

1 AN ACT relating to the establishment of a tax credit to promote investments in  
2 rural Kentucky businesses and making an appropriation therefor.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
5 READ AS FOLLOWS:

6 *The General Assembly hereby finds and declares that:*

7 *(1) Businesses in the rural areas of this state have found it difficult to attract capital*  
8 *necessary to make investments that would stimulate economic development*  
9 *activity and create new jobs for the residents of the rural areas; therefore, a need*  
10 *exists to attract capital to rural areas that promotes the retention and expansion*  
11 *of existing jobs, stimulates the creation of new jobs, attracts new business and*  
12 *industry to the state, stimulates growth in businesses, and fosters job creation in*  
13 *this state; and*

14 *(2) Through the establishment of a rural growth fund tax credit program under*  
15 *Sections 1 to 9 of this Act, the Commonwealth will attract capital to stimulate*  
16 *business development in rural areas, retain and attract new business and industry*  
17 *to the rural areas, create high-paying jobs for residents of rural areas, and*  
18 *stimulate growth in businesses in rural areas.*

19 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
20 READ AS FOLLOWS:

21 *As used in Sections 1 to 9 of this Act:*

22 *(1) (a) "Affiliate" means a person or entity that directly, or indirectly through one*  
23 *(1) or more intermediaries, controls, is controlled by, or is under common*  
24 *control with another person or entity.*

25 *(b) For the purposes of this subsection, an entity is controlled by another entity*  
26 *if the controlling person holds, directly or indirectly, the majority voting or*  
27 *ownership interest in the controlled person or has control over the day-to-*

- 1           day operations of the controlled person by contract or by law;
- 2   (2) "Authority" means the Kentucky Economic Development Finance Authority;
- 3   (3) "Closing date" means the date on which a rural growth fund has collected all of  
4   the amounts specified by subsection (8)(a) of Section 3 of this Act;
- 5   (4) "Credit-eligible capital contribution" means an investment of cash in a rural  
6   growth fund by an entity subject to state tax under KRS 136.300, 136.320,  
7   136.330, 136.340, 136.350, 136.370, 136.390, 136.505, or 304.3-270 that shall:
- 8   (a) Equal the amount specified on a tax credit certificate issued by the  
9   department under subsection (7) of Section 3 of this Act; and
- 10   (b) Purchase an equity interest in the rural growth fund or purchase, at par  
11   value or premium, a debt instrument that has a maturity date at least five  
12   (5) years from the closing date;
- 13   (5) "Department" means the Department of Revenue;
- 14   (6) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;
- 15   (7) "Investment authority" means the amount stated on the notice issued under  
16   subsection (7) of Section 3 of this Act certifying the rural growth fund, sixty  
17   percent (60%) of which shall be composed of credit-eligible capital contributions;
- 18   (8) "Principal business operations" means the location where at least sixty percent  
19   (60%) of a business entity's employees work or where employees that are paid at  
20   least sixty percent (60%) of the business entity's payroll work. A business that has  
21   agreed to relocate employees using the proceeds of a rural growth investment to  
22   establish its principal business operations in a new location shall be deemed to  
23   have its principal business operations in this new location if it satisfies those  
24   requirements no later than one hundred eighty (180) days after receiving the  
25   rural growth investment;
- 26   (9) "Rural area" means an enhanced incentive county having a population of less  
27   than seventy thousand (70,000) at the time an initial rural growth investment is

1 made by a rural growth fund, based on the most recent federal decennial census;

2 (10) "Rural business concern" means a business entity that, at the time of the initial  
3 rural growth investment in the entity by a rural growth fund:

4 (a) Has fewer than two hundred fifty (250) employees that are residents of rural  
5 areas;

6 (b) Has not more than fifteen million dollars (\$15,000,000) in net income for  
7 the preceding taxable year;

8 (c) Has its principal business operations in one (1) or more rural areas in this  
9 state; and

10 (d) Is engaged in an agriculture, agribusiness, manufacturing, plant sciences,  
11 or services or technology activity, or if not engaged in one (1) of those  
12 activities, is engaged in an activity approved by the department with the  
13 assistance of the authority, excluding retail sales activities;

14 (11) "Rural growth fund" means an entity that is:

15 (a) Certified by the department pursuant to Section 3 of this Act; and

16 (b) Licensed, or is an affiliate of an entity that is licensed, as a rural business  
17 investment company under 7 U.S.C. sec. 2009cc-3 or as a small business  
18 investment company under 15 U.S.C. sec. 681; and

19 (12) (a) "Rural growth investment" means any capital or equity investment in a  
20 rural business concern or any loan to a rural business concern with a stated  
21 maturity at least one (1) year after the date of issuance. A secured loan or  
22 the provision of a revolving line of credit to a rural business concern shall  
23 only qualify as a rural growth investment if the rural growth fund obtains  
24 an affidavit from an officer of the rural business concern attesting that the  
25 rural business concern applied for and was denied similar financing from a  
26 commercial bank prior to the date of issuance of the secured loan or  
27 revolving line of credit.

1 (b) "Rural growth investment" excludes any amount of any investment or loan  
 2 which also is qualified as an investment under:

- 3 1. The Kentucky New Markets Development Program, pursuant to KRS  
 4 141.432 to 141.434;  
 5 2. The Kentucky Angel Investment Act, pursuant to KRS 154.20-230 to  
 6 154.20-240; or  
 7 3. The Kentucky Investment Fund Act, pursuant to KRS 154.20-250 to  
 8 154.20-284.

9 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
 10 READ AS FOLLOWS:

11 (1) Beginning October 1, 2018, the department shall accept applications from entities  
 12 seeking approval as a rural growth fund. The application shall be made on  
 13 standard forms prescribed by the department, and shall include all of the  
 14 following:

15 (a) The total investment authority sought by the applicant as part of its business  
 16 plan;

17 (b) Documents and other evidence sufficient to prove, to the satisfaction of the  
 18 department, that the applicant meets all of the following criteria:

19 1. The applicant or an affiliate of the applicant is licensed as a rural  
 20 business investment company under 7 U.S.C. sec. 2009cc-3, or as a  
 21 small business investment company under 15 U.S.C. sec. 681;

22 2. The applicant or affiliates of the applicant have, as of the date the  
 23 application is submitted, invested more than one hundred million  
 24 dollars (\$100,000,000) in nonpublic companies, including at least fifty  
 25 million dollars (\$50,000,000) in nonpublic companies located in rural  
 26 areas; and

27 3. The applicant and all affiliates of the applicant are, as of the date the

- 1                   application is submitted, in compliance with applicable state and  
2                   federal securities laws and regulations and are current and in good  
3                   standing on all taxes owed to the Commonwealth;
- 4           (c) An estimate of the number of jobs that will be created or retained in this  
5           state as a result of the applicant's proposed rural growth investments;
- 6           (d) A business plan that describes in detail the applicant's investment strategy  
7           and includes a revenue impact assessment that projects state and local tax  
8           revenue to be generated by the applicant's proposed rural growth  
9           investments, prepared by a nationally recognized third-party independent  
10           economic forecasting firm using a dynamic economic forecasting model  
11           that analyzes the applicant's business plan over the ten (10) years following  
12           the date the application is submitted to the department;
- 13           (e) A signed affidavit from each investor stating the amount of credit-eligible  
14           capital contributions each investor commits to make;
- 15           (f) A letter of good standing issued by the department for each investor;
- 16           (g) A representation that the applicant shall remain in compliance with  
17           applicable state and federal securities laws and regulations; and
- 18           (h) A nonrefundable application fee of five thousand dollars (\$5,000).
- 19   (2) The department shall review applications on a first-come, first-served basis, and  
20   shall make an application determination within sixty (60) days of receipt. The  
21   department shall deem applications received on the same day to have been  
22   received simultaneously.
- 23   (3) (a) The department shall not issue approval for more than one hundred million  
24   dollars (\$100,000,000) in total aggregate investment authority to all  
25   applicants, and not more than sixty million dollars (\$60,000,000) in credit-  
26   eligible capital contributions, under this section across all years.
- 27   (b) If applications for investment authority being reviewed by the department

1 would exceed the limitations provided in paragraph (a) of this subsection,  
2 the department shall proportionally reduce the investment authority and the  
3 credit-eligible capital contributions for each approved application as  
4 necessary to avoid exceeding the limits.

5 (c) The department shall not issue approval for any amount of investment  
6 authority, or any amount of credit-eligible capital contributions, on or after  
7 October 1, 2022.

8 (4) The department shall deny an application submitted under this section if any of  
9 the following are true:

10 (a) The application is incomplete or the application fee is not paid in full;

11 (b) The applicant does not satisfy all the criteria provided in subsection (1)(b)  
12 of this section;

13 (c) The credit-eligible capital contributions investors have committed to make,  
14 as described in affidavits submitted pursuant to subsection (1)(e) of this  
15 section, do not equal sixty percent (60%) of the total amount of investment  
16 authority sought by the applicant;

17 (d) The department has already approved the maximum amount of investment  
18 authority and credit-eligible capital contributions allowed under subsection  
19 (3)(a) of this section; or

20 (e) The application is received by the department on or after August 1, 2022, in  
21 which case the department would not have the full sixty (60) day period  
22 allowed for review of applications prior to reaching the sunset date  
23 limitation provided in subsection (3)(c) of this section.

24 (5) If the department denies an application, the applicant may provide additional  
25 information to the department to complete, clarify, or cure defects in the  
26 application identified by the department within fifteen (15) days of the notice of  
27 denial and resubmit the application for reconsideration. The department shall

1 review resubmitted applications within forty-five (45) days, and prior to reviewing  
2 any pending application submitted after the original submission date of the  
3 reconsidered application.

4 (6) The department shall not deny a rural growth fund application or reduce the  
5 requested investment authority for reasons other than those provided in  
6 subsections (3) and (4) of this section.

7 (7) Upon approval of an application, the department shall issue:

8 (a) A written approval to the applicant certifying it as a rural growth fund and  
9 specifying the amount of the applicant's investment authority; and

10 (b) A written tax credit certificate to each investor whose affidavit was included  
11 in the application, specifying the amount of the investor's credit-eligible  
12 capital contribution.

13 (8) After receiving the approval issued under subsection (7) of this section, a rural  
14 growth fund shall:

15 (a) Within sixty (60) days:

16 1. Collect the credit-eligible capital contributions from each investor  
17 issued a tax credit certificate under subsection (7)(b) of this section;  
18 and

19 2. Collect one (1) or more investments of cash that, when added to the  
20 credit-eligible capital contributions collected under subparagraph 1. of  
21 this paragraph, equal the rural growth fund's entire approved  
22 investment authority. At least ten percent (10%) of the rural growth  
23 fund's investment authority shall be composed of equity investments  
24 contributed by affiliates of the rural growth fund, including  
25 employees, officers, and directors of those affiliates;

26 (b) Within sixty-five (65) days, submit to the department written documentation  
27 sufficient to prove that the amounts described in paragraph (a) of this

1 subsection have been collected; and

2 (c) Within two (2) years of the closing date invest one hundred percent (100%)  
3 of its investment authority in rural growth investments in this state, a  
4 minimum twenty percent (20%) of which shall be in counties with labor  
5 force participation rates below the national average as determined by data  
6 available from the United States Bureau of Labor Statistics and the Cabinet  
7 for Workforce Development as of the date of the rural growth investment,  
8 and maintain that level of investment until the fifth anniversary of the  
9 closing date.

10 (9) (a) If the rural growth fund fails to fully comply with subsection (8)(a) and (b)  
11 of this section, the rural growth fund's approval shall lapse and the  
12 corresponding investment authority and credit-eligible capital contributions  
13 shall not count toward the limits on total investment authority and credit-  
14 eligible capital contributions prescribed by subsection (3) of this section.

15 (b) The department shall first award lapsed investment authority and credit-  
16 eligible capital contribution amounts pro rata to each rural growth fund  
17 that was awarded less than its requested investment authority and credit-  
18 eligible capital contribution amounts under subsection (3)(b) of this section.  
19 A rural growth fund receiving awards under this paragraph may allocate  
20 credit-eligible capital contribution amounts to its investors in its discretion,  
21 upon the submission of written notification to the department detailing the  
22 investor to which the amount approved for credit-eligible capital  
23 contributions has been allocated.

24 (c) Any remaining investment authority and credit-eligible capital  
25 contributions may be awarded by the department to new applications  
26 submitted pursuant to subsection (1) of this section, subject to the sunset  
27 date limitation provided in subsection (3)(c) of this section.

1 (10) Following the making of each rural growth investment, the rural growth fund  
 2 shall within sixty (60) days submit to the department written documentation  
 3 listing the following information:

4 (a) The name and address of the business entity receiving the rural growth  
 5 investment;

6 (b) The amount of the rural growth investment;

7 (c) A detailed description of the business activities engaged in by the business  
 8 entity; and

9 (d) Any other information required by the department.

10 (11) Nonrefundable application fees submitted to the department pursuant to  
 11 subsection (1)(h) of this section shall be retained by the department to offset the  
 12 costs of administering Sections 1 to 9 of this Act.

13 (12) The staff of the authority shall, upon the request of the department, work  
 14 collaboratively with the department to assist in the review of applications received  
 15 under subsection (1) of this section, and documents received pursuant to  
 16 subsections (8) and (10) of this section, to ensure compliance with Sections 1 to 9  
 17 of this Act.

18 (13) The department may promulgate administrative regulations as necessary to  
 19 administer Sections 1 to 9 of this Act.

20 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
 21 READ AS FOLLOWS:

22 (1) There is hereby allowed a nonrefundable credit for taxpayers that, as investors,  
 23 make a credit-eligible capital contribution to a rural growth fund and were issued  
 24 a tax credit certificate under subsection (7)(b) of Section 3 of this Act. The credit  
 25 may be claimed against the state tax imposed by:

26 (a) KRS 136.300;

27 (b) KRS 136.320, 136.330, 136.340, 136.350, 136.370, 136.390, or 304.3-270,

1 with the ordering of the credit as provided in Section 10 of this Act; or  
 2 (c) KRS 136.505, with the ordering of the credit as provided in Section 11 of  
 3 this Act.

4 (2) The credit may not be sold, transferred, or allocated to any other taxpayer other  
 5 than an affiliate that is itself subject to the state tax imposed by KRS 136.300,  
 6 136.320, 136.330, 136.340, 136.350, 136.370, 136.390, 136.505, or 304.3-270.

7 (3) On the closing date, the taxpayer shall earn a vested credit equal to the amount of  
 8 the taxpayer's credit-eligible capital contribution made to a rural growth fund as  
 9 specified on the tax credit certificate. A taxpayer may claim no more than twenty-  
 10 five percent (25%) of the credit allowed by this section in each of the taxable  
 11 years that include the second, third, fourth, and fifth anniversaries of the closing  
 12 date, exclusive of amounts carried forward pursuant to subsection (4) of this  
 13 section.

14 (4) If the amount of the credit allowed for a taxable year under subsection (3) of this  
 15 section exceeds the tax otherwise due for that year, the excess shall be carried  
 16 forward to succeeding taxable years until fully used, for a period not to exceed  
 17 ten (10) years.

18 (5) A taxpayer claiming a credit under this section shall submit a copy of the tax  
 19 credit certificate with the taxpayer's return filed for each taxable year for which  
 20 the credit is claimed.

21 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
 22 READ AS FOLLOWS:

23 (1) The department shall revoke a tax credit certificate issued under subsection (7)(b)  
 24 of Section 3 of this Act if any of the following occur with respect to a rural  
 25 growth fund before it exits the program in accordance with subsection (5) of this  
 26 section:

27 (a) The rural growth fund in which the credit-eligible capital contribution

1 associated with the tax credit certificate was made does not invest one  
2 hundred percent (100%) of its investment authority in rural growth  
3 investments in this state within two (2) years of the closing date, a minimum  
4 twenty percent (20%) of which shall be in counties with labor force  
5 participation rates below the national average as determined by data  
6 available from the United States Bureau of Labor Statistics and the Cabinet  
7 for Workforce Development as of the date of the rural growth investment;

8 (b) 1. The rural growth fund, after investing one hundred percent (100%) of  
9 its investment authority in rural growth investments in this state, fails  
10 to maintain that investment until the fifth anniversary of the closing  
11 date.

12 2. For the purposes of this paragraph, a rural growth investment shall be  
13 considered to have been maintained even if the investment is sold or  
14 repaid if the rural growth fund reinvests an amount equal to the  
15 capital returned or recovered by the rural growth fund from the  
16 original investment, exclusive of any profits realized, in other rural  
17 growth investments in this state within twelve (12) months of the  
18 receipt of the returned capital. Amounts received periodically by a  
19 rural growth fund shall be treated as continually invested in rural  
20 growth investments if the amounts are reinvested in one (1) or more  
21 rural growth investments by the end of the following calendar year.

22 3. A rural growth fund shall not be required to reinvest capital returned  
23 from rural growth investments after the fourth anniversary of the  
24 closing date, and those amounts shall be considered to be held  
25 continuously by the rural growth fund through the fifth anniversary  
26 of the closing date;

27 (c) The rural growth fund, before exiting the program in accordance with

1 subsection (5) of this section, makes a distribution or payment that results  
2 in the rural growth fund having less than one hundred percent (100%) of its  
3 investment authority invested in rural growth investments in this state or  
4 available for investment in rural growth investments and held in cash and  
5 other marketable securities;

6 (d) The rural growth fund invests more than twenty percent (20%) of its  
7 investment authority in the same rural business concern, including  
8 amounts invested in affiliates of the rural business concern; or

9 (e) 1. The rural growth fund makes a rural growth investment in a rural  
10 business concern that directly or indirectly through an affiliate owns,  
11 has the right to acquire an ownership interest in, makes a loan to, or  
12 makes an investment in the rural growth fund, an affiliate of the rural  
13 growth fund, or an investor in the rural growth fund.

14 2. This paragraph shall not apply to investments in publicly traded  
15 securities made by a rural business concern or an owner or affiliate of  
16 that rural business concern.

17 3. For purposes of this paragraph, a rural growth fund shall not be  
18 considered an affiliate of a rural business concern solely as a result of  
19 its rural growth investment.

20 (2) Before revoking one (1) or more tax credit certificates under this section, the  
21 department shall notify the rural growth fund of the reasons for the pending  
22 revocation. The rural growth fund shall have sixty (60) days from the date of the  
23 notice to correct any violation outlined in the notice to the satisfaction of the  
24 department and to avoid revocation of the tax credit certificate. The rural growth  
25 fund shall pay to the department a penalty equal to one thousand dollars (\$1,000)  
26 per day for each day taken to correct the violations outlined in the notice. All  
27 amounts received by the department under this subsection shall be retained by the

1 department to offset the costs of administering Sections 1 to 9 of this Act.

2 (3) Upon revocation of a tax credit certificate:

3 (a) Any taxpayer that has received the tax credit certificate shall not be allowed  
4 to claim any amount of credit not yet claimed; and

5 (b) The department shall assess a penalty on any taxpayer that has received the  
6 tax credit certificate in an amount equal to one hundred percent (100%) of  
7 the credit already claimed by that taxpayer based upon the revoked  
8 certificate.

9 (4) (a) If tax credit certificates are revoked under this section, the corresponding  
10 investment authority and credit-eligible capital contributions shall not  
11 count toward the limits on total investment authority and credit-eligible  
12 capital contributions prescribed by subsection (3)(a) of Section 3 of this Act.

13 (b) The department shall first award reverted investment authority and credit-  
14 eligible capital contribution amounts pro rata to each rural growth fund  
15 that was awarded less than its requested investment authority and credit-  
16 eligible contribution amounts under subsection (3)(b) of Section 3 of this  
17 Act. A rural growth fund receiving awards under this paragraph may  
18 allocate credit-eligible capital contribution amounts to its investors in its  
19 discretion, upon the submission of written notification to the department  
20 detailing the investor to which the amount approved for credit-eligible  
21 capital contributions has been allocated.

22 (c) The department may award any remaining investment authority and credit-  
23 eligible capital contributions to new applications submitted pursuant to  
24 subsection (1) of Section 3 of this Act, subject to the sunset date limitation  
25 provided in subsection (3)(c) of Section 3 of this Act.

26 (5) (a) On or after the fifth anniversary of the closing date, a rural growth fund  
27 that has not committed any of the acts described in subsection (1) of this

1 section may submit a written request to the department to exit the program  
2 and to no longer be subject to regulation under Sections 1 to 9 of this Act.

3 (b) The department shall respond to the request within sixty (60) days. In  
4 evaluating the request, the fact that no tax credit certificates have been  
5 revoked and that the rural growth fund has not received a notice of  
6 revocation, which has not been cured pursuant to subsection (2) of this  
7 section, shall be sufficient evidence to prove that the rural growth fund is  
8 eligible for exit.

9 (c) The department shall not unreasonably deny a request submitted under this  
10 subsection. If the request is denied, the notice of denial shall include the  
11 reasons for the determination.

12 (6) The department shall not revoke a tax credit certificate after the associated rural  
13 growth fund exits the program under subsection (5) of this section.

14 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
15 READ AS FOLLOWS:

16 (1) (a) A rural growth fund may, prior to making a rural growth investment,  
17 request from the department a written determination as to whether the  
18 business entity in which it proposes to invest qualifies as a rural business  
19 concern under Sections 1 to 9 of this Act.

20 (b) Within twenty (20) days after receiving a request under this section, the  
21 department shall notify the rural growth fund of its determination. If the  
22 department fails to notify the rural growth fund of its determination by this  
23 deadline, the business entity in which the rural growth fund proposes to  
24 invest shall be considered a rural business concern.

25 (c) To enable the department to make a determination under this section, the  
26 rural growth fund shall supply information concerning the business entity  
27 and the proposed investment as requested by the department. If the rural

1           growth fund does not, or is unable to, supply information requested by the  
2           department, the department may refuse to issue a determination under this  
3           section, in which case the provisions of subsection (2) of this section shall  
4           not apply.

5   (2) Each person required to provide documentation confirming that the person is in  
6   good standing on all taxes owed the Commonwealth in accordance with  
7   subsection (1) of Section 3 of this Act shall apply for a letter of good standing  
8   from the department. Within ten (10) days after receiving a request, the  
9   department shall notify the person of its determination. If the department fails to  
10   notify the person of its determination by this deadline, it shall be presumed that  
11   the person is in good standing on all taxes owed the Commonwealth for purposes  
12   of Sections 1 to 9 of this Act.

13       ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
14 READ AS FOLLOWS:

15   (1) The department may examine, under oath, the rural growth fund manager  
16   regarding the affairs and business of the rural growth fund. The department may  
17   issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to  
18   obey such a subpoena or subpoena duces tecum may be reported to the Franklin  
19   Circuit Court, which shall enforce the subpoena or subpoena duces tecum  
20   according to the rules of civil or criminal procedure, as applicable.

21   (2) The department may audit one (1) or more rural growth funds in any year on a  
22   random basis or for cause. The department may also audit, for cause, any  
23   business entity in which a rural growth fund has made a rural growth  
24   investment. Nothing in this section shall be construed to prohibit the department  
25   from conducting any audit relating to the administration or enforcement of the  
26   tax laws of the Commonwealth which the department determines to be  
27   appropriate.

1           ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
2 READ AS FOLLOWS:

3           *The Commonwealth, or any officer, director, official, employee, or agent of the*  
4           *Commonwealth, shall not be liable to any rural growth fund or any investor making a*  
5           *credit-eligible capital contribution to a rural growth fund as a result of Sections 1 to 9*  
6           *of this Act, or any of the activities authorized by Sections 1 to 9 of this Act. This*  
7           *limitation of liability includes without limitation:*

- 8           *(1) Losses or damages investors incur in connection with any committed or*  
9           *contributed capital contributions made to a rural growth fund or any rural*  
10           *growth investments made by a rural growth fund in any business entity; and*  
11           *(2) Any claim, liability, obligation, loss, damage, assessment, judgment, cost, and*  
12           *expense of any kind or character relating to federal or state securities laws, rules,*  
13           *regulations, or orders.*

14           ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
15 READ AS FOLLOWS:

16           *To enable the General Assembly to evaluate and measure the effectiveness of the tax*  
17           *credit allowed by Section 4 of this Act in addressing the needs and achieving the goals*  
18           *as stated in Section 1 of this Act, the following reporting requirements shall apply:*

- 19           *(1) Each rural growth fund shall submit a written report to the department on or*  
20           *before the fifth business day following the second anniversary of the closing date.*  
21           *The report shall provide detailed documentation as to the rural growth fund's*  
22           *rural growth investments made to date and shall include:*

23           *(a) A bank statement evidencing each rural growth investment;*

24           *(b) 1. The name and address of each business entity receiving a rural*  
25           *growth investment;*

26           *2. Either a determination letter issued by the department pursuant to*  
27           *Section 6 of this Act relating to the business entity, or evidence that it*

1 qualified as a rural business concern at the time the investment was  
2 made; and

3 3. A detailed description of the business activities engaged in by the  
4 business entity;

5 (c) The number of new jobs created as a result of the rural growth fund's rural  
6 growth investments as of the last day of the preceding calendar year, broken  
7 down by full- and part-time positions, and including the annual salary or  
8 wages paid and benefits provided to each position; and

9 (d) Any other information required by the department;

10 (2) On or before March 1 of each year following the calendar year in which the  
11 report required by subsection (1) of this section is due, the rural growth fund  
12 shall submit an annual report to the department including the following:

13 (a) The number of new jobs created as a result of the rural growth fund's rural  
14 growth investments as of the last day of the preceding calendar year, broken  
15 down by full- and part-time positions, and including the annual salary or  
16 wages paid and benefits provided to each position; and

17 (b) Any other information required by the department; and

18 (3) Notwithstanding KRS 131.190:

19 (a) On or before December 1, 2019, and annually thereafter as long as the  
20 credit is allowed under Section 4 of this Act, the department shall submit a  
21 written report to the Interim Joint Committee on Appropriations and  
22 Revenue, providing information as follows:

23 1. The number of taxpayers claiming a credit, and the total value of  
24 credits claimed, based on tax returns processed during the prior fiscal  
25 year and sorted by the specific tax the credits were claimed against;

26 2. The total value of investment authority and credit-eligible capital  
27 contributions approved and issued by the department since the initial

1 creation of the credit, listed by the date on which the approvals were  
 2 issued;

3 3. The name of each rural growth fund receiving approval of investment  
 4 authority since the initial creation of the credit; and

5 4. The number and total value of any tax credit certificates revoked by  
 6 the department during the prior fiscal year, with an explanation of the  
 7 reason for each revocation; and

8 (b) On or before December 1, 2021, and annually thereafter as long as it  
 9 receives any reports pursuant to subsections (1) and (2) of this section, the  
 10 department shall compile all reports received by it during the immediately  
 11 preceding fiscal year under subsections (1) and (2) of this section and shall  
 12 provide the combined report, excluding bank statements, to the Interim  
 13 Joint Committee on Appropriations and Revenue.

14 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
 15 READ AS FOLLOWS:

16 (1) If a taxpayer is entitled to more than one (1) of the tax credits permitted against  
 17 the taxes imposed by KRS 136.320, 136.330, 136.340, 136.350, 136.370, 136.390,  
 18 or 304.3-270, the credits shall be taken in the following order:

19 (a) The Kentucky Investment Fund Act credit permitted by KRS 154.20-258;

20 (b) The New Markets Development Program credit permitted by KRS 141.434;

21 and

22 (c) The rural growth fund credit permitted by Section 4 of this Act.

23 (2) A taxpayer claiming a credit against any of the insurance premiums taxes  
 24 imposed by KRS 136.320, 136.330, 136.340, 136.350, 136.370, or 136.390 shall  
 25 not be required to pay additional retaliatory tax imposed by KRS 304.3-270.

26 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
 27 READ AS FOLLOWS:

1 *If a taxpayer is entitled to more than one (1) of the tax credits permitted against the tax*  
 2 *imposed by KRS 136.505, the priority of application and use of the credits shall be*  
 3 *determined as follows:*

4 *(1) The nonrefundable credits against the tax imposed by KRS 136.505 shall be*  
 5 *taken in the following order:*

6 *(a) The Kentucky Investment Fund Act credit permitted by KRS 154.20-258;*

7 *(b) The certified rehabilitation credit permitted by KRS 171.397(1)(a); and*

8 *(c) The rural growth fund credit permitted by Section 4 of this Act; and*

9 *(2) After the application of the nonrefundable credits in subsection (1) of this*  
 10 *section, the refundable certified rehabilitation credits permitted by KRS 171.3961*  
 11 *and 171.397(1)(b) shall be taken.*

12 ➔Section 12. Sections 1 to 11 of this Act may be cited as the Kentucky Rural  
 13 Jobs Tax Credit Act of 2018.

14 ➔Section 13. KRS 141.068 is amended to read as follows:

15 (1) As used in this section, unless the context requires otherwise:

16 (a) "Authority" means the Kentucky Economic Development Finance Authority  
 17 as created pursuant to KRS 154.20-010;

18 (b) "Investor" has the same meaning as set forth in KRS 154.20-254;

19 (c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;

20 (d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-  
 21 254; and

22 (e) "Tax credit" means the credits provided for in KRS 154.20-258.

23 (2) *For applications received beginning prior to January 1, 2023:*

24 (a) An investor which is an individual or a corporation shall be entitled to the  
 25 credit certified by the authority under KRS 154.20-258 against the tax due  
 26 computed as provided by KRS 141.020 or 141.040, respectively, and against  
 27 the tax imposed by KRS 141.0401, with the ordering of credits as provided in

1           KRS 141.0205; ~~and~~

2           (b) The amount of the certified tax credit that may be claimed in any tax year of  
3           the investor shall be determined in accordance with the provisions of KRS  
4           154.20-258.

5       (3) (a) In the case of an investor that is a pass-through entity not subject to the tax  
6           imposed by KRS 141.040, the amount of the tax credit certified by the  
7           authority under KRS 154.20-258 shall be taken by the pass-through entity  
8           against the limited liability entity tax imposed by KRS 141.0401, and shall  
9           also be apportioned among the partners, members, or shareholders at the same  
10          ratio as the partners', members', or shareholders' distributive shares of income  
11          are determined for the tax year during which the amount of the credit is  
12          certified by the authority.

13          (b) The amount of the tax credit apportioned to each partner, member, or  
14          shareholder that may be claimed in any tax year of the partner, member, or  
15          shareholder shall be determined in accordance with the provisions of KRS  
16          154.20-258.

17       (4) (a) In the case of an investor that is a trust not subject to the tax imposed by KRS  
18           141.040, the amount of the tax credit certified by the authority under KRS  
19           154.20-258 shall be apportioned to the trust and the beneficiaries on the basis  
20           of the income of the trust allocable to each for the tax year during which the  
21           tax credit is certified by the authority.

22          (b) The amount of tax credit apportioned to each trust or beneficiary that may be  
23          claimed in any tax year of the trust or beneficiary shall be determined in  
24          accordance with the provisions of KRS 154.20-258.

25       (5) The Department of Revenue shall promulgate administrative regulations under KRS  
26          Chapter 13A to adopt procedures for the administration of the credits authorized by  
27          KRS 154.20-258.

1 (6) (a) In order for the General Assembly to evaluate the fulfillment of the  
2 purposes stated in Section 17 of this Act, the department shall submit the  
3 following information, related to each taxable year that a tax credit is  
4 claimed on any return filed, including income tax, bank franchise tax, or  
5 insurance premiums tax:

6 1. The cumulative amount of tax credits by taxable year claimed by entity  
7 type, including:

8 a. Individuals;

9 b. Corporations;

10 c. Financial institutions; and

11 d. Insurance companies;

12 2. The number of returns filed claiming a tax credit for each taxable  
13 year by entity type;

14 3. In the case of a taxpayer other than a corporation, based on the  
15 mailing address of the return, the total amount of tax credits claimed  
16 by county;

17 4. In the case of a taxpayer other than a corporation, based on ranges of  
18 adjusted gross income of no larger than five thousand dollars  
19 (\$5,000), the total amount of tax credit claimed for each adjusted  
20 gross income range by taxable year; and

21 5. In the case of a corporation, based on ranges of net income no larger  
22 than fifty thousand dollars (\$50,000), the total amount of tax credit  
23 claimed for each net income range.

24 (b) The report required by paragraph (a) of this subsection shall be submitted  
25 to the Interim Joint Committee on Appropriations and Revenue beginning  
26 no later than November 1, 2018, and no later than each November 1  
27 thereafter, as long as the tax credit is claimed on any return processed by

1                    *the department.*

2                    ➔Section 14. KRS 141.396 is amended to read as follows:

3                    (1) As used in this section:

4                    (a) "Authority" has the same meaning as in KRS 154.20-230;

5                    (b) "Qualified investor" has the same meaning as in KRS 154.20-230;

6                    (c) "Qualified small business" has the same meaning as in KRS 154.20-230; and

7                    (d) "Taxpayer" means an individual subject to the tax imposed by KRS 141.020,  
8                    who has either:

9                    1. Received a credit from the authority pursuant to KRS 154.20-236; or

10                    2. Received a credit through a valid transfer allowed under this section  
11                    from a qualified investor that was originally awarded the credit.

12                    (2) For *applications received*~~[taxable years]~~ beginning on or after January 1, 2015, *but*  
13                    *before January 1, 2023*, there is hereby created the angel investor tax credit. The  
14                    credit shall be nonrefundable, and shall apply against the tax imposed by KRS  
15                    141.020. The ordering of the credit shall be as provided in KRS 141.0205.

16                    (3) A qualified investor may seek a credit by applying to the authority pursuant to KRS  
17                    154.20-236.

18                    (4) The maximum amount of credit that may be claimed by a taxpayer in any taxable  
19                    year shall not exceed fifty percent (50%) of the total amount of credit awarded or  
20                    transferred to the taxpayer.

21                    (5) Any amount of credit that a taxpayer is unable to utilize during a taxable year may  
22                    be carried forward for use in a succeeding taxable year for a period not to exceed  
23                    fifteen (15) years. Any amount of credit not used within fifteen (15) years shall be  
24                    lost. No amount of credit may be carried back by any taxpayer.

25                    (6) The credit shall not apply to any liability a taxpayer may have for interest, penalties,  
26                    past due taxes, or any other additions to the taxpayer's tax liability. The holder of  
27                    the credit shall assume any and all liabilities and responsibilities of the credit.

1 (7) A credit may be transferred by a qualified investor to any individual taxpayer. A  
2 qualified investor making a transfer shall give written notice to the department and  
3 shall provide any other information required by the department, in the manner  
4 prescribed by the department. Any transferred credit shall be subject to the original  
5 timeframes and requirements established by this section and KRS 154.20-230 to  
6 154.20-240 as if held by the qualified investor.

7 (8) To receive the credit, a taxpayer shall claim the credit on his or her return in the  
8 manner prescribed by the department.

9 (9) The department shall recapture any portion, or the full amount, of a credit upon  
10 notification from the authority that a recapture is required pursuant to KRS 154.20-  
11 240.

12 **(10) (a) In order for the General Assembly to evaluate the fulfillment of the**  
13 **purposes stated in Section 15 of this Act, the department shall submit the**  
14 **following information, related to each taxable year that an angel investor**  
15 **credit is claimed on a return:**

16 **1. The cumulative amount of credits claimed by individuals by taxable**  
17 **year;**

18 **2. The number of returns filed claiming a credit for each taxable year;**

19 **3. Based on the mailing address of the return, the total amount of credits**  
20 **claimed by county; and**

21 **4. Based on ranges of adjusted gross income of no larger than five**  
22 **thousand dollars (\$5,000), the total amount of credits claimed and the**  
23 **number of returns claiming a credit for each adjusted gross income**  
24 **range.**

25 **(b) The report required by paragraph (a) of this subsection shall be submitted**  
26 **to the Interim Joint Committee on Appropriations and Revenue beginning**  
27 **no later than November 1, 2018, and no later than each November 1**

1           thereafter, as long as the angel investor credit is claimed on any return  
2           processed by the department.

3           ➔Section 15. KRS 154.20-232 is amended to read as follows:

4           (1) KRS 154.20-230 to 154.20-240 shall be known as the "Kentucky Angel Investment  
5           Act."

6           (2) (a) The purpose of KRS 141.396 and 154.20-230 to 154.20-240 is to encourage  
7           capital investment in the Commonwealth by individual investors that will  
8           further the establishment or expansion of small businesses, create additional  
9           jobs, and foster the development of new products and technologies, by  
10          providing tax credits for certain investments in small businesses located in the  
11          Commonwealth, operating in the fields of knowledge-based, high-tech, and  
12          research and development, and showing a potential for rapid growth.

13          (b) In order for the General Assembly to evaluate the fulfillment of the  
14          purposes stated in paragraph (a) of this subsection, the Cabinet for  
15          Economic Development shall submit the following information, related to  
16          actions taken by the authority during the immediately preceding calendar  
17          year, to the Interim Joint Committee on Appropriations and Revenue  
18          beginning no later than November 1, 2018, and no later than each  
19          November 1 thereafter, as long as the credit is awarded by the authority:

20          (a) The total number of applications received;

21          (b) The number of applications received that were approved;

22          (c) The number of applications received that were not approved and the  
23          primary justifications for not approving those applications;

24          (d) The number of applications approved for each qualified activity;

25          (e) The total number of active qualified small businesses and a depiction on a  
26          map of the principal Kentucky location of each qualified small business;

27          (f) The number of qualified small businesses that are inactive or closed and the

- 1            *total amount of investment awarded to these businesses;*
- 2            *(g) The amount of credit that was awarded and then nullified according to KRS*
- 3            *154.20-238 or recaptured according to KRS 154.20-240;*
- 4            *(h) The number and location of each new small business established or*
- 5            *expanded;*
- 6            *(i) The number and location of each new job created;*
- 7            *(j) The number of new products and technologies created;*
- 8            *(k) The number of all qualified investors and a depiction on a map of the*
- 9            *residence of each qualified investor;*
- 10           *(l) The total amount of credit awarded for qualified investments in a qualified*
- 11           *small business with the principal place of business in an enhanced incentive*
- 12           *county; and*
- 13           *(m) The total amount of credit awarded for qualified investments in a qualified*
- 14           *small business with the principal place of business outside an enhanced*
- 15           *incentive county.*

- 16 (3) To participate in the program created by KRS 141.396 and 154.20-230 to 154.20-
- 17 240:
- 18 (a) Small businesses and individual investors shall request certification from the
- 19 authority pursuant to KRS 154.20-236. To be qualified, the small businesses
- 20 and individual investors shall fulfill the requirements outlined in KRS 154.20-
- 21 234; and
- 22 (b) Once certified, qualified investors may make investments in qualified small
- 23 businesses, and may apply to the authority for a credit in return for making the
- 24 investment if that investment qualifies under KRS 154.20-234.
- 25 (4) Any qualified investment made in a qualified small business under KRS 154.20-230
- 26 to 154.20-240 shall be used by that business, insofar as possible, to leverage
- 27 additional capital investments from other sources.

1       ➔Section 16. KRS 154.20-236 is amended to read as follows:

2       (1) The total amount of ~~tax~~ credit that may be awarded by the authority in each  
3       calendar year, pursuant to KRS 154.20-230 to 154.20-240, to:

4       (a) All qualified investors shall be no more than:

5               1. Three million dollars (\$3,000,000), *prior to January 1, 2019; or*

6               2. *Five million dollars (\$5,000,000), beginning on or after January 1,*  
7               *2019, but before January 1, 2023;* and

8       (b) Any individual qualified investor shall be no more than two hundred thousand  
9       dollars (\$200,000).

10     ~~(2) The total amount of tax credit that may be awarded by the authority to:~~

11       ~~(a) All qualified investors pursuant to KRS 154.20-230 to 154.20-240; and~~

12       ~~(b) All investors in all investment funds pursuant to KRS 154.20-250 to 154.20-~~  
13       ~~284;~~

14       ~~— shall be no more than forty million dollars (\$40,000,000) in total for all years.~~

15       ~~Once this total amount of tax credit has been awarded by the authority~~  
16       ~~pursuant to KRS 154.20-230 to 154.20-240 and KRS 154.20-250 to 154.20-~~  
17       ~~284, no further awards of any tax credit shall be made.~~

18     ~~(3)~~ The authority shall, by promulgation of an administrative regulation, develop a  
19     standard procedure for:

20       (a) Small businesses and investors to request certification for participation in the  
21       program;

22       (b) Qualified investors to request certification of a planned investment as being a  
23       qualified investment, and to apply for a credit; and

24       (c) The award of credits to qualified investors making qualified investments.

25     (3)~~(4)~~ At a minimum, the procedure shall:

26       (a) Require small businesses and investors to demonstrate to the authority that  
27       they, and any planned investment, satisfy all requirements provided in KRS

1 154.20-234;

2 (b) Provide small businesses and investors with a standard written application  
3 form to request certification and apply for a credit;

4 (c) Require the payment of a fee; and

5 (d) Mandate a time period for the duration of certifications granted to small  
6 businesses and investors, and the procedures for recertification thereof.

7 ~~(4)~~~~(5)~~ The amount of credit awarded shall be equal to:

8 (a) Forty percent (40%) of the amount of the qualified investment, if the principal  
9 place of business of the qualified small business is outside an enhanced  
10 incentive county; or

11 (b) Fifty percent (50%) of the amount of the qualified investment, if the principal  
12 place of business of the qualified small business is in an enhanced incentive  
13 county.

14 ~~(5)~~~~(6)~~ Upon approval of a credit, the authority shall reduce the amount of available  
15 credit by the amount of credit approved to the qualified investor.

16 ~~(6)~~~~(7)~~ The authority may, in effectuating this section, contract with a science and  
17 technology organization as defined in KRS 164.6011 to administer and manage the  
18 certification and application procedure established by the authority. However, the  
19 final approval of all credits shall be made solely by the authority.

20 ➔Section 17. KRS 154.20-250 is amended to read as follows:

21 (1) The purposes of KRS 154.20-250 to 154.20-284 are to encourage capital investment  
22 in the Commonwealth of Kentucky, to encourage the establishment or expansion of  
23 small businesses in Kentucky, to provide additional jobs, and to encourage the  
24 development of new products and technologies in the state through capital  
25 investments. It is the intent of KRS 154.20-250 to 154.20-284 to give investment  
26 preference to Kentucky small businesses showing a potential for rapid growth.  
27 Insofar as possible, any investment made in a Kentucky small business under the

1 provisions of KRS 154.20-250 to 154.20-284 shall be used by that business to  
2 leverage additional capital investments from other sources.

3 (2) In order for the General Assembly to evaluate the fulfillment of the purposes  
4 stated in subsection (1) of this section, the Cabinet for Economic Development  
5 shall submit the following information, related to actions taken by the authority  
6 during the immediately preceding calendar year, to the Interim Joint Committee  
7 on Appropriations and Revenue beginning no later than November 1, 2018, and  
8 no later than each November 1 thereafter, as long as the credit is awarded by the  
9 authority:

10 1. The total number of applications received;

11 2. The number of applications received that were approved;

12 3. The number of applications received that were not approved and the  
13 primary justifications for not approving those applications;

14 4. The number of applications approved for each qualified activity;

15 5. The total number of investment funds, the number of investors for  
16 each fund, the amount of committed cash contributions to each  
17 investment fund, and the total qualified investments made by each  
18 investment fund, including initial and subsequent investments, for  
19 each small business;

20 6. The number of small businesses that are active, inactive, or closed that  
21 have received investments and the total amount of investment awarded  
22 to businesses in each category;

23 7. The number and location of each new small business established or  
24 expanded;

25 8. The number and location of each new job created;

26 9. The number of new products and technologies created;

27 10. The number of all investors, whether the investor is an individual or

1                    *an entity, and if an entity, whether the entity is a corporation paying*  
 2                    *income tax, a financial institution, or an insurance company; and*

3                    **11. The total amount of credits awarded.**

4                    ➔Section 18. KRS 154.20-255 is amended to read as follows:

5                    (1) (a) The total amount of ~~tax~~ credits available to any single investment fund  
 6                    awarded ~~tax~~ credits under KRS 154.20-250 to 154.20-284 shall not exceed,  
 7                    in aggregate, eight million dollars (\$8,000,000) for all investors and all  
 8                    taxable years.

9                    (b) The total ~~tax~~ credits available for all investors in all investment funds  
 10                    awarded under KRS 154.20-250 to 154.20-284 ~~, and all qualified investors~~  
 11                    ~~awarded under KRS 154.20-230 to 154.20-240,~~ shall not exceed a total of  
 12                    **three** ~~forty~~ million dollars **(\$3,000,000) in any calendar year beginning on**  
 13                    **or after January 1, 2019, but prior to January 1, 2023** ~~(\$40,000,000).~~

14                    (2) A person or entity seeking to be approved as an investment fund manager for the  
 15                    operation of one (1) or more investment funds shall make written application to the  
 16                    authority pursuant to KRS 154.20-256, in addition to complying with applicable  
 17                    state and federal securities laws and regulations.

18                    (3) Prior to the granting of any ~~tax~~ credits to investors of an investment fund, the  
 19                    committed cash contributions to an investment fund shall be not less than five  
 20                    hundred thousand dollars (\$500,000).

21                    (4) An investment fund shall have no less than four (4) investors, and no investor or  
 22                    investment fund manager, including their immediate family members, as defined in  
 23                    KRS 164.6011(6), and affiliates may own or have a capital interest in more than  
 24                    forty percent (40%) of the investment fund's capitalization.

25                    (5) Subsequent to approval of the investment fund and the investment fund manager,  
 26                    the authority and the investment fund manager, on behalf of itself and any investors  
 27                    in the investment fund, shall enter into an agreement with respect to the investment

1 fund. The terms and provisions of each agreement shall be determined by  
2 negotiations between the authority and the investment fund manager. The effective  
3 date of the agreement shall be the date of approval of the investment fund and the  
4 investment fund manager by the authority. If an investment fund manager fails to  
5 comply with any of the obligations of the agreement, the authority may, at its  
6 option, do any one (1) or more of the following:

7 (a) Suspend the availability of the credits;

8 (b) Pursue any remedy provided under the agreement, including termination of  
9 the agreement; or

10 (c) Pursue any other remedy at law to which it may be entitled.

11 (6) Any investor shall be entitled to a ~~tax~~ credit as a result of its investment in an  
12 investment fund as provided in KRS 154.20-258.

13 (7) Total qualified investments made by an investment fund, including initial and  
14 subsequent investments made by an investment fund, in any single small business  
15 using approved qualified investments, shall not exceed thirty percent (30%) of the  
16 committed cash contributions to the investment fund. This restriction shall not  
17 apply to investments of money by the investment fund that are not qualified  
18 investments.

19 (8) The provisions of this section shall not prohibit an investment fund from investing  
20 in a business that is not a small business, including a business that is located outside  
21 of the Commonwealth; however, such investments shall not be eligible for the ~~tax~~  
22 credit set forth in KRS 154.20-258.

23 ➔Section 19. KRS 131.190 is amended to read as follows:

24 (1) ~~(a)~~ No present or former commissioner or employee of the department ~~of~~  
25 ~~Revenue~~, present or former member of a county board of assessment appeals,  
26 present or former property valuation administrator or employee, present or former  
27 secretary or employee of the Finance and Administration Cabinet, former secretary

1 or employee of the Revenue Cabinet, or any other person, shall intentionally and  
2 without authorization inspect or divulge any information acquired by him of the  
3 affairs of any person, or information regarding the tax schedules, returns, or reports  
4 required to be filed with the department or other proper officer, or any information  
5 produced by a hearing or investigation, insofar as the information may have to do  
6 with the affairs of the person's business.

7 ~~(2)~~~~(b)~~ The prohibition established by subsection (1)~~paragraph (a)~~ of this section  
8 shall~~subsection does~~ not extend to:

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

11 (b)~~2~~ Any matter properly entered upon any assessment record, or in any way  
12 made a matter of public record;

13 (c)~~3~~ Furnishing any taxpayer or his properly authorized agent with  
14 information respecting his own return;

15 (d)~~4~~ Testimony provided by the commissioner or any employee of the  
16 department~~of Revenue~~ in any court, or the introduction as evidence of  
17 returns or reports filed with the department, in an action for violation of state  
18 or federal tax laws or in any action challenging state or federal tax laws;

19 (e)~~5~~ Providing an owner of unmined coal, oil or gas reserves, and other  
20 mineral or energy resources assessed under KRS 132.820~~(1)~~, or owners of  
21 surface land under which the unmined minerals lie, factual information about  
22 the owner's property derived from third-party returns filed for that owner's  
23 property, under the provisions of KRS 132.820~~(2)~~, that is used to determine  
24 the owner's assessment. This information shall be provided to the owner on a  
25 confidential basis, and the owner shall be subject to the penalties provided in  
26 KRS 131.990~~(2)~~~~(21)~~. The third-party filer shall be given prior notice of any  
27 disclosure of information to the owner that was provided by the third-party

1 filer;

2 ~~(f)~~<sup>[6-]</sup> Providing to a third-party purchaser pursuant to an order entered in a  
 3 foreclosure action filed in a court of competent jurisdiction, factual  
 4 information related to the owner or lessee of coal, oil, gas reserves, or any  
 5 other mineral resources assessed under KRS 132.820~~[(1)]~~. The department  
 6 may promulgate an administrative regulation establishing a fee schedule for  
 7 the provision of the information described in this ~~paragraph~~<sup>[subparagraph]</sup>.  
 8 Any fee imposed shall not exceed the greater of the actual cost of providing  
 9 the information or ten dollars (\$10);~~[-or]~~

10 ~~(g)~~<sup>[7-]</sup> Providing information to a licensing agency, the Transportation Cabinet,  
 11 or the Kentucky Supreme Court under KRS 131.1817;

12 *(h) Statistics of gasoline and special fuels gallonage reported to the department*  
 13 *under KRS 138.210 to 138.448;*

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

17 *(j) Providing information to the Legislative Research Commission under:*  
 18 *1. KRS 139.519 for purposes of the sales and use tax refund on building*  
 19 *materials used for disaster recovery;*  
 20 *2. KRS 141.436 for purposes of the energy efficiency products credits;*  
 21 *3. KRS 141.437 for purposes of the ENERGY STAR home and the*  
 22 *ENERGY STAR manufactured home credits;*  
 23 *4. Section 20 of this Act for purposes of the distilled spirits credit;*  
 24 *5. Section 13 of this Act for purposes of the investment fund credit; and*  
 25 *6. Section 14 of this Act for purposes of the angel investor credit.*

26 ~~(3)~~<sup>[(2)]</sup> The commissioner shall make available any information for official use only  
 27 and on a confidential basis to the proper officer, agency, board or commission of

1 this state, any Kentucky county, any Kentucky city, any other state, or the federal  
2 government, under reciprocal agreements whereby the department shall receive  
3 similar or useful information in return.

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

6 (4) Access to and inspection of information received from the Internal Revenue Service  
7 is for department~~[of Revenue]~~ use only, and is restricted to tax administration  
8 purposes.~~[ Notwithstanding the provisions of this section to the contrary,]~~  
9 Information received from the Internal Revenue Service shall not be made available  
10 to any other agency of state government, or any county, city, or other state, and shall  
11 not be inspected intentionally and without authorization by any present secretary or  
12 employee of the Finance and Administration Cabinet, commissioner or employee of  
13 the department~~[of Revenue]~~, or any other person.

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

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

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

5       ➔Section 20. KRS 141.389 is amended to read as follows:

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

- 8       1. For taxable years beginning on or after January 1, 2015, and before  
9       December 31, 2015, the credit shall be equal to twenty percent (20%) of  
10       the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
11       timely basis;
- 12       2. For taxable years beginning on or after January 1, 2016, and before  
13       December 31, 2016, the credit shall be equal to forty percent (40%) of  
14       the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
15       timely basis;
- 16       3. For taxable years beginning on or after January 1, 2017, and before  
17       December 31, 2017, the credit shall be equal to sixty percent (60%) of  
18       the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
19       timely basis;
- 20       4. For taxable years beginning on or after January 1, 2018, and before  
21       December 31, 2018, the credit shall be equal to eighty percent (80%) of  
22       the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
23       timely basis; and
- 24       5. For taxable years beginning on or after January 1, 2019, the credit shall  
25       be equal to one hundred percent (100%) of the tax assessed under KRS  
26       132.160 and paid under KRS 132.180 on a timely basis.

27       (b) The credit shall be applied both to the income tax imposed under KRS

1           141.020 or 141.040 and to the limited liability entity tax imposed under KRS  
2           141.0401, with the ordering of the credits as provided in KRS 141.0205.

3 (2) The amount of distilled spirits credit allowed under subsection (1) of this section  
4 shall be used only for capital improvements at the premises of the distiller licensed  
5 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"  
6 means any costs associated with:

- 7 (a) Construction, replacement, or remodeling of warehouses or facilities;
- 8 (b) Purchases of barrels and pallets used for the storage and aging of distilled  
9 spirits in maturing warehouses;
- 10 (c) Acquisition, construction, or installation of equipment for the use in the  
11 manufacture, bottling, or shipment of distilled spirits;
- 12 (d) Addition or replacement of access roads or parking facilities; and
- 13 (e) Construction, replacement, or remodeling of facilities to market or promote  
14 tourism, including but not limited to a visitor's center.

15 (3) The distilled spirits credit allowed under subsection (1) of this section:

- 16 (a) May be accumulated for multiple taxable years;
- 17 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during  
18 which the credits were used pursuant to subsection (2) of this section; and
- 19 (c) Shall not include:
  - 20 1. Any delinquent tax paid to the Commonwealth; or
  - 21 2. Any interest, fees, or penalty paid to the Commonwealth.

22 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital  
23 improvements required by subsection (2) of this section shall be completed  
24 and specifically associated with the credit allowed on the return.

25 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital  
26 improvement associated with the credit is sold or otherwise disposed of prior  
27 to the exhaustion of the useful life of the asset for Kentucky depreciation

1 purposes.

2 (c) If the allowed credit is associated with multiple capital improvements, and not  
3 all capital improvements are sold or otherwise disposed of, the distilled spirits  
4 credit shall be prorated based on the cost of the capital improvement sold over  
5 the total cost of all improvements associated with the credit.

6 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the  
7 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit  
8 through to its members, partners, or shareholders in the same proportion as the  
9 distributive share of income or loss is passed through.

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

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

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

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

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

21 ➔Section 21. KRS 131.020 is amended to read as follows:

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

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

26 1. The Division of Protest Resolution, headed by a division director who  
27 shall report directly to the commissioner. The division shall administer

- 1           the protest functions for the department from office resolution through  
2           court action; and
- 3           2.   The Division of Taxpayer Ombudsman, headed by a division director  
4           who shall report to the commissioner. The division shall perform those  
5           duties set out in KRS 131.083;
- 6           (b)   Office of Tax Policy and Regulation, headed by an executive director who  
7           shall report directly to the commissioner. The office shall be responsible for:
- 8           1.   Providing oral and written technical advice on Kentucky tax law;  
9           2.   Drafting proposed tax legislation and regulations;  
10          3.   Testifying before legislative committees on tax matters;  
11          4.   Analyzing tax publications;  
12          5.   Providing expert witness testimony in tax litigation cases;  
13          6.   Providing consultation and assistance in protested tax cases; and  
14          7.   Conducting training and education programs;
- 15          (c)   Office of Processing and Enforcement, headed by an executive director who  
16          shall report directly to the commissioner. The office shall be responsible for  
17          processing documents, depositing funds, collecting debt payments, and  
18          coordinating, planning, and implementing a data integrity strategy. The office  
19          shall consist of the:
- 20          1.   Division of Operations, which shall be responsible for opening all tax  
21          returns, preparing the returns for data capture, coordinating the data  
22          capture process, depositing receipts, maintaining tax data, and assisting  
23          other state agencies with similar operational aspects as negotiated  
24          between the department and the other agency;
- 25          2.   Division of Collections, which shall be responsible for initiating all  
26          collection enforcement activity related to due and owing tax  
27          assessments, including protest resolution, and for assisting other state

1 agencies with similar collection aspects as negotiated between the  
2 department and the other state agency; and

3 3. Division of Registration and Data Integrity, which shall be responsible  
4 for registering businesses for tax purposes, ensuring that the data entered  
5 into the department's tax systems is accurate and complete, and assisting  
6 the taxing areas in proper procedures to ensure the accuracy of the data  
7 over time;

8 (d) Office of Property Valuation, headed by an executive director who shall report  
9 directly to the commissioner. The office shall consist of the:

10 1. Division of Local Support, which shall be responsible for providing  
11 supervision, assistance, and training to the property valuation  
12 administrators and sheriffs within the Commonwealth;

13 2. Division of State Valuation, which shall be responsible for providing  
14 assessments of public service companies and motor vehicles, and  
15 providing assistance to property valuation administrators and sheriffs  
16 with the administration of tangible and omitted property taxes within the  
17 Commonwealth; and

18 3. Division of Minerals Taxation and Geographical Information System  
19 Services, which shall be responsible for providing geographical  
20 information system mapping support, ensuring proper filing of severance  
21 tax returns, ensuring consistency of unmined coal assessments, and  
22 gathering and providing data to properly assess minerals to the property  
23 valuation administrators within the Commonwealth;

24 (e) Office of Sales and Excise Taxes, headed by an executive director who shall  
25 report directly to the commissioner. The office shall administer all matters  
26 relating to sales and use taxes and miscellaneous excise taxes, including but  
27 not limited to technical tax research, compliance, taxpayer assistance, tax-

1 specific training, and publications. The office shall consist of the:

- 2 1. Division of Sales and Use Tax, which shall administer the sales and use  
3 tax; and
- 4 2. Division of Miscellaneous Taxes, which shall administer various other  
5 taxes, including but not limited to alcoholic beverage taxes; cigarette  
6 enforcement fees, stamps, meters, and taxes; gasoline tax; bank  
7 franchise tax; inheritance and estate tax; insurance premiums and  
8 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and  
9 special fuels taxes;

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

- 15 1. Division of Individual Income Tax, which shall administer the following  
16 taxes or returns: individual income, fiduciary, and employer  
17 withholding; and
- 18 2. Division of Corporation Tax, which shall administer the corporation  
19 income tax, corporation license tax, pass-through entity withholding,  
20 and pass-through entity reporting requirements; and

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

24 (2) The functions and duties of the department shall include conducting conferences,  
25 administering taxpayer protests, and settling tax controversies on a fair and  
26 equitable basis, taking into consideration the hazards of litigation to the  
27 Commonwealth of Kentucky and the taxpayer. The mission of the department shall

- 1           be to afford an opportunity for taxpayers to have an independent informal review of  
2           the determinations of the audit functions of the department, and to attempt to fairly  
3           and equitably resolve tax controversies at the administrative level.
- 4   (3)   The department shall maintain an accounting structure for the one hundred twenty  
5           (120) property valuation administrators' offices across the Commonwealth in order  
6           to facilitate use of the state payroll system and the budgeting process.
- 7   (4)   Except as provided in KRS 131.190(4), the department shall fully cooperate with  
8           and make tax information available as prescribed under KRS 131.190(3)~~[(2)]~~ to the  
9           Governor's Office for Economic Analysis as necessary for the office to perform the  
10          tax administration function established in KRS 42.410.
- 11   (5)   Executive directors and division directors established under this section shall be  
12          appointed by the secretary with the approval of the Governor.