010 Pub. L. No. 111-152, during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
- (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
- (n) Exclude any capital gains income attributable to property taken by eminent domain;
- (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
- (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
- (r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

- (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard 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. 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;~~and~~
- (u) For taxable years beginning on or after January 1, 2010, exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205;
- (v) 1. For taxable years beginning on or after January 1, 2019, and before January 1, 2025, exclude up to five thousand dollars (\$5,000) for the taxpayer and each dependent, limited to a maximum annual exclusion of ten thousand dollars (\$10,000), of qualified contributions to the Kentucky Education Savings Plan Trust created by KRS 164A.310.
  - 2. a. The purpose of subparagraph 1. of this paragraph is to encourage and assist taxpayers in saving for their college education and for the college education of their dependents.
  - b. Notwithstanding KRS 131.190, on or before November 1, 2020, and annually thereafter, the department shall report the following information for all taxable years to the Legislative Research Commission:
    - i. The number of returns processed deducting an amount allowed by subparagraph 1. of this paragraph;

ii. The amount of total deductions claimed on returns for each taxable year;

iii. Based on the mailing address of the return, the total amount of deductions claimed by county; and

iv. Based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000), the total amount of deductions claimed for each adjusted gross income range; and

(w) Include contributions, to the extent the contributions were previously excluded from income pursuant to paragraph (v) of this subsection, and earnings refunded to a participant in the Kentucky Educational Savings Plan Trust created by KRS 164A.310, as reported pursuant to Section 14 of this Act, except:

1. Refunds provided under KRS 164A.350(8)(a) or (b);

2. Distributions allowed as a rollover as provided by 26 U.S.C. sec. 529(c)(3)(C); and

3. Distributions used by a participant for reimbursement for qualified education expenses;

(11) "Net income," in the case of taxpayers other than corporations, means adjusted gross income as defined in subsection (10) of this section, minus:

- (a) The deduction allowed by KRS 141.0202;
- (b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;
- (c) For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and

- (d) 1. 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 the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;
  - b. 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 such deduction has not been claimed under KRS 140.090(1)(h);
  - c. The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;
  - d. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;
  - e. 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;

- f. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter;
- g. The itemized deduction limitation established in 26 U.S.C. sec. 68 shall be determined using the applicable amount from 26 U.S.C. sec. 68 as it existed on December 31, 2006; and
- h. 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; and

- 2. Nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted 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 received after December 31, 1969;
- (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 in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
  - (f) Include the amount calculated under KRS 141.205;
  - (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
  - (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
  - (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
  - (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
  - (k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
  - (l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
  - (m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in

this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and

- (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus:
- (a) The deduction allowed by KRS 141.0202;
  - (b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;
  - (c) For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and
  - (d) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and 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, 244, 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, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
6. 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;
7. Any deduction prohibited by KRS 141.205;
8. Any dividends-paid deduction of any captive real estate investment trust;  
and
9. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;

- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;
- (c) "Taxable net income," in the case of 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 (3) 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) "Taxable net income," in the case of 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;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "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 regulations prescribed by the commissioner, "taxable year" means the period for

which the return is made;

- (17) "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;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "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;
- (22) "Wages" means "wages" as defined 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;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
- (b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:
1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
  2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;

Code;

3. A foreign limited liability company as defined in KRS 275.015;
4. A limited liability company as defined in KRS 275.015;
5. A professional limited liability company as defined in KRS 275.015;
6. A foreign limited partnership as defined in KRS 362.2-102(9);
7. A limited partnership as defined in KRS 362.2-102(14);
8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or (8);
9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;
11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

- (25) "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;

- (26) "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;
- (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code;
- (28) "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; and

(29) "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; and
- (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;

- 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 the provisions of 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.

➔Section 13. KRS 164A.370 is amended to read as follows:

**(1)** The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions.

**(2)** Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305(6)~~[or refunded under KRS 164A.350(8)(a) or (b)]~~ shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature.

**(3)** ***Investment income*** earnings that are not used for higher education costs as defined in KRS 164A.305(6) and are refunded shall be subject to Kentucky income tax, except for earnings ***that are:***

**(a)** Refunded pursuant to KRS 164A.350(8)(a) or (b);

**(b)** ***Distributed as a rollover as provided by 26 U.S.C. sec. 529(c)(3)(C); or***

**(c)** ***Attributable to contributions that were not deducted pursuant to subsection (10)(v) of Section 12 of this Act.***

**(4)** ***Contributions that were deducted pursuant to subsection (10)(v) of Section 12 of this Act and are refunded shall be subject to Kentucky income tax.***

➔SECTION 14. A NEW SECTION OF KRS 164A.300 TO 164A.380 IS CREATED TO READ AS FOLLOWS:

**Except as provided by subsection (3) of Section 13 of this Act, refunds of amounts in any participant account, or amounts paid to any participant or beneficiary for purposes**

*other than for payment or reimbursement for higher education costs, shall be reported to the Department of Revenue. The report to the Department of Revenue shall identify:*

- (1) The name, address, and identification number of the person receiving the payment or refund;*
- (2) The reason for the refund or payment;*
- (3) The total amount of the refund or payment;*
- (4) What portion of the refund or payment is from contributions that were deductible pursuant to subsection (10)(v) of Section 12 of this Act; and*
- (5) What portion of the refund or payment represents earnings of the account that are attributable to contributions that were deductible pursuant to subsection (10)(v) of Section 12 of this Act.*

→Section 15. (1) Administrative Fee on Infrastructure for Economic Development Fund Projects: A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the Infrastructure for Economic Development Fund for Tobacco Counties. These administrative fees shall be paid, upon inception of the project, out of the fund from which the project was allocated.

(2) Executive Agency Lobbyists Registration Fee: Notwithstanding KRS 11A.211(5), the registration fee paid shall be \$275. All penalties collected or received by the Executive Branch Ethics Commission shall be deposited into the State Treasury and credited to a trust and agency fund account to the credit of the Commission to be used by the Commission for the cost of conducting administrative hearings pursuant to KRS Chapter 13B. Notwithstanding KRS 45.229, these funds shall not lapse and shall carry forward.

(3) Charges for Federal, State, and Local Audits: Any additional expenses incurred by the Auditor of Public Accounts for required audits of Federal Funds shall be

charged to the government or agency that is the subject of the audit. Because the Auditor of Public Accounts receives General Fund appropriations for audits of the statewide systems of personnel and payroll, cash and investments, revenue collection, and the state accounting system, any expenses incurred by the Auditor of Public Accounts for audits of other state agencies shall be charged to the agency that is the subject of such audit. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit or investigation.

Any expenses incurred by the Auditor of Public Accounts for auditing individual governmental entities when mandated by a legislative committee shall be charged to the agency or entity receiving audit services.

(4) Personnel Board Operating Assessment: Each agency of the Executive Branch with employees covered by KRS Chapter 18A shall be assessed each fiscal year the amount required for the operation of the Personnel Board. The agency assessment shall be determined by the Secretary of the Finance and Administration Cabinet based on the authorized full-time positions of each agency on July 1 of each year of the biennium. The Secretary of the Finance and Administration Cabinet shall collect the assessment.

(5) Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

(6) Pro Rata Assessment: The Personnel Cabinet shall collect a pro rata assessment from all state agencies, in all three branches of government, and other organizations that are supported by the System. Those collections shall be deposited and retained in a Restricted Funds account within the Personnel Cabinet.

(7) Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

(8) Speed Title Procedure for Motor Vehicles: Notwithstanding KRS 186A.170(1)(b) and 601 KAR 9:200, sec. 2, (5) to the contrary, salvage or rebuilt titles shall be processed through the speed title procedure when an electronic notification is issued by a county clerk's office. The speed title fee provided in KRS 186A.130(3) shall apply.

➔Section 16. Section 15 of this Act is effective for and applies to the fiscal year beginning July 1, 2016, and ending June 30, 2017, and the fiscal year beginning July 1, 2017, and ending June 30, 2018, and shall expire at the end of June 30, 2018.

➔Section 17. Whereas this Act applies to the balancing of the Executive Branch Budget, 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.