

1 AN ACT relating to revenue measures, making an appropriation, and declaring an  
2 emergency.

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

4 ➔SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER  
5 224 IS CREATED TO READ AS FOLLOWS:

6 *As used in Sections 1 to 7 of this Act, unless the context otherwise requires:*

7 *(1) "Beneficiary" means the governmental entity for a state that is determined to be*  
8 *eligible under Section IV of the Environmental Mitigation Trust Agreement for*  
9 *State Beneficiaries;*

10 *(2) "Commonwealth's Beneficiary Mitigation Plan" or "CBMP" means a plan*  
11 *developed by the Commonwealth of Kentucky Department for Environmental*  
12 *Protection that summarizes how the state will use the funds received by the*  
13 *Volkswagen Environmental State Mitigation Trust Fund;*

14 *(3) "Consent Decrees" means the First Partial Consent Decree in In re:*  
15 *Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability*  
16 *Litigation, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1) and the Second Partial*  
17 *Consent Decree in the case (Dkt. No. 3228-1);*

18 *(4) "Eligible mitigation action" means actions listed in Appendix D-2 to the*  
19 *Environmental Mitigation Trust Agreement for State Beneficiaries;*

20 *(5) "Eligible mitigation expenditure" means administrative expenditures specified in*  
21 *Appendix D-2 of the Environmental Mitigation Trust Agreement for State*  
22 *Beneficiaries except for trust administration costs;*

23 *(6) "Kentucky Volkswagen leverage fund" means a restricted fund that receives*  
24 *funds from the defendants under the consent decrees directly or via the*  
25 *Volkswagen Environmental State Mitigation Trust to pay costs for eligible*  
26 *mitigation actions and eligible mitigation expenditures approved under Sections*  
27 *1, 2, 3, and 4 of this Act;*

1 (7) "Scrap" means to render the vehicle inoperable and available for recycle and at  
2 minimum to specifically cut a three (3) inch hole in the engine block for all  
3 engines as well as disabling the chassis by cutting the frame rails completely in  
4 half; and

5 (8) "Volkswagen Environmental State Mitigation Trust Fund" means a trust fund  
6 established by consent decrees between the United States Department of Justice  
7 and the Volkswagen Corporation and its subsidiaries to receive settlement funds  
8 to be paid to beneficiaries.

9 ➔SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER  
10 224 IS CREATED TO READ AS FOLLOWS:

11 The General Assembly finds that providing financial incentives for local school  
12 districts to replace older school buses through the use of the Commonwealth's  
13 allocation of funds received from the Volkswagen Environmental State Mitigation  
14 Trust for eligible mitigation actions and expenditures as set forth in the  
15 Commonwealth's Beneficiary Mitigation Plan is in the best interest of the  
16 Commonwealth. The General Assembly further finds that providing these financial  
17 incentives to local school districts in the replacement of older, more polluting, and less  
18 efficient student buses may provide health benefits to students being exposed to the bus  
19 exhaust and an economic opportunity for the school system by lowering fuel costs to  
20 the school district.

21 ➔SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER  
22 224 IS CREATED TO READ AS FOLLOWS:

23 (1) There is hereby created the Kentucky Volkswagen leverage fund as a restricted,  
24 fiduciary fund in the State Treasury to which shall be credited any funds  
25 designated to the Commonwealth from the Volkswagen Environmental State  
26 Mitigation Trust.

27 (2) The fund shall be administered by the Energy and Environment Cabinet.

1 (3) All investment income or interest earned from money deposited in the fund shall  
2 accrue to the fund and shall not lapse. Notwithstanding KRS 45.229, any moneys  
3 remaining in the fund at the close of the fiscal year shall not lapse but shall be  
4 carried forward into the succeeding fiscal year to be used for the purposes set  
5 forth in Sections 1 to 7 of this Act.

6 (4) Money in the fund is hereby appropriated for the purpose of expending funds in  
7 accordance with the eligible mitigation actions and mitigation action  
8 expenditures as referenced in Appendix D-2 of the Environmental Mitigation  
9 Trust Agreement for State Beneficiaries and for replacing school buses with  
10 engine model years prior to 2009 with new diesel or propane buses.

11 ➔SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER  
12 224 IS CREATED TO READ AS FOLLOWS:

13 (1) Any Kentucky school district may apply to the cabinet for funds to replace school  
14 buses with engine model years prior to 2009. Purchased buses shall have new  
15 diesel engines or shall run on propane. The cabinet shall promulgate  
16 administrative regulations not later than thirty (30) days after the effective date of  
17 this Act to develop:

18 (a) An application form, application process, and decision criteria, including  
19 formulas for calculating emissions reductions which shall be on the  
20 application form, and guidelines to administer the receipt of the application  
21 request;

22 (b) Timelines for acting on applications and informing districts of approval or  
23 denial and disbursement of money from the fund;

24 (c) Requirements, forms, processes, and dates for the periodic remittance of  
25 funds under subsection (2) of Section 5 of this Act from school districts;  
26 and

27 (d) Any procedures and requirements necessary to conform with the

- 1           requirements set forth in the Environmental Mitigation Trust Agreement  
2           for State Beneficiaries to become a certified entity and a state beneficiary  
3           eligible to receive and properly expend funds from the Volkswagen  
4           Environmental State Mitigation Trust Fund.
- 5   (2) Except as provided in subsection (4) of this section, preference shall be given first  
6           to applications to purchase buses from highest to lowest based on the anticipated  
7           amount of emission reduction of the buses to be replaced. Emissions reduction  
8           calculations also shall take into account a factor for age and average mileage of  
9           the school bus being replaced.
- 10 (3) A school district shall be limited to the purchase of one (1) diesel or propane bus  
11           within the first calendar year from the initial receipt of funds from the  
12           Volkswagen Environmental State Mitigation Trust Fund into the Kentucky  
13           Volkswagen leverage fund.
- 14 (4) If a school district submitted an application to purchase a school bus in any  
15           calendar year for which funds were not available, it shall have priority  
16           application status for subsequent calendar years until the funds have been fully  
17           expended. Applications that received priority under this subsection shall be  
18           subject to preference ordering based on emissions reductions as set forth in  
19           subsection (2) of this section and shall also take into consideration the age and  
20           average miles of the school bus.
- 21 (5) Applications from school districts to the cabinet shall be accepted as long as  
22           funding is available from the Volkswagen Environmental State Mitigation Trust  
23           to the Kentucky Volkswagen leverage fund.
- 24 (6) The cabinet shall prescribe a reasonable time limit to act on applications from  
25           school districts and inform school districts of approval or denials to ensure  
26           proper receipt of funds from the Kentucky Volkswagen leverage fund to the  
27           school district to meet purchase dates associated with the school district's budget

1 cycle.

2 ➔SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER  
3 224 IS CREATED TO READ AS FOLLOWS:

4 (1) To apply for funds from the Kentucky Volkswagen leverage fund, the school  
5 district shall:

6 (a) Complete and submit an application form, along with any required  
7 documentation, to the cabinet which shall include identification of the bus  
8 to be replaced and the anticipated emissions reduction and fuel reduction  
9 costs associated with the school district bus to be purchased; and

10 (b) Follow the current Kentucky School Bus Specifications, Kentucky School  
11 Bus Purchasing Guide, and all other Kentucky Department of Education  
12 requirements for the purchase of school buses.

13 (2) Each school district that purchases a new school bus with money from the  
14 Kentucky Volkswagen leverage fund shall be obligated to:

15 (a) Remit to the Kentucky Volkswagen leverage fund an amount equal to fifty  
16 percent (50%) of the total purchase price of the bus in six (6) equal annual  
17 installments no later than December 15 of each year commencing with the  
18 year in which the bus was purchased by the school district;

19 (b) Scrap the bus that was replaced by the newly purchased bus paid with  
20 money from the Kentucky Volkswagen leverage fund. The value of the  
21 scrapped bus shall stay with the school district; and

22 (c) Provide the cabinet with any documentation required by, or maintain  
23 documentation in accordance with, the Volkswagen Environmental  
24 Mitigation Trust.

25 (3) The cabinet shall charge reasonable administration costs of the Kentucky  
26 Volkswagen leverage fund to the Volkswagen Environmental State Mitigation  
27 Trust in accordance with the Environmental Mitigation Trust Agreement for

1        **State Beneficiaries, not to exceed fifteen percent (15%) of the amount allocated to**  
 2        **it by the Volkswagen Environmental State Mitigation Trust Fund.**

3        ➔SECTION 6. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER  
 4        224 IS CREATED TO READ AS FOLLOWS:

5        **Notwithstanding Sections 1 to 7 of this Act, Support Education Excellence in Kentucky**  
 6        **(SEEK) funding shall not be reduced by a school district's receipt of or use of funds**  
 7        **from the Kentucky Volkswagen leverage fund to purchase new school buses.**

8        ➔SECTION 7. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER  
 9        224 IS CREATED TO READ AS FOLLOWS:

10       **Franklin Circuit Court shall hold concurrent venue with the courts of this**  
 11       **Commonwealth in all civil and injunctive actions instituted by the cabinet for the**  
 12       **enforcement of the provisions of Sections 1 to 7 of this Act.**

13       ➔Section 8. KRS 224.50-868 is amended to read as follows:

14       (1) **(a) 1. Prior to July 1, 2018**~~[Until June 30, 2018]~~, a person purchasing a new  
 15       motor vehicle tire in Kentucky shall pay to the retailer a one dollar (\$1)  
 16       fee at the time of the purchase of that tire. **The fee shall not be subject**  
 17       **to the Kentucky sales tax.**

18       **2. Beginning July 1, 2018, but prior to July 1, 2020, a fee is hereby**  
 19       **imposed upon a retailer at the rate of two dollars (\$2) for each new**  
 20       **motor vehicle tire sold in Kentucky. The fee shall be subject to the**  
 21       **Kentucky sales tax.**

22       **3. A retailer may pass the fee imposed by this paragraph on to the**  
 23       **purchaser of the new tire.**

24       **(b)** A new tire is a tire that has never been placed on a motor vehicle wheel rim,  
 25       but it is not a tire placed on a motor vehicle prior to its original retail sale or a  
 26       recapped tire.

27       **(c)** The term "motor vehicle" as used in this section shall mean "motor vehicle" as

1 defined in KRS 138.450. ~~[The fee shall not be subject to the Kentucky sales~~  
 2 ~~tax.]~~

3 (2) When a ***retailer sells*** ~~[person purchases]~~ a new motor vehicle tire in Kentucky to  
 4 replace another tire, the tire that is replaced becomes a waste tire subject to the  
 5 waste tire program. The ***retailer shall encourage the purchaser of the new***  
 6 ***tire*** ~~[person purchasing the new motor vehicle tire shall be encouraged by the~~  
 7 ~~retailer]~~ to leave the waste tire with the retailer or meet the following requirements:

- 8 (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);  
 9 (b) Deliver the waste tire to a person registered in accordance with the waste tire  
 10 program; or  
 11 (c) Reuse the waste tire for its original intended purpose or an agricultural  
 12 purpose.

13 (3) ***(a)*** A retailer shall report to the Department of Revenue on or before the twentieth  
 14 day of each month the number of new motor vehicle tires sold during the  
 15 preceding month and the number of waste tires received from customers that  
 16 month.

17 ***(b)*** The report shall be filed on forms and contain information as the Department  
 18 of Revenue may require.

19 ***(c)*** The retailer shall ***be allowed to retain an amount equal to five percent (5%)***  
 20 ***of the fees due provided the amount due is not delinquent at the time of***  
 21 ***payment*** ~~[remit with the report ninety-five percent (95%) of the fees collected~~  
 22 ~~for the preceding month and may retain a five percent (5%) handling fee].~~

23 (4) A retailer shall:

24 (a) Accept from the purchaser of a new tire, if offered, for each new motor  
 25 vehicle tire sold, a waste tire of similar size and type; and

26 (b) Post notice at the place where retail sales are made that state law requires:

27 ***1.*** The retailer to accept, if offered, a waste tire for each new motor vehicle

1 tire sold and that a person purchasing a new motor vehicle tire to replace  
2 another tire shall comply with subsection (2) of this section; ~~and~~[-]

3 2. The two dollar (\$2) new tire fee is~~[the notice shall also include the~~  
4 ~~following wording: "State law requires a new tire buyer to pay one dollar~~  
5 ~~(\$1) for each new tire purchased. The money is collected and]~~ used by  
6 the state to oversee the management of waste tires, including cleaning up  
7 abandoned waste tire piles and preventing illegal dumping of waste  
8 tires.[-]

9 (5) A retailer shall comply with the requirements of the recordkeeping system for waste  
10 tires established by KRS 224.50-874.

11 (6) A retailer shall transfer waste tires only to a person who presents a letter from the  
12 cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid  
13 waste disposal facility permit issued by the cabinet, unless the retailer is delivering  
14 the waste tires to a destination outside Kentucky and the waste tires will remain in  
15 the retailer's possession until they reach that destination.

16 (7) The cabinet shall, in conjunction with the Waste Tire Working Group, develop the  
17 informational fact sheet to be made publicly available on the cabinet's Web site and  
18 available in print upon request. The fact sheet shall identify ways to properly  
19 dispose of the waste tire and present information on the problems caused by  
20 improper waste tire disposal.

21 ➔SECTION 9. A NEW SECTION OF KRS 96.550 TO 96.900 IS CREATED TO  
22 READ AS FOLLOWS:

23 (1) As used in this section, "fund-eligible county" means a county of the  
24 Commonwealth of Kentucky, limited to the counties of Adair, Allen, Ballard,  
25 Barren, Bell, Butler, Caldwell, Calloway, Carlisle, Christian, Clinton,  
26 Cumberland, Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson,  
27 Hickman, Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe,



1 Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren,  
2 Wayne, Webster, and Whitley.

3 (2) (a) The TVA regional development agency assistance fund is hereby established  
4 in the State Treasury as a trust and agency account.

5 (b) The fund shall be administered by the Finance and Administration Cabinet  
6 for the purpose of providing moneys to agencies designated to receive  
7 funding in a fiscal year by the fiscal court of each fund-eligible county.

8 (c) The fund may consist of moneys received from state appropriations, gifts,  
9 contributions, grants, or federal funds.

10 (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the  
11 close of the fiscal year shall not lapse but shall be carried forward into the  
12 succeeding fiscal year.

13 (e) Any interest accrued based on the moneys in the fund shall become a part  
14 of the fund and shall not lapse.

15 (f) A total of two million dollars (\$2,000,000) in fiscal year 2018-2019 and a  
16 total of four million dollars (\$4,000,000) in fiscal year 2019-2020 shall be  
17 deposited in the TVA regional development agency assistance fund from the  
18 general fund.

19 (3) (a) For each fiscal year beginning on or after July 1, 2018, each fiscal court of  
20 a fund-eligible county shall designate in writing one (1) agency that shall  
21 receive a portion of the total amount of moneys in the TVA regional  
22 development agency assistance fund.

23 (b) Each agency's portion shall equal the total amount of moneys in the fund  
24 for the fiscal year divided by the total number of agencies designated to  
25 receive moneys by fiscal courts of fund-eligible counties.

26 (c) The payment to each agency shall be made at the same time and in the same  
27 manner as payments are made to counties in KRS 96.895(2).

1        *(d) The Finance and Administration Cabinet shall promulgate administrative*  
 2                    *regulations related to the application process for the fiscal courts in fund-*  
 3                    *eligible counties to submit a designated agency.*

4        *(4) All agencies receiving funds under this section shall:*

5                    *(a) Operate in, or serve the interest of, the county whose fiscal court designated*  
 6                    *it to receive funding;*

7                    *(b) Use the funds for economic development and job creation activities that the*  
 8                    *agency is empowered to undertake in that county;*

9                    *(c) Use the funds to acquire federal, state, or private matching funds to the*  
 10                    *extent possible; and*

11                    *(d) Provide a written report annually, no later than October 1, to the fiscal*  
 12                    *court that designated it for payment and to the Interim Joint Committee on*  
 13                    *Appropriations and Revenue. The report shall describe how the funds were*  
 14                    *expended and the results of the use of funds in terms of economic*  
 15                    *development and job creation.*

16        ➔Section 10. KRS 138.140 is amended to read as follows:

17        (1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of  
 18                    three cents (\$0.03) on each twenty (20) cigarettes.

19        (2) Effective *July 1, 2018*~~[April 1, 2009]~~, a surtax shall be paid in addition to the tax  
 20                    levied in subsection (1) of this section at a proportionate rate of *one dollar and six*  
 21                    *cents (\$1.06)*~~[fifty six cents (\$0.56)]~~ on each twenty (20) cigarettes. This tax shall  
 22                    be paid only once, at the same time the tax imposed by subsection (1) of this section  
 23                    is paid.

24        (3) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in  
 25                    subsection (1) of this section and in addition to the surtax levied by subsection (2)  
 26                    of this section, at a proportionate rate of one cent (\$0.01) on each twenty (20)  
 27                    cigarettes. This tax shall be paid at the same time the tax imposed by subsection (1)

1 of this section and the surtax imposed by subsection (2) of this section are paid. The  
2 revenues from this surtax shall be deposited in the cancer research institutions  
3 matching fund created in KRS 164.043.

4 (4) (a) Effective August 1, 2013, an excise tax is hereby imposed upon every  
5 distributor for the privilege of selling tobacco products in this state at the  
6 following rates:

- 7 1. Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-  
8 half (1-1/2) ounces or portion thereof by net weight sold;
- 9 2. Upon chewing tobacco at the rate of:
  - 10 a. Nineteen cents (\$0.19) per each single unit sold;
  - 11 b. Forty cents (\$0.40) per each half-pound unit sold; or
  - 12 c. Sixty-five cents (\$0.65) per each pound unit sold.

13 If the container, pouch, or package on which the tax is levied contains  
14 more than sixteen (16) ounces by net weight, the rate that shall be  
15 applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus  
16 nineteen cents (\$0.19) for each increment of four (4) ounces or portion  
17 thereof exceeding sixteen (16) ounces sold; and

- 18 3. Upon tobacco products sold, at the rate of fifteen percent (15%) of the  
19 actual price for which the distributor sells tobacco products, except snuff  
20 and chewing tobacco, within the Commonwealth.

21 (b) The net weight posted by the manufacturer on the container, pouch, or  
22 package or on the manufacturer's invoice shall be used to calculate the tax due  
23 on snuff or chewing tobacco.

24 (c) 1. A retailer located in this state shall not purchase tobacco products for  
25 resale to consumers from any person within or outside this state unless  
26 that person is a distributor licensed under KRS 138.195(7)(a) or the  
27 retailer applies for and is granted a retail distributor's license under KRS

- 1                   138.195(7)(b) for the privilege of purchasing untaxed tobacco products  
2                   and remitting the tax as provided in this paragraph.
- 3                   2. A licensed retail distributor of tobacco products shall be subject to the  
4                   excise tax as follows:
- 5                   a. On purchases of untaxed snuff, at the same rate levied by  
6                   paragraph (a)1. of this subsection;
- 7                   b. On purchases of untaxed chewing tobacco, at the same rates levied  
8                   by paragraph (a)2. of this subsection; and
- 9                   c. On purchases of untaxed tobacco products, except snuff and  
10                  chewing tobacco, fifteen percent (15%) of the total purchase price  
11                  as invoiced by the retail distributor's supplier.
- 12               (d) 1. The licensed distributor that first possesses tobacco products for sale to a  
13               retailer in this state or for sale to a person who is not licensed under  
14               KRS 138.195(7) shall be the distributor liable for the tax imposed by  
15               this subsection except as provided in subparagraph 2. of this paragraph.
- 16               2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco  
17               products to another distributor licensed under KRS 138.195(7)(a)  
18               without payment of the excise tax. In such case, the purchasing licensed  
19               distributor shall be the distributor liable for the tax.
- 20               3. A licensed distributor or licensed retail distributor shall:
- 21               a. Identify and display the distributor's or retail distributor's license  
22               number on the invoice to the retailer; and
- 23               b. Identify and display the excise tax separately on the invoice to the  
24               retailer. If the excise tax is included as part of the product's sales  
25               price, the licensed distributor or licensed retail distributor shall list  
26               the total excise tax in summary form by tax type with invoice  
27               totals.

1           4. It shall be presumed that the excise tax has not been paid if the licensed  
2           distributor or licensed retail distributor does not comply with  
3           subparagraph 3. of this paragraph.

4           (e) No tax shall be imposed on tobacco products under this subsection that are not  
5           within the taxing power of this state under the Commerce Clause of the  
6           United States Constitution.

7           (5) The taxes imposed by subsections (1) and (4) of this section shall not apply to  
8           reference tobacco products.

9           (6) The taxes imposed by subsections (1) to (4) of this section shall be paid only once,  
10          regardless of the number of times the cigarettes, or tobacco products may be sold.

11          (7) The department may prescribe forms and promulgate administrative regulations to  
12          execute and administer the provisions of this section.

13          (8) The General Assembly recognizes that increasing taxes on tobacco products should  
14          reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The  
15          relative taxes on tobacco products proposed in this section reflect the growing data  
16          from scientific studies suggesting that although smokeless tobacco poses some  
17          risks, those health risks are significantly less than the risks posed by other forms of  
18          tobacco products. Moreover, the General Assembly acknowledges that some in the  
19          public health community recognize that tobacco harm reduction should be a  
20          complementary public health strategy regarding tobacco products. Taxing tobacco  
21          products according to relative risk is a rational tax policy and may well serve the  
22          public health goal of reducing smoking-related mortality and morbidity and  
23          lowering health care costs associated with tobacco-related disease.

24          ➔Section 11. KRS 138.143 is amended to read as follows:

25          (1) Every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and  
26          unclassified acquirer shall:

27          (a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax

1 stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or  
 2 in their control at 11:59 p.m. on June 30, 2018~~[March 31, 2009]~~. Inventory of  
 3 cigarettes in vending machines may be accomplished by:

- 4 1. Taking an actual physical inventory;
- 5 2. Estimating the cigarettes in vending machines by reporting one-half  
 6 (1/2) of the normal fill capacity of the machines, as reflected in  
 7 individual inventory records maintained for vending machines; or
- 8 3. Using a combination of the methods prescribed in subparagraphs 1. and  
 9 2. of this paragraph;

10 (b) File a return with the department on or before July 10, 2018~~[April 10, 2009]~~,  
 11 showing the entire wholesale and retail inventories of cigarettes in packages  
 12 bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps  
 13 possessed by them or in their control at 11:59 p.m. on June 30, 2018~~[March~~  
 14 ~~31, 2009]~~; and

15 (c) Pay a floor stock tax at a proportionate rate equal to fifty cents (\$0.50)~~[thirty~~  
 16 ~~cents (\$0.30)]~~ on each twenty (20) cigarettes in packages bearing a Kentucky  
 17 tax stamp and unaffixed Kentucky tax stamps in their possession or control at  
 18 11:59 p.m. on June 30, 2018~~[March 31, 2009]~~.

19 ~~(2) [Every retailer and sub-jobber shall:~~

- 20 ~~(a) 1. Take a physical inventory of all units of snuff possessed by them or in~~  
 21 ~~their control at 11:59 p.m. on March 31, 2009;~~
- 22 ~~2. File a return with the department on or before April 10, 2009, showing~~  
 23 ~~the entire inventory of snuff possessed by them or in their control at~~  
 24 ~~11:59 p.m. on March 31, 2009; and~~
- 25 ~~3. Pay a floor stock tax at a proportionate rate equal to nine and one-half~~  
 26 ~~cents (\$0.095) on each unit of snuff in their possession or control at~~  
 27 ~~11:59 p.m. on March 31, 2009; and~~

1 ~~(b) 1. a. Take a physical inventory of all other tobacco products possessed~~  
 2 ~~by them or in their control at 11:59 p.m. on March 31, 2009;~~  
 3 ~~b. File a return with the department on or before April 10, 2009,~~  
 4 ~~showing the entire inventories of other tobacco products possessed~~  
 5 ~~by them or in their control at 11:59 p.m. on March 31, 2009; and~~  
 6 ~~c. Pay a floor stock tax at a proportionate rate equal to seven and~~  
 7 ~~one half percent (7.5%) on the purchase price of other tobacco~~  
 8 ~~products in their possession or control at 11:59 p.m. on March 31,~~  
 9 ~~2009.~~

10 ~~2. a. As used in this paragraph, "purchase price" means the actual~~  
 11 ~~amount paid for the other tobacco products subject to the tax~~  
 12 ~~imposed by this paragraph.~~

13 ~~b. If the retailer or sub-jobber cannot determine the actual amount~~  
 14 ~~paid for each item of other tobacco product, the retailer or sub-~~  
 15 ~~jobber may use as the purchase price the amount per unit paid as~~  
 16 ~~reflected on the most recent invoice received prior to April 1,~~  
 17 ~~2009, for the same category of other tobacco product.~~

18 ~~c. To prevent double taxation, if the invoice used by the retailer or~~  
 19 ~~sub-jobber to determine the purchase price of the other tobacco~~  
 20 ~~product does not separately state the tax paid by the wholesaler,~~  
 21 ~~the retailer or sub-jobber may reduce the amount paid per unit by~~  
 22 ~~seven and one half percent (7.5%).~~

23 ~~(3)}~~ (a) The taxes imposed by this section may be paid in three (3) installments. The  
 24 first installment, in an amount equal to at least one-third (1/3) of the total  
 25 amount due, shall be remitted with the return provided by the department on  
 26 or before July 10, 2018~~[April 10, 2009]~~. The second installment, in an amount  
 27 that brings the total amount paid to at least two-thirds (2/3) of the total amount

1 due, shall be remitted on or before **August 10, 2018**~~[May 10, 2009]~~. The third  
 2 installment, in an amount equal to the remaining balance, shall be remitted on  
 3 or before **September 10, 2018**~~[June 10, 2009]~~.

4 (b) Interest shall not be imposed against any outstanding installment payment not  
 5 yet due from any retailer, sub-jobber, resident wholesaler, nonresident  
 6 wholesaler, or unclassified acquirer who files the return and makes payments  
 7 as required under this section.

8 (c) Any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or  
 9 unclassified acquirer who fails to file a return or make a payment on or before  
 10 the dates provided in this section shall, in addition to the tax, pay interest at  
 11 the tax interest rate as defined in KRS 131.010(6) from the date on which the  
 12 return was required to be filed.

13 ➔Section 12. KRS 139.538 is amended to read as follows:

14 (1) It is the intent and purpose of the General Assembly in enacting this section and  
 15 139.990(5), to encourage the motion picture industry to choose locations in the  
 16 Commonwealth for the filming or producing of motion pictures, by providing an  
 17 exemption from sales and use taxes. The exemption is accomplished by granting a  
 18 refundable credit for sales and use taxes paid on purchases made in connection with  
 19 the filming or producing of motion pictures in Kentucky.

20 (2) **(a) On or after February 15, 2018, and until July 1, 2020, the department shall**  
 21 **not accept any new applications as provided by subsection (4) of this**  
 22 **section.**

23 **(b) On or before June 1, 2019, the department shall provide the following**  
 24 **information to the Interim Joint Committee on Appropriations and Revenue**  
 25 **for all fiscal years data is available:**

26 **1. The name of the motion picture company;**

27 **2. The filming location or locations in this state;**



- 1           **3. A brief description of the production;**  
2           **4. The amount of sales and use tax refunded; and**  
3           **5. The total amount of all sales and use tax refunded to motion picture**  
4           **production companies during each fiscal year reported.**

5   **(3)** As used in this section and KRS 139.990(5):

- 6           (a) "Financial institution" means any bank or savings and loan institution in the  
7           Commonwealth which carries FDIC or FSLIC insurance;
- 8           (b) "Motion picture production company" means a company engaged in the  
9           business of producing motion pictures intended for a theatrical release or for  
10           exhibition on national television either by a network or for national  
11           syndication, or television programs which will serve as a pilot for or a  
12           segment of a nationally televised dramatic series, either by a network or for  
13           national syndication; and
- 14           (c) "Secretary" means the secretary of the Kentucky Finance and Administration  
15           Cabinet.

16   ~~**(4)**~~ ~~**(3)**~~ Any motion picture production company that intends to film all or parts of a  
17           motion picture in the Commonwealth and desires to receive the credit provided for  
18           in subsection ~~**(7)**~~ ~~**(6)**~~ of this section shall, prior to the commencement of filming:

- 19           (a) Provide the department with the address of a Kentucky location at which  
20           records of expenditures qualifying for the tax credit will be maintained, and  
21           with the name of the individual maintaining these records; and
- 22           (b) File an application for the tax credit within sixty (60) days after the  
23           completion of filming or production in Kentucky. The application shall  
24           include a final expenditure report providing documentation for expenditures in  
25           accordance with administrative regulations promulgated by the department.

26   ~~**(5)**~~ ~~**(4)**~~ To qualify as a basis for the financial incentive, expenditures must be made by  
27           check drawn upon any Kentucky financial institution.

1 ~~(6)~~~~(5)~~ The twelve (12) month period during which expenditures may qualify for the  
2 tax credit shall begin on the date of the earliest expenditure reported.

3 ~~(7)~~~~(6)~~ Any motion picture production company which films or produces one (1) or  
4 more motion pictures in the Commonwealth during any twelve (12) month period  
5 shall, upon making application therefor and meeting the other requirements  
6 prescribed in this section, be entitled to a refundable tax credit equal to the amount  
7 of Kentucky sales and use tax paid for purchases made in connection with the  
8 filming or production of a motion picture.

9 ~~(8)~~~~(7)~~ The department shall, within sixty (60) days following the receipt of an  
10 application for a credit for sales and use tax paid, calculate the total expenditures of  
11 the motion picture production company for which there is documentation for funds  
12 expended in the Commonwealth, calculate the amount of credit to which the  
13 applicant is entitled, and certify the amount of the credit to the secretary. In the case  
14 of an audit, as provided for in subsection ~~(13)~~~~(12)~~ of this section, the department  
15 shall certify the amount of the credit due to the secretary within one hundred eighty  
16 (180) days following the receipt of the motion picture production company's  
17 application.

18 ~~(9)~~~~(8)~~ Upon receipt of the certification of the amount of credit from the department,  
19 the secretary shall cause the refund of sales taxes paid to be remitted to the motion  
20 picture production company. For purposes of payment and funding thereof, the  
21 credit shall be paid in the same manner as other claims on the State Treasury are  
22 paid. They shall not be charged against any appropriation but shall be deducted  
23 from tax receipts for the current fiscal year.

24 ~~(10)~~~~(9)~~ The sales and use taxes paid by the motion picture production company for  
25 which a refundable tax credit is granted shall be deemed not to have been legally  
26 paid into the State Treasury, and the refund of the credit shall not be in violation of  
27 Section 59 of the Kentucky Constitution.

1 ~~(11)~~~~(10)~~ Any tax credit or part thereof paid to a motion picture production company as  
2 a result of error by the department shall be repaid by such company to the secretary.

3 ~~(12)~~~~(11)~~ Any tax credit or part thereof paid to a motion picture production company as  
4 a result of error or fraudulent statements made by the motion picture production  
5 company shall be repaid by such company to the secretary, together with interest, at  
6 the tax interest rate provided for in KRS 131.010(6).

7 ~~(13)~~~~(12)~~ The department may require that reported expenditures and the application for  
8 the tax credit from a motion picture production company be subjected to an audit by  
9 the department auditors to verify expenditures.

10 ~~(14)~~~~(13)~~ For companies in the business of producing films or television shows other  
11 than those which would qualify them for the credit under the definition of "motion  
12 picture production company," the department may require separate accounting  
13 records for the reporting of expenditures made in connection with the application  
14 for a refundable tax credit.

15 ~~(15)~~~~(14)~~ The department may promulgate appropriate administrative regulations to  
16 carry out the intent and purposes of this section.

17 ➔SECTION 13. A NEW SECTION OF KRS 148.542 TO 148.546 IS CREATED  
18 TO READ AS FOLLOWS:

19 **(1) (a) Beginning February 15, 2018, the tax incentives available in KRS 148.542**  
20 **to 148.546 are hereby suspended.**

21 **(b) The office shall not accept new applications or make any preliminary**  
22 **approvals until on or after July 1, 2020.**

23 **(2) Prior to June 1, 2019, the office and the Department of Revenue shall work**  
24 **jointly to provide the following information for each approved motion picture or**  
25 **entertainment production project to the Interim Joint Committee on**  
26 **Appropriations and Revenue by taxable year for all years that a refundable credit**  
27 **under KRS 141.383 is claimed:**

- 1        (a) The name of the approved company and whether it is Kentucky-based or  
 2            not;
- 3        (b) A brief description of the motion picture or entertainment production  
 4            project;
- 5        (c) The amount of qualifying expenditures and the amount of qualifying  
 6            payroll expenditures included in the agreement;
- 7        (d) The amount of qualifying expenditures and the amount of qualifying  
 8            payroll expenditures paid to below-the-line production crew and paid to  
 9            above-the-line production crew in an enhanced incentive county;
- 10       (e) The amount of qualifying expenditures and the amount of qualifying  
 11           payroll expenditures paid to below-the-line production crew and paid to  
 12           above-the line production crew in a county other than an enhanced  
 13           incentive county; and
- 14       (f) The total amount of the tax credit claimed on a return by tax type, any  
 15           amount denied, any amount applied against a tax liability, and any amount  
 16           refunded.

17       ➔Section 14. KRS 148.8531 is amended to read as follows:

18       (1) Beginning February 15, 2018, the tax incentives available under KRS 148.851 to  
 19           148.860 are hereby suspended.

20       (2) The authority shall not accept any new applications or make preliminary  
 21           approvals until on or after July 1, 2020. [~~New applications shall not be accepted or~~  
 22           ~~considered before August 1, 2014, or after May 1, 2018, for the sales tax incentive~~  
 23           ~~provided in KRS 148.853(3)(b)2. All projects with preliminary or final approval~~  
 24           ~~under KRS 148.851 to 148.860 on July 31, 2018, shall continue to be governed by~~  
 25           ~~KRS 148.851 to 148.860.]~~

26       ➔Section 15. KRS 148.853 is amended to read as follows:

27       (1) The General Assembly finds and declares that:

- 1 (a) The general welfare and material well-being of the citizens of the  
2 Commonwealth depend in large measure upon the development of tourism in  
3 the Commonwealth;
- 4 (b) It is in the best interest of the Commonwealth to provide incentives for the  
5 creation of new tourism attractions and the expansion of existing tourism  
6 attractions within the Commonwealth in order to advance the public purposes  
7 of relieving unemployment by preserving and creating jobs that would not  
8 exist if not for the incentives offered by the authority to approved companies,  
9 and by preserving and creating sources of tax revenues for the support of  
10 public services provided by the Commonwealth;
- 11 (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental  
12 and public purposes for which public moneys may be expended; and
- 13 (d) That the creation or expansion of tourism development projects is of  
14 paramount importance mandating that the provisions of KRS 139.536 and  
15 KRS 148.851 to 148.860 be liberally construed and applied in order to  
16 advance public purposes.
- 17 (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the  
18 following requirements shall be met:
- 19 (a) For a tourism attraction project:
- 20 1. The total eligible costs shall exceed one million dollars (\$1,000,000),  
21 except for a tourism attraction project located in a county designated as  
22 an enhanced incentive county at the time the eligible company becomes  
23 an approved company as provided in KRS 148.857(6), the total eligible  
24 costs shall exceed five hundred thousand dollars (\$500,000);
  - 25 2. In any year, including the first year of operation, the tourism attraction  
26 project shall be open to the public at least one hundred (100) days; and
  - 27 3. In any year following the third year of operation, the tourism attraction

1 project shall attract at least twenty-five percent (25%) of its visitors from  
2 among persons who are not residents of the Commonwealth;

3 (b) For an entertainment destination center project:

- 4 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 5 2. The facility shall contain a minimum of two hundred thousand (200,000)  
6 square feet of building space adjacent or complementary to an existing  
7 tourism attraction project or a major convention facility;
- 8 3. The incentives shall be dedicated to a public infrastructure purpose that  
9 shall relate to the entertainment destination center project;
- 10 4. In any year, including the first year of operation, the entertainment  
11 destination center project shall:
  - 12 a. Be open to the public at least one hundred (100) days per year;
  - 13 b. Maintain at least one (1) major theme restaurant and at least three  
14 (3) additional entertainment venues, including but not limited to  
15 live entertainment, multiplex theaters, large-format theater, motion  
16 simulators, family entertainment centers, concert halls, virtual  
17 reality or other interactive games, museums, exhibitions, or other  
18 cultural and leisure-time activities; and
  - 19 c. Maintain a minimum occupancy of sixty percent (60%) of the total  
20 gross area available for lease with entertainment and food and  
21 drink options not including the retail sale of tangible personal  
22 property; and
- 23 5. In any year following the third year of operation, the entertainment  
24 destination center project shall attract at least twenty-five percent (25%)  
25 of its visitors from among persons who are not residents of the  
26 Commonwealth;

27 (c) For a theme restaurant destination attraction project:

- 1           1.    The total eligible costs shall exceed five million dollars (\$5,000,000);
- 2           2.    In any year, including the first year of operation, the attraction shall:
  - 3           a.    Be open to the public at least three hundred (300) days per year
  - 4           and for at least eight (8) hours per day; and
  - 5           b.    Generate no more than fifty percent (50%) of its revenue through
  - 6           the sale of alcoholic beverages;
- 7           3.    In any year following the third year of operation, the theme restaurant
- 8           destination attraction project shall attract a minimum of fifty percent
- 9           (50%) of its visitors from among persons who are not residents of the
- 10          Commonwealth; and
- 11          4.    The theme restaurant destination attraction project shall:
  - 12          a.    At the time of final approval, offer a unique dining experience that
  - 13          is not available in the Commonwealth within a one hundred (100)
  - 14          mile radius of the attraction;
  - 15          b.    In any year, including the first year of operation, maintain seating
  - 16          capacity of four hundred fifty (450) guests and offer live music or
  - 17          live musical and theatrical entertainment during the peak business
  - 18          hours that the facility is in operation and open to the public; or
  - 19          c.    Within three (3) years of the completion date, the attraction shall
  - 20          obtain a top two (2) tier rating by a nationally accredited service
  - 21          and shall maintain a top two (2) tier rating through the term of the
  - 22          agreement;
- 23          (d)   For a lodging facility project:
  - 24          1.    a.    The eligible costs shall exceed five million dollars (\$5,000,000)
  - 25          unless the provisions of subdivision b. of this subparagraph apply.
  - 26          b.    i.    If the lodging facility is an integral part of a major
  - 27          convention or sports facility, the eligible costs shall exceed six

- 1 million dollars (\$6,000,000); and
- 2 ii. If the lodging facility includes five hundred (500) or more  
3 guest rooms, the eligible costs shall exceed ten million  
4 dollars (\$10,000,000); and
- 5 2. In any year, including the first year of operation, the lodging facility  
6 shall:
- 7 a. Be open to the public at least one hundred (100) days; and  
8 b. Attract at least twenty-five percent (25%) of its visitors from  
9 among persons who are not residents of the Commonwealth;
- 10 (e) Any tourism development project shall not be eligible for incentives if it  
11 includes material determined to be lewd, offensive, or deemed to have a  
12 negative impact on the tourism industry in the Commonwealth; and
- 13 (f) An expansion of any tourism development project shall in all cases be treated  
14 as a new stand-alone project.
- 15 (3) The incentives offered under the Kentucky Tourism Development Act shall be as  
16 follows:
- 17 (a) An approved company may be granted a sales tax incentive based on the  
18 Kentucky sales tax imposed on sales generated by or arising at the tourism  
19 development project; and
- 20 (b) 1. For a tourism development project other than a lodging facility project  
21 described in KRS 148.851(14)(e) or (f)~~, or a tourism attraction project~~  
22 ~~described in subparagraph 2. of this paragraph~~;
- 23 a. A sales tax incentive shall be allowed to an approved company  
24 over a period of ten (10) years, except as provided in subparagraph  
25 ~~4.~~<sup>5.</sup> of this paragraph; and
- 26 b. The sales tax incentive shall not exceed the lesser of the total  
27 amount of the sales tax liability of the approved company and its



1                   lessees or a percentage of the approved costs as specified by the  
2                   agreement, not to exceed twenty-five percent (25%);

3           ~~2. [ For a tourism attraction project located in an enhanced incentive county~~  
4           ~~at the time the eligible company becomes an approved company as~~  
5           ~~provided in KRS 148.857(6):~~

6           ~~a. A sales tax incentive shall be allowed to the approved company~~  
7           ~~over a period of ten (10) years; and~~

8           ~~b. The sales tax incentive shall not exceed the lesser of the total~~  
9           ~~amount of the sales tax liability of the approved company and its~~  
10           ~~lessees or a percentage of the approved costs as specified by the~~  
11           ~~agreement, not to exceed thirty percent (30%);~~

12           ~~3. ]~~ For a lodging facility project described in KRS 148.851(14)(e) or (f):

13           a. A sales tax incentive shall be allowed to the approved company  
14           over a period of twenty (20) years; and

15           b. The sales tax incentive shall not exceed the lesser of total amount  
16           of the sales tax liability of the approved company and its lessees or  
17           a percentage of the approved costs as specified by the agreement,  
18           not to exceed fifty percent (50%);

19           ~~3. [4.]~~ Any unused incentives from a previous year may be carried forward to  
20           any succeeding year during the term of the agreement until the entire  
21           specified percentage of the approved costs has been received through  
22           sales tax incentives; and

23           ~~4. [5.]~~ If the approved company is an entertainment destination center that has  
24           dedicated at least thirty million dollars (\$30,000,000) of the incentives  
25           provided under the agreement to a public infrastructure purpose, the  
26           agreement may be amended to extend the term of the agreement up to  
27           two (2) additional years if the approved company agrees to:

- 1           a. Reinvest in the original entertainment destination project one
- 2           hundred percent (100%) of any incentives received during the
- 3           extension that were outstanding at the end of the original term of
- 4           the agreement; and
- 5           b. Report to the authority at the end of each fiscal year the amount of
- 6           incentives received during the extension and how the incentives
- 7           were reinvested in the original entertainment destination project.

8           ➔Section 16. KRS 148.859 is amended to read as follows:

- 9       (1) The authority, upon adoption of its final approval, may enter into a tourism
- 10       development agreement with any approved company. The terms of the agreement
- 11       shall be negotiated between the authority and the approved company and shall
- 12       include but not be limited to:
  - 13       (a) The amount of approved costs;
  - 14       (b) That any increase in approved costs incurred by the approved company and
  - 15       agreed to by the authority shall apply retroactively for purposes of calculating
  - 16       the carry forward for unused incentives;
  - 17       (c) A date certain by which the approved company shall have completed the
  - 18       tourism development project;
  - 19       (d) That the authority may grant an extension or change, which in no event shall
  - 20       exceed three (3) years from the date of final approval, to the completion date
  - 21       as specified in the agreement of an approved company;
  - 22       (e) That within three (3) months of the completion date, the approved company
  - 23       shall document the actual cost of the tourism development project through a
  - 24       certification of the costs to be provided by an independent certified public
  - 25       accountant acceptable to the authority;
  - 26       (f) The term of the tourism development agreement and the maximum amount of
  - 27       recovery;

- 1 (g) That within forty-five (45) days after the end of each fiscal year of the  
2 approved company, during the term of the agreement, the approved company  
3 shall supply the authority with reports and certifications as the authority may  
4 request demonstrating to the satisfaction of the authority that the approved  
5 company is in compliance with the provisions of KRS 139.536 and KRS  
6 148.851 to 148.860;
- 7 (h) That the approved company shall notify the authority if any change in  
8 ownership of the tourism attraction is contemplated. The authority shall  
9 reserve the option to renegotiate the terms of the agreement or, if the change  
10 in ownership is detrimental to the Commonwealth, the authority may  
11 terminate the agreement;
- 12 (i) That the approved company shall not receive a sales tax incentive as  
13 prescribed by KRS 139.536 with respect to any fiscal year if the requirements  
14 of KRS 148.853(2) have not been met;
- 15 (j) That the authority may grant an extension of up to three (3) years to the  
16 completion date in addition to the extension provided for in paragraph (d) of  
17 this subsection, to an approved company that has completed at least fifty  
18 percent (50%) of an entertainment destination center project;
- 19 (k) That in no event shall the completion date be more than six (6) years from the  
20 date of final approval; and
- 21 (l) That the extension provided for in paragraph (j) of this subsection shall be  
22 subject to the following conditions:
- 23 1. The approved company shall have spent or have contractually obligated  
24 to spend an amount equal to or greater than the amount of approved  
25 costs set forth in the initial agreement;
  - 26 2. The term of the agreement shall not be extended, except as provided in  
27 KRS 148.853(3)(b)~~3.4~~; and

1           3. The scope of the entertainment destination center project, as set forth in  
2           the initial agreement, shall not be altered to include new or additional  
3           entertainment and leisure options.

4 (2) The agreement, including the incentives provided under KRS 148.853, shall not be  
5           transferable or assignable by the approved company without the written consent of  
6           the authority and a passage of a resolution approving the proposed assignee of the  
7           incentives as an approved company.

8           ➔Section 17. KRS 148.8591 is amended to read as follows:

9 (1) By September 1, 2019~~[November 1 of each year]~~, the authority and the  
10 Department of Revenue shall work jointly to provide a report to the Interim Joint  
11 Committee on Appropriations and Revenue for each approved tourism  
12 development project by fiscal year for all projects approved after June 26,  
13 2009~~[shall file an annual report with the Governor and the Legislative Research~~  
14 ~~Commission. The report shall be submitted in cooperation with the Cabinet for~~  
15 ~~Economic Development and included in the single annual report required in KRS~~  
16 ~~154.12-2035]. The report shall also be available on the Tourism, Arts and Heritage~~  
17 ~~Cabinet's Web site.~~

18 ~~(2) The report shall include information for all projects approved after June 26, 2009.~~

19 ~~(3)~~ The report shall include the following information:

20 (a) For each approved project:

- 21 1. The name of the approved company and a brief description of the
- 22 project;
- 23 2. The amount of approved costs included in the agreement;
- 24 3. The maximum amount of incentives the approved company may recover
- 25 over the term of the agreement;
- 26 4. The term of the agreement;~~and~~
- 27 5. The total amount recovered under the agreement, reported for both the

1 prior fiscal year and cumulatively;

2 **6. The date on which the approved company became eligible to receive**  
 3 **incentives under KRS 139.536; and**

4 **7. The amount of sales tax incentive received by fiscal year for each year**  
 5 **of the agreement;**

6 (b) The number of applications for projects submitted **for each**~~[during the prior]~~  
 7 fiscal year;

8 (c) The number of projects finally approved **for each**~~[during the prior]~~ fiscal year;  
 9 and

10 (d) The total dollar amount approved for recovery for all projects approved **for**  
 11 **each**~~[during the prior]~~ fiscal year, and cumulatively under the Tourism  
 12 Development Act since its inception, by year of approval.

13 **(3)**~~[(4)]~~ The information required to be reported under this section shall not be  
 14 considered confidential taxpayer information and shall not be subject to KRS  
 15 Chapter 131 or any other provision of the Kentucky Revised Statutes prohibiting  
 16 disclosure or reporting of information.

17 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO  
 18 READ AS FOLLOWS:

19 **As used in Sections 18 to 21 of this Act:**

20 **(1) "Administer" has the same meaning as in KRS 315.010;**

21 **(2) "Commissioner" means the commissioner of the Department of Revenue;**

22 **(3) "Department" means the Department of Revenue;**

23 **(4) "Dispense" has the same meaning as in KRS 315.010;**

24 **(5) "Distribute" has the same meaning as in KRS 218A.010;**

25 **(6) "Dose" means a single pill, capsule, ampule, liquid, or other form of**  
 26 **administration available as a single unit;**

27 **(7) "Mail-order pharmacy" means any person that dispenses prescription drugs by**

- 1       mail or carrier to a patient who resides in this Commonwealth;
- 2       (8) "Person" has the same meaning as in KRS 138.130;
- 3       (9) "Pharmacy" has the same meaning as in KRS 315.010;
- 4       (10) "Practitioner" has the same meaning as in KRS 218A.010;
- 5       (11) "Prescription drug" has the same meaning as in KRS 315.010;
- 6       (12) "Sale" means the disposal of a prescription drug to another person for  
 7       consideration or in furtherance of commercial distribution;
- 8       (13) "Opioid" means opium, an opiate, or any salt, compound, derivative, or  
 9       preparation thereof;
- 10       (14) "Taxpayer" has the same meaning as in KRS 131.010; and
- 11       (15) (a) "Wholesale opioid distributor" means any person who is:
- 12               1. Engaged in the distribution of opioids; and
- 13               2. Involved in the actual, constructive, or attempted transfer of opioids in  
 14               this Commonwealth, primarily other than to the ultimate consumer.
- 15       (b) "Wholesale opioid distributor" includes but is not limited to any of the  
 16       following that are engaged in the distribution of opioids in this  
 17       Commonwealth, with facilities located in this Commonwealth or in any  
 18       other state or jurisdiction:
- 19               1. Wholesalers;
- 20               2. Repackagers; and
- 21               3. Manufacturers.
- 22       (c) "Wholesale opioid distributor" does not include any common carrier or  
 23       person hired solely to transport prescription drugs.

24       ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO  
 25 READ AS FOLLOWS:

- 26       (1) Effective January 1, 2019, a tax shall be imposed upon all wholesale opioid  
 27       distributors and all mail-order pharmacies at the rate of twenty-five cents (\$0.25)

1 per dose distributed or dispensed to persons located in this Commonwealth.

2 (2) On or before the twentieth day of the month following the month in which any  
3 opioids are distributed or dispensed, the wholesale opioid distributor or mail-  
4 order pharmacy shall file with the department a tax return, in the form as the  
5 department may require, and remit the amount of the tax due. A tax return is  
6 required for each month even though there may be no tax liability.

7 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO  
8 READ AS FOLLOWS:

9 (1) Beginning January 1, 2019, no person shall distribute or dispense opioids to  
10 persons located in this Commonwealth without a valid and current license as  
11 provided in this section.

12 (2) Every wholesale opioid distributor and mail-order pharmacy shall, prior to  
13 January 1, 2019, and annually before each January 1 thereafter, file an  
14 application for a license in such form as the department may prescribe. Every  
15 application shall be accompanied by a licensing fee of five hundred dollars  
16 (\$500) and shall be signed by:

17 (a) The owner, if a natural person;

18 (b) A member or partner, if the person is an association, limited liability  
19 company, limited liability partnership, or partnership;

20 (c) An executive officer, if the person is a corporation, or some person  
21 specifically authorized by the corporation to sign the application, to which  
22 shall be attached written evidence of his or her authority; or

23 (d) A licensed certified public accountant, or an attorney licensed to practice  
24 law in the Commonwealth of Kentucky, acting on behalf of the person.

25 (3) If any wholesale opioid distributor or mail-order pharmacy fails to comply with  
26 any provisions of Sections 18 to 21 of this Act or any administrative regulation  
27 promulgated by the department relating thereto, the department may order the

1 revocation of the license held by the taxpayer.

2 (4) Any person, including any officer of a corporation, who distributes or dispenses  
3 opioids to persons located in this Commonwealth without obtaining a license or  
4 after a license has been suspended or revoked shall be guilty of a Class A  
5 misdemeanor and shall be assessed a fine of no less than five hundred dollars  
6 (\$500). The distribution of each dose of any opioid shall be considered a separate  
7 violation for the purpose of this penalty. This penalty shall be in addition to the  
8 civil penalties provided by Section 21 of this Act.

9 (5) (a) The department may, by administrative regulation promulgated in  
10 accordance with KRS Chapter 13A, require any person requesting a license  
11 or holding a license under this section to supply such information  
12 concerning his or her business, sales, or any privilege exercised, as is  
13 deemed reasonably necessary for the regulation of the licensees, and to  
14 protect the revenues of the state.

15 (b) Failure on the part of the applicant or licensee to comply with Sections 18  
16 to 21 of this Act or any administrative regulations promulgated thereunder  
17 shall be grounds for the denial or revocation of any license issued by the  
18 department, after due notice and a hearing by the department.

19 (c) The commissioner may assign a time and place for the hearing and may  
20 appoint a conferee who shall conduct a hearing, receive evidence, and hear  
21 arguments.

22 (d) The conferee shall thereupon file a report with the commissioner together  
23 with a recommendation as to the denial or revocation of the license.

24 (e) From any denial or revocation made by the commissioner on the report, the  
25 licensee may appeal to the Kentucky Claims Commission as provided by  
26 KRS 49.220.

27 (f) Any person whose license has been revoked for the willful violation of any



1 provision of Sections 18 to 21 of this Act or any administrative regulations  
2 promulgated thereunder shall not be entitled to any license provided for in  
3 this section, or have any interest in any license, either disclosed or  
4 undisclosed, either as an individual, partnership, corporation, or otherwise,  
5 for a period of two (2) years after the revocation.

6 (6) No license issued pursuant to this section shall be transferable or negotiable,  
7 except that a license may be transferred between an individual and a corporation,  
8 if that individual is the exclusive owner of that corporation, or between a  
9 subsidiary corporation and its parent corporation.

10 (7) (a) Every wholesale opioid distributor and mail-order pharmacy distributing or  
11 dispensing opioids in this Commonwealth shall keep written records of all  
12 shipments of opioids to persons within this state, and shall submit to the  
13 department monthly reports of such shipments.

14 (b) All books, records, invoices, and documents required by this section shall be  
15 preserved in a form prescribed by the department for not less than six (6)  
16 years from the making of the records unless the department authorizes, in  
17 writing, the destruction of the records.

18 (8) Any license issued by the department under this section shall not be construed to  
19 waive or condone any violation that occurred or may have occurred prior to the  
20 issuance of the license and shall not prevent subsequent proceedings against the  
21 licensee.

22 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO  
23 READ AS FOLLOWS:

24 (1) The department shall administer the provisions of Sections 18 to 21 of this Act  
25 and shall have all the powers, rights, duties, and authority with respect to  
26 promulgation of administrative regulations, assessment, collection, refunding,  
27 and administration of the taxes levied by Section 19 of this Act conferred

1 generally on it by the Kentucky Revised Statutes including KRS Chapters 131,  
2 134, and 135.

3 (2) (a) As soon as practicable after each return is received, the department shall  
4 examine and audit it. If the amount of tax computed by the department is  
5 greater than the amount returned by the taxpayer, the excess shall be  
6 assessed within four (4) years from the date the return was filed, except:

7 1. As provided in subsection (5) of this section; and

8 2. In the case of a failure to file a return or of a fraudulent return, the  
9 excess may be assessed at any time.

10 (b) A notice of such an assessment shall be mailed to the taxpayer.

11 (c) The time for filing a return may be extended by agreement between the  
12 taxpayer and the department.

13 (3) For the purpose of subsections (2) and (5) of this section, a return filed before the  
14 last day prescribed by law for filing the return shall be considered as filed on the  
15 last day.

16 (4) Any final ruling, order, or determination of the department with regard to the  
17 administration of this chapter may be reviewed only in the manner provided in  
18 KRS 49.200 to 49.250 and 131.110.

19 (5) In the case of a return where the taxpayer underpays the tax due by twenty-five  
20 percent (25%) or more, the remainder shall be assessed by the department within  
21 six (6) years from the date the return was filed.

22 (6) Any person who violates any of the provisions of Sections 18 to 21 of this Act  
23 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

24 (7) Any tax not paid on or before the due date shall bear interest at the tax interest  
25 rate as defined in KRS 131.183 from the date due until paid.

26 (8) (a) Notwithstanding any other provisions of this chapter to the contrary, the  
27 president, vice president, secretary, treasurer, or any other person holding

1           any equivalent corporate office of any corporation subject to the provisions  
2           of this chapter shall be personally and individually liable, both jointly and  
3           severally, for the taxes imposed under Section 19 of this Act.

4           (b) Neither the corporate dissolution nor withdrawal of the corporation from  
5           the state nor the cessation of holding any corporate office shall discharge  
6           the foregoing liability of any person.

7           (c) The personal and individual liability shall apply to each and every person  
8           holding the corporate office at the time the taxes become or became due. No  
9           person will be personally and individually liable pursuant to this section  
10          who had no authority in the management of the business or financial  
11          affairs of the corporation at the time that the taxes imposed by this chapter  
12          become or became due.

13          (9) (a) Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-  
14          306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of  
15          a limited liability company, the partners of a limited liability partnership,  
16          and the general partners of a limited liability limited partnership or any  
17          other person holding any equivalent office of a limited liability company,  
18          limited liability partnership, or limited liability limited partnership subject to  
19          the provisions of this chapter shall be personally and individually liable,  
20          both jointly and severally, for the taxes imposed under this chapter.

21          (b) Dissolution or withdrawal of the limited liability company, limited liability  
22          partnership, or limited liability limited partnership from the state, or the  
23          cessation of holding any office, shall not discharge the liability of any  
24          person.

25          (c) The personal and individual liability shall apply to each and every manager  
26          of a limited liability company, partner of a limited liability partnership, and  
27          the general partners of a limited liability limited partnership at the time the

1            taxes become or became due. No person shall be personally and individually  
 2            liable under this subsection who had no authority to collect, truthfully  
 3            account for, or pay over any tax imposed by this chapter at the time that the  
 4            taxes imposed by this chapter become or became due.

5            (10) Any taxpayer who fails to file required returns or remit the tax due under  
 6            Sections 18 to 21 of this Act or who falsifies or alters a certificate or other form  
 7            required under Section 20 of this Act shall be guilty of a Class A misdemeanor.  
 8            This penalty shall be in addition to the civil penalties provided by this section.

9            (11) "Taxes," as used in this section, shall include interest accrued at the rate  
 10           provided by subsection (7) of this section, all applicable penalties imposed under  
 11           Sections 18 to 21 of this Act, and all applicable penalties and fees imposed under  
 12           KRS 131.180, 131.410 to 131.445, and 131.990.

13           ➔Section 22. KRS 131.190 is amended to read as follows:

14           (1)~~[(a)]~~ No present or former commissioner or employee of the department ~~[of~~  
 15           ~~Revenue]~~, present or former member of a county board of assessment appeals,  
 16           present or former property valuation administrator or employee, present or former  
 17           secretary or employee of the Finance and Administration Cabinet, former secretary  
 18           or employee of the Revenue Cabinet, or any other person, shall intentionally and  
 19           without authorization inspect or divulge any information acquired by him of the  
 20           affairs of any person, or information regarding the tax schedules, returns, or reports  
 21           required to be filed with the department or other proper officer, or any information  
 22           produced by a hearing or investigation, insofar as the information may have to do  
 23           with the affairs of the person's business.

24           (2)~~[(b)]~~ The prohibition established by subsection (1) ~~[paragraph (a)]~~ of this section  
 25           shall ~~[subsection does]~~ not extend to:

26           (a) ~~[(1)]~~ Information required in prosecutions for making false reports or returns  
 27           of property for taxation, or any other infraction of the tax laws;

1       **(b)**~~[2-]~~ Any matter properly entered upon any assessment record, or in any way  
2           made a matter of public record;

3       **(c)**~~[3-]~~ Furnishing any taxpayer or his properly authorized agent with  
4           information respecting his own return;

5       **(d)**~~[4-]~~ Testimony provided by the commissioner or any employee of the  
6           department~~[of Revenue]~~ in any court, or the introduction as evidence of  
7           returns or reports filed with the department, in an action for violation of state  
8           or federal tax laws or in any action challenging state or federal tax laws;

9       **(e)**~~[5-]~~ Providing an owner of unmined coal, oil or gas reserves, and other  
10          mineral or energy resources assessed under KRS 132.820~~[(1)]~~, or owners of  
11          surface land under which the unmined minerals lie, factual information about  
12          the owner's property derived from third-party returns filed for that owner's  
13          property, under the provisions of KRS 132.820~~[(2)]~~, that is used to determine  
14          the owner's assessment. This information shall be provided to the owner on a  
15          confidential basis, and the owner shall be subject to the penalties provided in  
16          KRS 131.990~~(2)~~~~[(21)]~~. The third-party filer shall be given prior notice of any  
17          disclosure of information to the owner that was provided by the third-party  
18          filer;

19       **(f)**~~[6-]~~ Providing to a third-party purchaser pursuant to an order entered in a  
20          foreclosure action filed in a court of competent jurisdiction, factual  
21          information related to the owner or lessee of coal, oil, gas reserves, or any  
22          other mineral resources assessed under KRS 132.820~~[(1)]~~. The department  
23          may promulgate an administrative regulation establishing a fee schedule for  
24          the provision of the information described in this **paragraph**~~[subparagraph]~~.  
25          Any fee imposed shall not exceed the greater of the actual cost of providing  
26          the information or ten dollars (\$10);~~or]~~

27       **(g)**~~[7-]~~ Providing information to a licensing agency, the Transportation Cabinet,

1 or the Kentucky Supreme Court under KRS 131.1817;

2 (h) Statistics of gasoline and special fuels gallonage reported to the department  
 3 under KRS 138.210 to 138.448;

4 (i) Providing any utility gross receipts license tax return information that is  
 5 necessary to administer the provisions of KRS 160.613 to 160.617 to  
 6 applicable school districts on a confidential basis; or

7 (j) Providing information to the Legislative Research Commission under:

8 1. KRS 139.519 for purposes of the sales and use tax refund on building  
 9 materials used for disaster recovery;

10 2. KRS 141.436 for purposes of the energy efficiency products credits;

11 3. KRS 141.437 for purposes of the ENERGY STAR home and the  
 12 ENERGY STAR manufactured home credits;

13 4. Section 23 of this Act for purposes of the distilled spirits credit;

14 5. Sections 12 and 13 of this Act for purposes of the film industry tax  
 15 incentives; and

16 6. Section 14 of this Act for purposes of the tourism development  
 17 incentives.

18 ~~(3)(2)~~ The commissioner shall make available any information for official use only  
 19 and on a confidential basis to the proper officer, agency, board or commission of  
 20 this state, any Kentucky county, any Kentucky city, any other state, or the federal  
 21 government, under reciprocal agreements whereby the department shall receive  
 22 similar or useful information in return.

23 ~~[(3) Statistics of tax paid gasoline gallonage reported monthly to the department of~~  
 24 ~~Revenue under the gasoline excise tax law may be made public by the department.]~~

25 (4) Access to and inspection of information received from the Internal Revenue Service  
 26 is for department~~[of Revenue]~~ use only, and is restricted to tax administration  
 27 purposes.~~[ Notwithstanding the provisions of this section to the contrary,]~~

1 Information received from the Internal Revenue Service shall not be made available  
2 to any other agency of state government, or any county, city, or other state, and shall  
3 not be inspected intentionally and without authorization by any present secretary or  
4 employee of the Finance and Administration Cabinet, commissioner or employee of  
5 the department~~[of Revenue]~~, or any other person.

6 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil  
7 excise tax requirements of KRS Chapter 137 and statistics of natural gas production  
8 as reported to the Department of Revenue under the natural resources severance tax  
9 requirements of KRS Chapter 143A may be made public by the department by  
10 release to the Energy and Environment Cabinet, Department for Natural Resources.

11 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map  
12 submissions for the 1989 tax year, the department may make public or divulge only  
13 those portions of mine maps submitted by taxpayers to the department pursuant to  
14 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-  
15 out parcel areas. These electronic maps shall not be relied upon to determine actual  
16 boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
17 required under KRS Chapters 350 and 352 shall not be construed to constitute land  
18 surveying or boundary surveys as defined by KRS 322.010 and any administrative  
19 regulations promulgated thereto.

20 ~~[(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The~~  
21 ~~department may divulge to the applicable school districts on a confidential basis any~~  
22 ~~utility gross receipts license tax return information that is necessary to administer the~~  
23 ~~provisions of KRS 160.613 to 160.617.]~~

24 ➔Section 23. KRS 141.389 is amended to read as follows:

25 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each  
26 taxpayer paying the distilled spirits ad valorem tax as follows:

27 1. For taxable years beginning on or after January 1, 2015, and before

- 1 December 31, 2015, the credit shall be equal to twenty percent (20%) of  
2 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
3 timely basis;
- 4 2. For taxable years beginning on or after January 1, 2016, and before  
5 December 31, 2016, the credit shall be equal to forty percent (40%) of  
6 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
7 timely basis;
- 8 3. For taxable years beginning on or after January 1, 2017, and before  
9 December 31, 2017, the credit shall be equal to sixty percent (60%) of  
10 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
11 timely basis;
- 12 4. For taxable years beginning on or after January 1, 2018, and before  
13 December 31, 2018, the credit shall be equal to eighty percent (80%) of  
14 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
15 timely basis; and
- 16 5. For taxable years beginning on or after January 1, 2019, the credit shall  
17 be equal to one hundred percent (100%) of the tax assessed under KRS  
18 132.160 and paid under KRS 132.180 on a timely basis.
- 19 (b) The credit shall be applied both to the income tax imposed under KRS  
20 141.020 or 141.040 and to the limited liability entity tax imposed under KRS  
21 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- 22 (2) The amount of distilled spirits credit allowed under subsection (1) of this section  
23 shall be used only for capital improvements at the premises of the distiller licensed  
24 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"  
25 means any costs associated with:
- 26 (a) Construction, replacement, or remodeling of warehouses or facilities;
- 27 (b) Purchases of barrels and pallets used for the storage and aging of distilled



- 1 spirits in maturing warehouses;
- 2 (c) Acquisition, construction, or installation of equipment for the use in the
- 3 manufacture, bottling, or shipment of distilled spirits;
- 4 (d) Addition or replacement of access roads or parking facilities; and
- 5 (e) Construction, replacement, or remodeling of facilities to market or promote
- 6 tourism, including but not limited to a visitor's center.
- 7 (3) The distilled spirits credit allowed under subsection (1) of this section:
- 8 (a) May be accumulated for multiple taxable years;
- 9 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during
- 10 which the credits were used pursuant to subsection (2) of this section; and
- 11 (c) Shall not include:
- 12 1. Any delinquent tax paid to the Commonwealth; or
- 13 2. Any interest, fees, or penalty paid to the Commonwealth.
- 14 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital
- 15 improvements required by subsection (2) of this section shall be completed
- 16 and specifically associated with the credit allowed on the return.
- 17 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
- 18 improvement associated with the credit is sold or otherwise disposed of prior
- 19 to the exhaustion of the useful life of the asset for Kentucky depreciation
- 20 purposes.
- 21 (c) If the allowed credit is associated with multiple capital improvements, and not
- 22 all capital improvements are sold or otherwise disposed of, the distilled spirits
- 23 credit shall be prorated based on the cost of the capital improvement sold over
- 24 the total cost of all improvements associated with the credit.
- 25 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
- 26 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
- 27 through to its members, partners, or shareholders in the same proportion as the

1 distributive share of income or loss is passed through.

2 (6) The department may promulgate an administrative regulation pursuant to KRS  
3 Chapter 13A to implement the allowable credit under this section, require the filing  
4 of forms designed by the department, and require specific information for the  
5 evaluation of the credit taken by any taxpayer.

6 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually  
7 thereafter, the department shall report to the Interim Joint Committee on  
8 Appropriations and Revenue:

9 (a) The name of each taxpayer taking the credit permitted by subsection (1) of  
10 this section;

11 (b) The amount of credit taken by that taxpayer; and

12 (c) The type of capital improvement made for which the credit is claimed.

13 ➔Section 24. KRS 131.020 is amended to read as follows:

14 (1) The Department of Revenue, headed by a commissioner appointed by the secretary  
15 with the approval of the Governor, shall be organized into the following functional  
16 units:

17 (a) Office of the Commissioner, which shall consist of:

18 1. The Division of Protest Resolution, headed by a division director who  
19 shall report directly to the commissioner. The division shall administer  
20 the protest functions for the department from office resolution through  
21 court action; and

22 2. The Division of Taxpayer Ombudsman, headed by a division director  
23 who shall report to the commissioner. The division shall perform those  
24 duties set out in KRS 131.083;

25 (b) Office of Tax Policy and Regulation, headed by an executive director who  
26 shall report directly to the commissioner. The office shall be responsible for:

27 1. Providing oral and written technical advice on Kentucky tax law;

- 1           2.   Drafting proposed tax legislation and regulations;
- 2           3.   Testifying before legislative committees on tax matters;
- 3           4.   Analyzing tax publications;
- 4           5.   Providing expert witness testimony in tax litigation cases;
- 5           6.   Providing consultation and assistance in protested tax cases; and
- 6           7.   Conducting training and education programs;
- 7       (c)   Office of Processing and Enforcement, headed by an executive director who
- 8           shall report directly to the commissioner. The office shall be responsible for
- 9           processing documents, depositing funds, collecting debt payments, and
- 10          coordinating, planning, and implementing a data integrity strategy. The office
- 11          shall consist of the:
- 12           1.   Division of Operations, which shall be responsible for opening all tax
- 13           returns, preparing the returns for data capture, coordinating the data
- 14           capture process, depositing receipts, maintaining tax data, and assisting
- 15           other state agencies with similar operational aspects as negotiated
- 16           between the department and the other agency;
- 17           2.   Division of Collections, which shall be responsible for initiating all
- 18           collection enforcement activity related to due and owing tax
- 19           assessments, including protest resolution, and for assisting other state
- 20           agencies with similar collection aspects as negotiated between the
- 21           department and the other state agency; and
- 22           3.   Division of Registration and Data Integrity, which shall be responsible
- 23           for registering businesses for tax purposes, ensuring that the data entered
- 24           into the department's tax systems is accurate and complete, and assisting
- 25           the taxing areas in proper procedures to ensure the accuracy of the data
- 26           over time;
- 27       (d)   Office of Property Valuation, headed by an executive director who shall report

1 directly to the commissioner. The office shall consist of the:

- 2 1. Division of Local Support, which shall be responsible for providing  
3 supervision, assistance, and training to the property valuation  
4 administrators and sheriffs within the Commonwealth;
- 5 2. Division of State Valuation, which shall be responsible for providing  
6 assessments of public service companies and motor vehicles, and  
7 providing assistance to property valuation administrators and sheriffs  
8 with the administration of tangible and omitted property taxes within the  
9 Commonwealth; and
- 10 3. Division of Minerals Taxation and Geographical Information System  
11 Services, which shall be responsible for providing geographical  
12 information system mapping support, ensuring proper filing of severance  
13 tax returns, ensuring consistency of unmined coal assessments, and  
14 gathering and providing data to properly assess minerals to the property  
15 valuation administrators within the Commonwealth;

16 (e) Office of Sales and Excise Taxes, headed by an executive director who shall  
17 report directly to the commissioner. The office shall administer all matters  
18 relating to sales and use taxes and miscellaneous excise taxes, including but  
19 not limited to technical tax research, compliance, taxpayer assistance, tax-  
20 specific training, and publications. The office shall consist of the:

- 21 1. Division of Sales and Use Tax, which shall administer the sales and use  
22 tax; and
- 23 2. Division of Miscellaneous Taxes, which shall administer various other  
24 taxes, including but not limited to alcoholic beverage taxes; cigarette  
25 enforcement fees, stamps, meters, and taxes; gasoline tax; bank  
26 franchise tax; inheritance and estate tax; insurance premiums and  
27 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and

1 special fuels taxes;

2 (f) Office of Income Taxation, headed by an executive director who shall report  
3 directly to the commissioner. The office shall administer all matters related to  
4 income and corporation license taxes, including technical tax research,  
5 compliance, taxpayer assistance, tax-specific training, and publications. The  
6 office shall consist of the:

7 1. Division of Individual Income Tax, which shall administer the following  
8 taxes or returns: individual income, fiduciary, and employer  
9 withholding; and

10 2. Division of Corporation Tax, which shall administer the corporation  
11 income tax, corporation license tax, pass-through entity withholding,  
12 and pass-through entity reporting requirements; and

13 (g) Office of Field Operations, headed by an executive director who shall report  
14 directly to the commissioner. The office shall manage the regional taxpayer  
15 service centers and the field audit program.

16 (2) The functions and duties of the department shall include conducting conferences,  
17 administering taxpayer protests, and settling tax controversies on a fair and  
18 equitable basis, taking into consideration the hazards of litigation to the  
19 Commonwealth of Kentucky and the taxpayer. The mission of the department shall  
20 be to afford an opportunity for taxpayers to have an independent informal review of  
21 the determinations of the audit functions of the department, and to attempt to fairly  
22 and equitably resolve tax controversies at the administrative level.

23 (3) The department shall maintain an accounting structure for the one hundred twenty  
24 (120) property valuation administrators' offices across the Commonwealth in order  
25 to facilitate use of the state payroll system and the budgeting process.

26 (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with  
27 and make tax information available as prescribed under KRS 131.190(3)~~(2)~~ to the

1 Governor's Office for Economic Analysis as necessary for the office to perform the  
2 tax administration function established in KRS 42.410.

3 (5) Executive directors and division directors established under this section shall be  
4 appointed by the secretary with the approval of the Governor.

5 ➔Section 25. KRS 141.020 is amended to read as follows:

6 (1) An annual tax shall be paid for each taxable year by every resident individual of this  
7 state upon his entire net income as defined in this chapter. The tax shall be  
8 determined by applying the rates in subsection (2) of this section to net income and  
9 subtracting allowable tax credits provided in subsection (3) of this section.

10 (2) (a) For taxable years beginning before January 1, 2005, the tax shall be  
11 determined by applying the following rates to net income:

- 12 1. Two percent (2%) of the amount of net income up to three thousand  
13 dollars (\$3,000);
- 14 2. Three percent (3%) of the amount of net income over three thousand  
15 dollars (\$3,000) and up to four thousand dollars (\$4,000);
- 16 3. Four percent (4%) of the amount of net income over four thousand  
17 dollars (\$4,000) and up to five thousand dollars (\$5,000);
- 18 4. Five percent (5%) of the amount of net income over five thousand  
19 dollars (\$5,000) and up to eight thousand dollars (\$8,000); and
- 20 5. Six percent (6%) of the amount of net income over eight thousand  
21 dollars (\$8,000).

22 (b) For taxable years beginning after December 31, 2004, the tax shall be  
23 determined by applying the following rates to net income:

- 24 1. Two percent (2%) of the amount of net income up to three thousand  
25 dollars (\$3,000);
- 26 2. Three percent (3%) of the amount of net income over three thousand  
27 dollars (\$3,000) and up to four thousand dollars (\$4,000);

- 1           3. Four percent (4%) of the amount of net income over four thousand  
2           dollars (\$4,000) and up to five thousand dollars (\$5,000);
  - 3           4. Five percent (5%) of the amount of net income over five thousand  
4           dollars (\$5,000) and up to eight thousand dollars (\$8,000);
  - 5           5. Five and eight-tenths percent (5.8%) of the amount of net income over  
6           eight thousand dollars (\$8,000) and up to seventy-five thousand dollars  
7           (\$75,000); and
  - 8           6. Six percent (6%) of the amount of net income over seventy-five  
9           thousand dollars (\$75,000).
- 10 (3) (a) For taxable years beginning before January 1, 2014, the following tax credits,  
11 when applicable, shall be deducted from the result obtained under subsection  
12 (2) of this section to arrive at the annual tax:
- 13           1. Twenty dollars (\$20) for an unmarried individual;
  - 14           2. Twenty dollars (\$20) for a married individual filing a separate return and  
15           an additional twenty dollars (\$20) for the spouse of taxpayer if a separate  
16           return is made by the taxpayer and if the spouse, for the calendar year in  
17           which the taxable year of the taxpayer begins, had no Kentucky gross  
18           income and is not the dependent of another taxpayer; or forty dollars  
19           (\$40) for married persons filing a joint return, provided neither spouse is  
20           the dependent of another taxpayer. The determination of marital status  
21           for the purpose of this section shall be made in the manner prescribed in  
22           Section 153 of the Internal Revenue Code;
  - 23           3. Twenty dollars (\$20) credit for each dependent. No credit shall be  
24           allowed for any dependent who has made a joint return with his spouse;
  - 25           4. An additional forty dollars (\$40) credit if the taxpayer has attained the  
26           age of sixty-five (65) before the close of the taxable year;
  - 27           5. An additional forty dollars (\$40) credit for taxpayer's spouse if a

- 1 separate return is made by the taxpayer and if the taxpayer's spouse has  
2 attained the age of sixty-five (65) before the close of the taxable year,  
3 and, for the calendar year in which the taxable year of the taxpayer  
4 begins, has no Kentucky gross income and is not the dependent of  
5 another taxpayer;
- 6 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the  
7 close of the taxable year;
- 8 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a  
9 separate return is made by the taxpayer and if the taxpayer's spouse is  
10 blind, and, for the calendar year in which the taxable year of the taxpayer  
11 begins, has no Kentucky gross income and is not the dependent of  
12 another taxpayer;
- 13 8. In the case of nonresidents, the tax credits allowable under this  
14 subsection shall be the portion of the credits that are represented by the  
15 ratio of the taxpayer's Kentucky adjusted gross income as determined by  
16 KRS 141.010(10), without the adjustments contained in (f) and (g) of  
17 that subsection, to the taxpayer's adjusted gross income as defined in  
18 Section 62 of the Internal Revenue Code. However, in the case of a  
19 married nonresident taxpayer with income from Kentucky sources,  
20 whose spouse has no income from Kentucky sources, the taxpayer shall  
21 determine allowable tax credit(s) by either:
- 22 a. The method contained above applied to the taxpayer's tax credit(s),  
23 excluding credits for a spouse and dependents; or
- 24 b. Prorating the taxpayer's tax credit(s) plus the tax credits for the  
25 taxpayer's spouse and dependents by the ratio of the taxpayer's  
26 Kentucky adjusted gross income as determined by KRS  
27 141.010(10), without the adjustments contained in (f) and (g) of



1                   that subsection, to the total joint federal adjusted gross income of  
2                   the taxpayer and the taxpayer's spouse;

- 3           9.    In the case of an individual who becomes a resident of Kentucky during  
4           the taxable year, the tax credits allowable under this subsection shall be  
5           the portion of the credits represented by the ratio of the taxpayer's  
6           Kentucky adjusted gross income as determined by subsection (10) of  
7           KRS 141.010, without the adjustments contained in paragraphs (f) and  
8           (g) of that subsection, to the taxpayer's adjusted gross income as defined  
9           in Section 62 of the Internal Revenue Code;
- 10          10. In the case of a fiduciary, other than an estate, the allowable tax credit  
11          shall be two dollars (\$2);
- 12          11. In the case of an estate, the allowable tax credit shall be twenty dollars  
13          (\$20); and
- 14          12. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer  
15          is a member of the Kentucky National Guard at the close of the taxable  
16          year.
- 17          (b) 1. For taxable years beginning on or after January 1, 2014, **but before**  
18          **January 1, 2018,** the following tax credits, when applicable, shall be  
19          deducted from the result obtained under subsection (2) of this section to  
20          arrive at the annual tax:
- 21                  a.    Ten dollars (\$10) for an unmarried individual;
- 22                  b.    Ten dollars (\$10) for a married individual filing a separate return  
23                  and an additional ten dollars (\$10) for the spouse of taxpayer if a  
24                  separate return is made by the taxpayer and if the spouse, for the  
25                  calendar year in which the taxable year of the taxpayer begins, had  
26                  no Kentucky gross income and is not the dependent of another  
27                  taxpayer; or twenty dollars (\$20) for married persons filing a joint

- 1 return, provided neither spouse is the dependent of another  
2 taxpayer. The determination of marital status for the purpose of  
3 this section shall be made in the manner prescribed in Section 153  
4 of the Internal Revenue Code;
- 5 c. Ten dollars (\$10) credit for each dependent. No credit shall be  
6 allowed for any dependent who has made a joint return with his  
7 spouse;
- 8 d. An additional forty dollars (\$40) credit if the taxpayer has attained  
9 the age of sixty-five (65) before the close of the taxable year;
- 10 e. An additional forty dollars (\$40) credit for taxpayer's spouse if a  
11 separate return is made by the taxpayer and if the taxpayer's spouse  
12 has attained the age of sixty-five (65) before the close of the  
13 taxable year, and, for the calendar year in which the taxable year of  
14 the taxpayer begins, has no Kentucky gross income and is not the  
15 dependent of another taxpayer;
- 16 f. An additional forty dollars (\$40) credit if the taxpayer is blind at  
17 the close of the taxable year;
- 18 g. An additional forty dollars (\$40) credit for taxpayer's spouse if a  
19 separate return is made by the taxpayer and if the taxpayer's spouse  
20 is blind, and, for the calendar year in which the taxable year of the  
21 taxpayer begins, has no Kentucky gross income and is not the  
22 dependent of another taxpayer;
- 23 h. In the case of a fiduciary, other than an estate, the allowable tax  
24 credit shall be two dollars (\$2);
- 25 i. In the case of an estate, the allowable tax credit shall be ten dollars  
26 (\$10); and
- 27 j. An additional twenty dollars (\$20) credit shall be allowed if the

1 taxpayer is a member of the Kentucky National Guard at the close  
2 of the taxable year.

3 2. In the case of nonresidents, the tax credits allowable under this  
4 subsection shall be the portion of the credits that are represented by the  
5 ratio of the taxpayer's Kentucky adjusted gross income as determined by  
6 KRS 141.010(10), without the adjustments contained in paragraphs (f)  
7 and (g) of that subsection, to the taxpayer's adjusted gross income as  
8 defined in Section 62 of the Internal Revenue Code. However, in the  
9 case of a married nonresident taxpayer with income from Kentucky  
10 sources, whose spouse has no income from Kentucky sources, the  
11 taxpayer shall determine allowable tax credit(s) by either:

12 a. The method contained above applied to the taxpayer's tax credit(s),  
13 excluding credits for a spouse and dependents; or

14 b. Prorating the taxpayer's tax credit(s) plus the tax credits for the  
15 taxpayer's spouse and dependents by the ratio of the taxpayer's  
16 Kentucky adjusted gross income as determined by KRS  
17 141.010(10), without the adjustments contained in paragraphs (f)  
18 and (g) of that subsection, to the total joint federal adjusted gross  
19 income of the taxpayer and the taxpayer's spouse.

20 3. In the case of an individual who becomes a resident of Kentucky during  
21 the taxable year, the tax credits allowable under this subsection shall be  
22 the portion of the credits represented by the ratio of the taxpayer's  
23 Kentucky adjusted gross income as determined by KRS 141.010(10),  
24 without the adjustments contained in paragraphs (f) and (g) of that  
25 subsection, to the taxpayer's adjusted gross income as defined in Section  
26 62 of the Internal Revenue Code.

27 **(c) 1. For taxable years beginning on or after January 1, 2018, the**

1 following tax credits, when applicable, shall be deducted from the  
2 result obtained under subsection (2) of this section to arrive at the  
3 annual tax:

4 a. Forty dollars (\$40) credit if the taxpayer has attained the age of  
5 sixty-five (65) before the close of the taxable year;

6 b. Forty dollars (\$40) credit for taxpayer's spouse if a separate  
7 return is made by the taxpayer and if the taxpayer's spouse has  
8 attained the age of sixty-five (65) before the close of the taxable  
9 year, and, for the calendar year in which the taxable year of the  
10 taxpayer begins, has no Kentucky gross income and is not the  
11 dependent of another taxpayer;

12 c. Forty dollars (\$40) credit if the taxpayer is blind at the close of  
13 the taxable year;

14 d. Forty dollars (\$40) credit for taxpayer's spouse if a separate  
15 return is made by the taxpayer and if the taxpayer's spouse is  
16 blind, and, for the calendar year in which the taxable year of the  
17 taxpayer begins, has no Kentucky gross income and is not the  
18 dependent of another taxpayer;

19 e. In the case of a fiduciary, other than an estate, the allowable tax  
20 credit shall be two dollars (\$2);

21 f. In the case of an estate, the allowable tax credit shall be ten  
22 dollars (\$10); and

23 g. Twenty dollars (\$20) credit shall be allowed if the taxpayer is a  
24 member of the Kentucky National Guard at the close of the  
25 taxable year.

26 2. In the case of nonresidents, the tax credits allowable under this  
27 subsection shall be the portion of the credits that are represented by

- 1                   the ratio of the taxpayer's Kentucky adjusted gross income as  
2                   determined by KRS 141.010(10), without the adjustments contained in  
3                   paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted  
4                   gross income as defined in Section 62 of the Internal Revenue Code.  
5                   However, in the case of a married nonresident taxpayer with income  
6                   from Kentucky sources, whose spouse has no income from Kentucky  
7                   sources, the taxpayer shall determine allowable tax credit(s) by either:  
8                   a. The method contained above applied to the taxpayer's tax  
9                   credit(s), excluding credits for a spouse and dependents; or  
10                   b. Prorating the taxpayer's tax credit(s) plus the tax credits for the  
11                   taxpayer's spouse and dependents by the ratio of the taxpayer's  
12                   Kentucky adjusted gross income as determined by KRS  
13                   141.010(10), without the adjustments contained in paragraphs  
14                   (f) and (g) of that subsection, to the total joint federal adjusted  
15                   gross income of the taxpayer and the taxpayer's spouse.  
16                   3. In the case of an individual who becomes a resident of Kentucky  
17                   during the taxable year, the tax credits allowable under this subsection  
18                   shall be the portion of the credits represented by the ratio of the  
19                   taxpayer's Kentucky adjusted gross income as determined by KRS  
20                   141.010(10), without the adjustments contained in paragraphs (f) and  
21                   (g) of that subsection, to the taxpayer's adjusted gross income as  
22                   defined in Section 62 of the Internal Revenue Code.  
23                   (4) An annual tax shall be paid for each taxable year as specified in this section upon  
24                   the entire net income except as herein provided, from all tangible property located  
25                   in this state, from all intangible property that has acquired a business situs in this  
26                   state, and from business, trade, profession, occupation, or other activities carried on  
27                   in this state, by natural persons not residents of this state. A nonresident individual

1 shall be taxable only upon the amount of income received by the individual from  
2 labor performed, business done, or from other activities in this state, from tangible  
3 property located in this state, and from intangible property which has acquired a  
4 business situs in this state; provided, however, that the situs of intangible personal  
5 property shall be at the residence of the real or beneficial owner and not at the  
6 residence of a trustee having custody or possession thereof. The remainder of the  
7 income received by such nonresident shall be deemed nontaxable by this state.

8 (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the  
9 annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

10 (6) An individual who becomes a resident of Kentucky during the taxable year is  
11 subject to taxation as prescribed in subsection (4) of this section prior to  
12 establishing residence and as prescribed in subsection (1) of this section following  
13 the establishment of residence.

14 (7) An individual who becomes a nonresident of Kentucky during the taxable year is  
15 subject to taxation, as prescribed in subsection (1) of this section, during that  
16 portion of the taxable year that the individual is a resident and, as prescribed in  
17 subsection (4) of this section, during that portion of the taxable year when the  
18 individual is a nonresident.

19 ➔Section 26. **Kentucky Agricultural Finance Corporation:** Notwithstanding  
20 KRS 247.978(2), the total amount of principal which a qualified applicant may owe the  
21 Kentucky Agricultural Finance Corporation at any one time shall not exceed \$5,000,000.

22 ➔Section 27. **Administrative Fee on Infrastructure for Economic**  
23 **Development Fund Projects:** A one-half of one percent administrative fee is authorized  
24 to be paid to the Kentucky Infrastructure Authority for the administration of each project  
25 funded by the Infrastructure for Economic Development Fund for Coal-Producing  
26 Counties and the Infrastructure for Economic Development Fund for Tobacco Counties.  
27 These administrative fees shall be paid, upon inception of the project, out of the fund

1 from which the project was allocated.

2       ➔Section 28. **Child Victim’s Trust Fund License Plate Statutory Suspension:**  
3 Notwithstanding KRS 186.162(2)(v), any revenue received from the sale or renewal of  
4 Child Victims’ Trust Fund license plates in excess of actual costs incurred by the  
5 Transportation Cabinet related to the distribution of those plates shall be transferred to the  
6 Child Victims’ Trust Fund on an annual basis.

7       ➔Section 29. **Settlement Funds:** Notwithstanding KRS 48.005(4), any funds or  
8 assets recovered by the Attorney General in connection with a lawsuit in which he or she  
9 is a party or has entered his or her appearance on behalf of the Commonwealth of  
10 Kentucky, including ex rel. or other types of actions, shall be paid directly to the  
11 Commonwealth and deposited in a distinct trust and agency account for each settlement.  
12 The Office of Attorney General may recover reasonable costs of litigation as determined  
13 by the court and approved by the Secretary of the Finance and Administration Cabinet.  
14 The amount of settlement funds used to recover costs of litigation for each settlement  
15 shall be reported to the Interim Joint Committee on Appropriations and Revenue. After  
16 recovering reasonable costs of litigation, any required consumer restitution or payments  
17 shall be made. No other funds or assets shall be disbursed from the trust and agency  
18 accounts unless appropriated by the General Assembly. Any disbursements from  
19 settlement funds placed within a trust and agency account shall be reported monthly to the  
20 Interim Joint Committee on Appropriations and Revenue.

21       ➔Section 30. **Charges for Federal, State, and Local Audits and Reviews:** Any  
22 additional expenses incurred by the Auditor of Public Accounts for required audits or  
23 reviews of Federal Funds shall be charged to the government or agency that is the subject  
24 of the audit or review. The Auditor of Public Accounts receives General Fund  
25 appropriations for audits of the statewide systems of personnel and payroll, cash and  
26 investments, revenue collection, and the state accounting system. Any expenses incurred  
27 by the Auditor of Public Accounts for any other audits or reviews shall be charged to the

1 agency that is the subject of such audit or review. The Auditor of Public Accounts shall  
2 maintain a record of all time and expenses for each audit, review, or investigation.

3 Notwithstanding KRS 43.070(3), a county audited under KRS 43.070(1)(a)1. shall  
4 bear seventy-five percent (75%) of the actual expense of the audit. A county audited  
5 under KRS 43.070(1)(a)2. or (2)(a) shall bear the total actual expense of the audit. No  
6 county shall be required to bear the expense for more than one (1) audit of the same fund  
7 or office annually pursuant to KRS 43.070(1)(a)1. or 2., except as provided in KRS  
8 64.810(4).

9 ➔Section 31. **Personnel Board Operating Assessment:** Each agency of the  
10 Executive Branch with employees covered by KRS Chapter 18A shall be assessed each  
11 fiscal year the amount required for the operation of the Personnel Board. The agency  
12 assessment shall be determined by the Secretary of the Finance and Administration  
13 Cabinet based on the authorized full-time positions of each agency on July 1 of each year  
14 of the biennium. The Secretary of the Finance and Administration Cabinet shall collect  
15 the assessment.

16 ➔Section 32. **Water Withdrawal Fees:** The water withdrawal fees imposed by  
17 the Kentucky River Authority shall not be subject to state and local taxes.  
18 Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support  
19 the operations of the Authority and for contractual services for water supply and quality  
20 studies.

21 ➔Section 33. **Urgent Needs School Assistance:** If a school district receives an  
22 allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A.,  
23 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), and 2016 Ky. Acts ch. 149, part I,  
24 A., 28., (4) and (5) and subsequently, as a result of litigation or insurance, receives funds  
25 for the original facility, the school district shall reimburse the Commonwealth an amount  
26 equal to that received for such purposes. If the litigation or insurance receipts are less than  
27 the amount received, the district shall reimburse the Commonwealth an amount equal to



1 that received as a result of litigation or insurance less the district's costs and legal fees in  
2 securing the judgment or payment. Any funds received in this manner shall be deposited  
3 in the Budget Reserve Trust Fund Account (KRS 48.705).

4       ➔Section 34.   **Real Property Disposal:** There is hereby established within the  
5 Education and Workforce Development Cabinet the Office of Employment Training  
6 Building Proceeds Fund for the support of workforce operations. Notwithstanding KRS  
7 45.229, any fund balance at the close of fiscal year 2018-2019 shall not lapse but shall be  
8 carried forward to the next fiscal year. Pursuant to KRS 45.229, any fund balance at the  
9 close of fiscal year 2019-2020 shall lapse to the surplus account of the General Fund.  
10 Notwithstanding KRS 45.777, up to \$3,000,000 of proceeds from the disposal under KRS  
11 45A.045 of any state-owned real property operated by the Office of Employment and  
12 Training shall be deposited in the Office of Employment Training Building Proceeds  
13 Fund.

14       ➔Section 35.   **Office of Procurement Services Administrative Costs:**  
15 Notwithstanding KRS 47.010(1), any revenue derived from the establishment of  
16 statewide contracts by the Office of Material and Procurement Services shall be credited  
17 to a trust and agency account and shall be used to administer the program.

18       ➔Section 36.   **Insurance Surcharge Rate:** Pursuant to KRS 136.392, the  
19 insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the  
20 2018-2020 fiscal biennium for the Firefighters Foundation Program Fund and the  
21 Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient  
22 funds for those programs shall include any Restricted Funds carried forward from fiscal  
23 years 2017-2018 and 2018-2019 as provided by the General Assembly.

24       ➔Section 37.   **Medicaid Copayments:** Notwithstanding KRS 205.6312, the  
25 Department for Medicaid Services may impose copayments for services rendered to  
26 Medicaid recipients, not to exceed the amounts permitted by federal law or waivers.

27       ➔Section 38.   **Medicaid and KCHIP Premiums and Cost-Sharing:**

1 Notwithstanding KRS 205.6312 and 205.6485(1)(c), the Department for Medicaid  
2 Services may utilize premiums and cost-sharing for services rendered to Medicaid and  
3 KCHIP recipients not to exceed amounts permitted by federal law or waivers. KCHIP  
4 premiums are suspended for the 2018-2020 biennium.

5 →Section 39. **Assessment on Insurers:** Notwithstanding KRS 304.17B-021 or  
6 any other provision of the Kentucky Revised Statutes to the contrary, for participating  
7 insurers who offer Qualified Health Plans, as defined in 42 U.S.C. sec. 18021, being sold  
8 on the Federal Exchange in the individual market segment, the assessment in KRS  
9 304.17B-021(1)(a) 2. to 4. may be waived or assessed at any rate between zero and one  
10 percent for the 2019 or 2020 Plan Year on any health benefit plan premium written by  
11 that insurer in the individual market segment.

12 →Section 40. **Pro Rata Assessment:** The Personnel Cabinet shall collect a pro  
13 rata assessment from all state agencies, in all three branches of government, and other  
14 organizations that are supported by the System. Those collections shall be deposited and  
15 retained in a Restricted Funds account within the Personnel Cabinet.

16 →Section 41. **Service Capacity Upgrade Fund:** Notwithstanding KRS  
17 341.243(4) and (7), beginning July 1, 2018, seventy-five thousandths of one percent shall  
18 be withheld from each rate established under KRS 341.270 and 341.272, only if the  
19 Unemployment Insurance Trust Fund balance exceeds the balance of the trust fund as of  
20 December 31, 2017, and shall be deposited in the Service Capacity Upgrade Fund and  
21 used solely in accordance with KRS 341.243(2) and as provided by the General  
22 Assembly. The Secretary of the Education and Workforce Development Cabinet may  
23 exercise his or her discretion to reduce the percentage rate established in this subsection  
24 or suspend required payments to the Service Capacity Upgrade Fund at any time.

25 →Section 42. **Premium and Retaliatory Taxes:** Notwithstanding KRS 304.17B-  
26 021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and  
27 retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the

1 General Fund.

2 →Section 43. **Monthly Per Employee Health Insurance Benefits Assessment:**

3 The Personnel Cabinet shall collect a benefits assessment per month per employee  
4 eligible for health insurance coverage in the state group for duly authorized use by the  
5 Personnel Cabinet in administering its statutory and administrative responsibilities,  
6 including but not limited to administration of the Commonwealth's health insurance  
7 program.

8 →Section 44. **Surplus Property:** Notwithstanding KRS 45.777, any funds  
9 received by the Commonwealth from the disposal of any surplus property at the Kentucky  
10 School for the Blind, the Kentucky School for the Deaf, and the FFA Leadership Training  
11 Center shall be deposited in a separate restricted account for each facility and shall not be  
12 expended without appropriation authority granted by the General Assembly.

13 →Section 45. **Severability of Provisions:** If any section, any subsection, or any  
14 provision of this Act is found by a court of competent jurisdiction in a final, unappealable  
15 order to be invalid or unconstitutional, the decision of the court shall not affect or impair  
16 any of the remaining sections, subsections, or provisions.

17 →Section 46. Sections 26 to 38 and 40 to 44 of this Act are effective for and apply  
18 to the fiscal year beginning July 1, 2018, and ending June 30, 2019, and the fiscal year  
19 beginning July 1, 2019, and ending June 30, 2020, and shall expire at the end of June 30,  
20 2020.

21 →Section 47. Section 39 of this Act is effective for and applies to the plan year  
22 beginning January 1, 2019, and ending December 31, 2019, and the plan year beginning  
23 January 1, 2020, and ending December 31, 2020, and shall expire at the end of December  
24 31, 2020.

25 →Section 48. Whereas this Act applies to the balancing of the Executive Branch  
26 Budget, an emergency is declared to exist, and this Act takes effect upon its passage and  
27 approval by the Governor or upon its otherwise becoming a law.