AN ACT relating to revenue measures and declaring an emergency.

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

Section 1. KRS 131.183 is amended to read as follows:

(1) (a) Except for the addition to tax required when an underpayment of estimated tax occurs under Section 9 of this Act and KRS 141.305, all taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate.

(b) The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent as adjusted by subsection (2) of this section.

(c) The commissioner of revenue shall adjust the tax interest rate not later than November 15 of each year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The adjusted tax interest rate shall become effective on January 1 of the immediately succeeding year.

(2) (a) 1. All taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section until May 1, 2008.

2. Beginning on May 1, 2008, all taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section plus two percent (2%).

(b) 1. Interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of...
the Kentucky Revised Statutes and KRS 160.613 and 160.614 at the rate
provided in subsection (1) of this section until May 1, 2008.

2. Beginning on May 1, 2008, interest shall be allowed and paid upon any
overpayment as defined in KRS 134.580 at the rate provided in
subsection (1) of this section minus two percent (2%).

3. Effective for refunds issued after April 24, 2008, except for the
provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3)
of this section, interest authorized under this subsection shall begin to
accrue sixty (60) days after the latest of:

   a. The due date of the return;
   b. The date the return was filed;
   c. The date the tax was paid;
   d. The last day prescribed by law for filing the return; or
   e. The date an amended return claiming a refund is filed.

(c) In no case shall interest be paid in an amount less than five dollars ($5).

(d) No refund shall be made of any estimated tax paid unless a return is filed as
required by KRS Chapter 141.

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the
tax imposed under KRS Chapter 141 results from a carryback of a net operating loss
or a net capital loss, the overpayment shall be deemed to have been made on the
date the claim for refund was filed. Interest authorized under subsection (2) of this
section shall begin to accrue ninety (90) days from the date the claim for refund was
filed.

(4) No interest shall be allowed or paid on any sales tax refund as provided by KRS
139.536.

(5) For purposes of this section, any addition to tax provided in Section 9 of this Act
and KRS 141.305 shall be considered a penalty.
Section 2. KRS 131.250 is amended to read as follows:

(1) For the purpose of facilitating the administration of the taxes it administers, the department may require any tax return, report, or statement to be electronically filed.

(2) The following reports, returns, or statements shall be electronically filed:

(a) The return required by KRS 136.620;

(b) For tax periods beginning on or after January 1, 2007, the report required by KRS 138.240;

(c) For tax periods beginning on or after August 1, 2010, the report required by KRS 138.260;

(d) For taxable years beginning on or after January 1, 2010, the return filed by a specified tax return preparer reporting the annual tax imposed by KRS 141.020, if the specified tax return preparer is required to electronically file the return for federal income tax purposes;

(e) The annual withholding statement required by KRS 141.335, if the employer issues more than twenty-five (25) statements annually;

(f) For tax periods beginning on or after July 1, 2005, the return required by KRS 160.615; and

(g) 1. For taxable years beginning on or after January 1, 2019, the returns required by KRS 141.201(3) or 141.206(1), provided that the corporation or pass-through entity has gross receipts of one million dollars ($1,000,000) or more.

2. "Gross receipts" as used in this paragraph means gross receipts reported by the corporation or pass-through entity on their federal income tax return filed for the same taxable year as the return due under KRS Chapter 141.

(a) A person required to electronically file a return, report, or statement may
apply for a waiver from the requirement by submitting the request on a form prescribed by the department.

(b) The request shall indicate the lack of one (1) or more of the following:

1. Compatible computer hardware;
2. Internet access; or
3. Other technological capabilities determined relevant by the department.

Section 3. KRS 133.225 is amended to read as follows:

(1) The department of Revenue shall provide the following information pertaining to property taxes on a Web site that is accessible to the public:

(a) An explanation of the process for assessing property values, which shall include but not be limited to:

1. The duties and function of each state and local official involved in the property assessment process;
2. The methods most commonly used to compute fair cash value;
3. The types of property exempt from taxation;
4. The types of property assessed at a lower value as required by Sections 170 and 172A of the Kentucky Constitution, including property with a homestead exemption, agricultural property, and horticultural property;
5. The property tax calendar;
6. How and when to report property to the Property Valuation Administrator;
7. The process for examining real property for valuation purposes;
8. How and when a taxpayer is notified of the assessed value of property;
9. When and where the public can inspect the tax roll; and
10. The process for appealing the assessed values of real and personal property, including motor vehicles;
(b) An explanation of the process for setting the state tax rate and the county, city, school, and special taxing district tax rates, including but not limited to:

1. The duties and function of each state and local official involved in the process for setting tax rates;
2. The definitions of compensating tax rate and net assessment growth;
3. The requirements set forth in KRS 68.245, 132.023, 132.027, and 160.470; and
4. The recall provisions set forth in KRS 132.017;

(c) An explanation of the process for property tax collection, including but not limited to:

1. The duties and function of each state and local official involved in the tax collection process;
2. How and when to remit payment of the tax;
3. The due date for the tax;
4. The early payment discount;
5. The penalties assessed on delinquent taxes; and
6. The delinquent tax collection process; and

(d) Direct links to the Web sites or guidance on how to access the Web sites of the local offices, such as the property valuation administrator's office, the county clerk's office, and the sheriff's office, that provide taxpayers additional information on the property taxes within its jurisdiction.

(2) The Web site address that provides the information required by subsection (1) of this section shall be included on every notice of assessment and property tax bill sent to the taxpayer [draft, and the sheriff shall mail with the property tax bills annually, an explanation of the provisions of Acts 1979 (Ex. Sess.) ch. 25].

⇒ Section 4. KRS 138.220 is amended to read as follows:
(1) (a) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the nearest one-tenth of one cent ($0.001) shall be paid on all gasoline and special fuel received in this state. The tax shall be paid on a per gallon basis.

(b) The average wholesale price shall be determined and adjusted as provided in KRS 138.228.

(c) For the purposes of the allocations in KRS 177.320(1) and (2) and 177.365, the amount calculated under this subsection shall be reduced by the amount calculated in subsection (3) of this section.

(d) Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state.

(e) The tax herein imposed shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state.

(f) Nothing herein contained shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) (a) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section.

(b) The tax shall be:

1. Five cents ($0.05) per gallon on gasoline; and

2. Two cents ($0.02) per gallon on special fuel.
(c) The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsections (1) and (3) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

(3) Two and one-tenth cents ($0.021), of the tax collected under subsection (1) of this section shall be excluded from the calculations in KRS 177.320(1) and (2) and 177.365. The funds identified in this subsection shall be deposited into the state road fund.

(4) Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of July 1[the first day] of each calendar year[quarter].

(5) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The department shall promulgate administrative regulations to properly administer this provision.

Section 5. KRS 138.450 is amended to read as follows:

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

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;

(2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;
(5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional. "Total consideration given" shall not include:

(a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

(b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

(c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given
away as part of a promotional sales campaign;

(10) "Trade-in allowance" means:

(a) The value assigned by the seller of a motor vehicle to a motor vehicle registered to the purchaser and offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given; or

(b) In the absence of a notarized affidavit, the value of the vehicle being offered in trade as established by the department through the use of the reference manual;

(11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(12) "Retail price" for:

(a) New motor vehicles;

(b) Dealer demonstrator vehicles;

(c) Previous model year motor vehicles; and

(d) U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;

means the total consideration given, as determined in KRS 138.4603[138.4602];

(13) "Retail price" for historic motor vehicles shall be one hundred dollars ($100);

(14) "Retail price" for used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values appear in the reference manual means the trade-in value given in the reference manual;

(15) "Retail price" for older used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values no longer appear in the reference manual shall be one hundred dollars ($100);

(16) (a) "Retail price" for:
1. Used motor vehicles, except those vehicles for which the retail price is
   established in subsection (13), (14), (15), (17), or (19) of this section;
   and
2. U-Drive-It motor vehicles that are not transferred within one hundred
   eighty (180) days of being registered as a U-Drive-It or that have more
   than five thousand (5,000) miles;
means the total consideration given, excluding any amount allowed as a trade-
in allowance by the seller, as attested to in a notarized affidavit, provided that
the retail price established by the notarized affidavit shall not be less than fifty
percent (50%) of the difference between the trade-in value, as established by
the reference manual, of the motor vehicle offered for registration and the
trade-in value, as established by the reference manual, of any motor vehicle
offered in trade as part of the total consideration given.
(b) The trade-in allowance shall also be disclosed in the notarized affidavit.
(c) If a notarized affidavit is not available, "retail price" shall be established by
   the department through the use of the reference manual;
(17) Except as provided in KRS 138.470(6), if a motor vehicle is received by an
   individual as a gift and not purchased or leased by the individual, "retail price" shall
   be the trade-in value given in the reference manual;
(18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental
   motor vehicle within one hundred eighty (180) days of the registration, and if less
   than five thousand (5,000) miles have been placed on the vehicle during the period
   of its registration as a loaner or rental motor vehicle, then the "retail price" of the
   vehicle shall be the same as the retail price determined by paragraph (a) of
   subsection (12) of this section computed as of the date on which the vehicle is
   transferred;
(19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525,
186A.530, or 186A.555 means the total consideration given as attested to in a notarized affidavit;

(20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership;

(21) "Department" means the Department of Revenue;

(22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on which the signature of the buyer and the signature of the seller are individually notarized; and

(23) "Reference manual" means the automotive reference manual prescribed by the department.

Section 6. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, digital property, and services sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale of:

(1) Tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:

(a) Purchased for resale according to the provisions of KRS 139.270;

(b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or

(c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization;

(2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully
completed certificate of exemption or fully completed Streamlined Sales and Use
Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and
(3) A service included in KRS 139.200(2)(g) to (q) unless the person takes from the
purchaser a certificate to the effect that the service is:
(a) Purchased for resale according to KRS 139.270;
(b) Purchased through a fully completed certificate of exemption or fully
completed Streamlined Sales and Use Tax Agreement Certificate of
Exemption in accordance with KRS 139.270; or
(c) Purchased according to administrative regulations promulgated by the
department governing a direct pay authorization.

Section 7. KRS 141.039 is amended to read as follows:

For taxable years beginning on or after January 1, 2018, in the case of corporations:

(1) Gross income shall be calculated by adjusting federal gross income as defined in
Section 61 of the Internal Revenue Code as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky
Constitution and the Constitution and statutory laws of the United States;
(b) Exclude all dividend income;
(c) Include interest income derived from obligations of sister states and political
subdivisions thereof;
(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
covered by Section 631(c) of the Internal Revenue Code if the corporation
does not claim any deduction for percentage depletion, or for expenditures
attributable to the making and administering of the contract under which such
disposition occurs or to the preservation of the economic interests retained
under such contract;
(e) Include in the gross income of lessors income tax payments made by lessees
to lessors, under the provisions of Section 110 of the Internal Revenue Code,
and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec. 167 or 168; and

(2) Net income shall be calculated by subtracting from gross income:

(a) The deduction for depreciation allowed by KRS 141.0101;

(b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;

(c) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:

1. Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

2. The deductions contained in Sections 243[,] 244[,] 245, and 247 of the Internal Revenue Code;

3. The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

4. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

5. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency
established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

6. Any deduction prohibited by KRS 141.205; and

7. Any dividends-paid deduction of any captive real estate investment trust; and

(d) 1. A deferred tax deduction in an amount computed in accordance with this paragraph.

2. For purposes of this paragraph:
   a. "Net deferred tax asset" means that deferred tax assets exceed the deferred tax liabilities of the combined group, as computed in accordance with accounting principles generally accepted in the United States of America; and

   b. "Net deferred tax liability" means deferred tax liabilities that exceed the deferred tax assets of a combined group as defined in KRS 141.202, as computed in accordance with accounting principles generally accepted in the United States of America.

3. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial
statements prepared in accordance with accounting principles generally accepted in the United States of America, as of January 1, 2019, shall be eligible for this deduction.

4. If the provisions of KRS 141.202 result in an aggregate increase to the member's net deferred tax liability, an aggregate decrease to the member's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, the combined group shall be entitled to a deduction, as determined in this paragraph.

5. For ten (10) years beginning with the combined group's first taxable year beginning on or after January 1, 2024, a combined group shall be entitled to a deduction from the combined group's entire net income equal to one-tenth (1/10) of the amount necessary to offset the increase in the net deferred tax liability, decrease in the net deferred tax asset, or aggregate change from a net deferred tax asset to a net deferred tax liability. The increase in the net deferred tax liability, decrease in the net deferred tax asset, or the aggregate change from a net deferred tax asset to a net deferred tax liability shall be computed based on the change that would result from the imposition of the combined reporting requirement under KRS 141.202, but for the deduction provided under this paragraph as of June 27, 2019.

6. The deferred tax impact determined in subparagraph 5. of this paragraph shall be converted to the annual deferred tax deduction amount, as follows:

a. The deferred tax impact determined in subparagraph 5. of this paragraph shall be divided by the tax rate determined under KRS 141.040;

b. The resulting amount shall be further divided by the apportionment
factor determined by KRS 141.120 or 141.121 that was used by the combined group in the calculation of the deferred tax assets and deferred tax liabilities as described in subparagraph 5. of this paragraph; and
c. The resulting amount represents the total net deferred tax deduction available over the ten (10) year period as described in subparagraph 5. of this paragraph.

7. The deduction calculated under this paragraph shall not be adjusted as a result of any events happening subsequent to the calculation, including but not limited to any disposition or abandonment of assets. The deduction shall be calculated without regard to the federal tax effect and shall not alter the tax basis of any asset. If the deduction under this section is greater than the combined group's entire Kentucky net income, any excess deduction shall be carried forward and applied as a deduction to the combined group's entire net income in future taxable years until fully utilized.

8. Any combined group intending to claim a deduction under this paragraph shall file a statement with the department on or before July 1, 2019. The statement shall specify the total amount of the deduction which the combined group claims on the form, including calculations and other information supporting the total amounts of the deduction as required by the department. No deduction shall be allowed under this paragraph for any taxable year, except to the extent claimed on the timely filed statement in accordance with this paragraph.

Section 8. KRS 141.0401 is amended to read as follows:

(1) As used in this section:

(a) "Kentucky gross receipts" means an amount equal to the computation of the
numerator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the apportionment fraction under KRS 141.120, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

(c) "Affiliated[Combined] group" has the same meaning as [means all members of an affiliated group as defined in Section 11 of this Act[KRS 141.200(9)(b) and all limited liability pass-through entities that would be included in an affiliated group if organized as a corporation];

(d) "Cost of goods sold" means:

1. Amounts that are:
   a. Allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service relating to cost of goods sold, unless modified by this paragraph; and
   b. Incurred in acquiring or producing the tangible product generating the Kentucky gross receipts.

2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:
a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;

b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and

c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;

3. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs shall be included in cost of goods sold.

As used in this paragraph, "guidelines issued by the Internal Revenue Service" includes regulations, private letter rulings, or any other guidance issued by the Internal Revenue Service that may be relied upon by taxpayers under reliance standards established by the Internal Revenue Service;

(e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then "Kentucky gross profits" means Kentucky gross receipts; and

2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources
means gross receipts from all sources;

(f) "Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;

(g) "Bulk delivery costs" means the cost of delivering the product to the consumer if:

1. The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and

2. The tangible product is taxable under KRS 138.220;

(h) "Manufacturing" and "producing" means:

1. Manufacturing, producing, constructing, or assembling components to produce a significantly different or enhanced end tangible product;

2. Mining or severing natural resources from the earth; or

3. Growing or raising agricultural or horticultural products or animals;

(i) "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land;

(j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible product;

(k) "Tangible personal property" means property, other than real property, that has physical form and characteristics; and

(l) "Tangible product" means real property and tangible personal property;

(2) (a) For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits except as provided in this subsection. A small business exclusion from this tax shall be provided based on the reduction contained in this subsection. The tax shall be the greater of the amount computed under paragraph (b) of this subsection or one hundred seventy-five
dollars ($175), regardless of the application of any tax credits provided under
this chapter or any other provisions of the Kentucky Revised Statutes for
which the business entity may qualify.

(b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of
this paragraph:

1. a. If the corporation's or limited liability pass-through entity's gross
receipts from all sources are three million dollars ($3,000,000) or
less, the limited liability entity tax shall be one hundred seventy-five dollars ($175);

b. If the corporation's or limited liability pass-through entity's gross
receipts from all sources are greater than three million dollars
($3,000,000) but less than six million dollars ($6,000,000), the
limited liability entity tax shall be nine and one-half cents ($0.095)
per one hundred dollars ($100) of the corporation's or limited
liability pass-through entity's Kentucky gross receipts reduced by
an amount equal to two thousand eight hundred fifty dollars
($2,850) multiplied by a fraction, the numerator of which is six
million dollars ($6,000,000) less the amount of the corporation's or
limited liability pass-through entity's Kentucky gross receipts for
the taxable year, and the denominator of which is three million
dollars ($3,000,000), but in no case shall the result be less than one
hundred seventy-five dollars ($175);

c. If the corporation's or limited liability pass-through entity's gross
receipts from all sources are equal to or greater than six million
dollars ($6,000,000), the limited liability entity tax shall be nine
and one-half cents ($0.095) per one hundred dollars ($100) of the
corporation's or limited liability pass-through entity's Kentucky
2. a. If the corporation's or limited liability pass-through entity's gross profits from all sources are three million dollars ($3,000,000) or less, the limited liability entity tax shall be one hundred seventy-five dollars ($175);

b. If the corporation's or limited liability pass-through entity's gross profits from all sources are at least three million dollars ($3,000,000) but less than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of the corporation's or limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars ($22,500) multiplied by a fraction, the numerator of which is six million dollars ($6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars ($3,000,000), but in no case shall the result be less than one hundred seventy-five dollars ($175);

c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars ($6,000,000), the limited liability entity tax shall be seventy-five cents ($0.75) per one hundred dollars ($100) of all of the corporation's or limited liability pass-through entity's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph, a member of an affiliated group shall consider the total gross receipts and the total gross profits from all
sources of the entire affiliated group, including eliminating entries for transactions among the group.

(c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability pass-through entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars ($175) at each layer.

(d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.

(3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:

(a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars ($175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining
credit from the corporation shall be disallowed.

(b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars ($175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.

(4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required in KRS 141.044 shall be paid by the original due date of the return.

(5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.

(6) The tax imposed by subsection (2) of this section shall not apply to:

(a) For taxable years beginning prior to January 1, 2021:

1. Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;

2. Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

3. Banks for cooperatives;

4. Production credit associations;

5. Insurance companies, including farmers' or other mutual hail, cyclone,
windstorm, or fire insurance companies, insurers, and reciprocal
underwriters;

6. Corporations or other entities exempt under Section 501 of the Internal
Revenue Code;

7. Religious, educational, charitable, or like corporations not organized or
conducted for pecuniary profit;

8. Corporations whose only owned or leased property located in this state
is located at the premises of a printer with which it has contracted for
printing, provided that:
   a. The property consists of the final printed product, or copy from
      which the printed product is produced; and
   b. The corporation has no individuals receiving compensation in this
      state as provided in KRS 141.901;

9. Public service corporations subject to tax under KRS 136.120;

10. Open-end registered investment companies organized under the laws of
    this state and registered under the Investment Company Act of 1940;

11. Any property or facility which has been certified as a fluidized bed
    energy production facility as defined in KRS 211.390;

12. An alcohol production facility as defined in KRS 247.910;

13. Real estate investment trusts as defined in Section 856 of the Internal
    Revenue Code;

14. Regulated investment companies as defined in Section 851 of the
    Internal Revenue Code;

15. Real estate mortgage investment conduits as defined in Section 860D of
    the Internal Revenue Code;

16. Personal service corporations as defined in Section 269A(b)(1) of the
    Internal Revenue Code;
17. Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or

18. Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership; and

(b) For taxable years beginning on or after January 1, 2021:

1. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

2. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

3. Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

4. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

a. The property consists of the final printed product, or copy from
which the printed product is produced; and

b. The corporation has no individuals receiving compensation in this state as provided in KRS 141.901;

5. Public service corporations subject to tax under KRS 136.120;

6. Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

7. Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

8. An alcohol production facility as defined in KRS 247.910;

9. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;

10. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;

11. Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

12. Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;

13. Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or

14. Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their
publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.

(7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) and (b) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.

(b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.

(c) Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.

(d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

(8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer
who ultimately pays the tax on the income of the limited liability pass-through entity.

Section 9. KRS 141.044 is amended to read as follows:

(1) For taxable years beginning on or after January 1, 2019, every corporation and limited liability pass-through entity subject to taxation under KRS 141.040 and 141.0401 shall make estimated tax payments if the taxes imposed by KRS 141.040 and 141.0401 for the taxable year can reasonably be expected to exceed five thousand dollars ($5,000).

(2) Estimated tax payments for the taxes imposed under KRS 141.040 and 141.0401 shall be made at the same time and calculated in the same manner as estimated tax payments for federal income tax purposes under 26 U.S.C. sec. 6655, except:

(a) The estimated liabilities for the taxes imposed under KRS 141.040 and 141.0401 shall be used to make the estimated payments;

(b) Any provisions in 26 U.S.C. sec. 6655 that apply for federal tax purposes but do not apply to the taxes imposed under KRS 141.040 and 141.0401;

(c) The addition to tax identified by 26 U.S.C. sec. 6655(a) shall instead be considered a penalty under KRS 131.180;

(d) The tax interest rate identified under KRS 131.183 shall be used to determine the underpayment rate instead of the rate under 26 U.S.C. sec. 6621;

(e) Any waiver of penalties shall be performed as provided in KRS 131.175; and

(f) 1. A refund of taxes collected under this section shall include interest at the tax interest rate as defined in KRS 131.010(6).

2. Interest shall not begin to accrue until ninety (90) days after the latest of:

   a. The due date of the return;

   b. The date the return was filed;

   c. The date the tax was paid;
d. The last day prescribed by law for filing the return; or

e. The date an amended return claiming a refund is filed.

3. No refund shall be made of any estimated tax paid unless a return is filed as required by this chapter.

(3) The department may promulgate administrative regulations to implement this section.

Section 10. KRS 141.121 is amended to read as follows:

(1) As used in this section:

(a) "Affiliated airline" means an airline:

1. For which a qualified air freight forwarder facilitates air transportation; and

2. That is in the same affiliated group as a qualified air freight forwarder;

(b) "Affiliated group" has the same meaning as in Section 11 of this Act [KRS 141.200];

(c) "Kentucky revenue passenger miles" means the total revenue passenger miles within the borders of Kentucky for all flight stages that either originate or terminate in this state;

(d) "Passenger airline" means a person or corporation engaged primarily in the carriage by aircraft of passengers in interstate commerce;

(e) "Provider" means any corporation engaged in the business of providing:

1. Communications service as defined in KRS 136.602;

2. Cable service as defined in KRS 136.602; or

3. Internet access as defined in 47 U.S.C. sec. 151;

(f) "Qualified air freight forwarder" means a person that:

1. Is engaged primarily in the facilitation of the transportation of property by air;

2. Does not itself operate aircraft; and
3. Is in the same affiliated group as an affiliated airline; and

(g) "Revenue passenger miles" means miles calculated in accordance with 14 C.F.R. Part 241.

(2) (a) For purposes of apportioning business income to this state for taxable years beginning prior to January 1, 2018:

1. Passenger airlines shall determine the property, payroll, and sales factors as follows:

a. Except as modified by this subdivision, the property factor shall be determined as provided in KRS 141.901. Aircraft operated by a passenger airline shall be included in both the numerator and denominator of the property factor. Aircraft shall be included in the numerator of the property factor by determining the product of:

i. The total average value of the aircraft operated by the passenger airline; and

ii. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year;

b. Except as modified by this subdivision, the payroll factor shall be determined as provided in KRS 141.901. Compensation paid during the tax period by a passenger airline to flight personnel shall be included in the numerator of the payroll factor by determining the product of:

i. The total amount paid during the taxable year to flight personnel; and

ii. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year;
except as modified by this subdivision, the sales factor shall be determined as provided in KRS 141.901. Transportation revenues shall be included in the numerator of the sales factor by determining the product of:

i. The total transportation revenues of the passenger airline for the taxable year; and

ii. A fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and

2. Qualified air freight forwarders shall determine the property, payroll, and sales factors as follows:

a. The property factor shall be determined as provided in KRS 141.901;

b. The payroll factor shall be determined as provided in KRS 141.901; and

c. Except as modified by this subparagraph, the sales factor shall be determined as provided in KRS 141.901. Freight forwarding revenues shall be included in the numerator of the sales factor by determining the product of:

i. The total freight forwarding revenues of the qualified air freight forwarder for the taxable year; and

ii. A fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.
(b) For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, except as modified by this paragraph, the apportionment fraction shall be determined as provided in KRS 141.120, except that:

1. Transportation revenues shall be determined to be in this state by multiplying the total transportation revenues by a fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and

2. Freight forwarding revenues shall be determined to be in this state by multiplying the total freight forwarding revenues by a fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.

(3) For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, the apportionment fraction for a provider shall continue to be calculated using a three (3) factor formula as provided in KRS 141.901.

(4) (a) A corporation may elect the allocation and apportionment methods for the corporation's apportionable income provided for in paragraphs (b) and (c) of this subsection. The election, if made, shall be irrevocable for a period of five (5) years.

(b) All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders
of the investment company are domiciled in this state as follows:

1. Total apportionable income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period;

2. For purposes of subparagraph 1. of this paragraph, Kentucky receipts shall be determined by multiplying total receipts for the taxable year from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year; and

3. Nonapportionable income shall be allocated to this state as provided in KRS 141.120.

(c) All apportionable income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2) before that statute was renumbered in 1992, shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

1. The numerator of the fraction shall be the brokerage commissions and
total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year;

2. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm’s customers for that year; and

3. Nonapportionable income shall be allocated to this state as provided in KRS 141.120.

(5) Public service companies and financial organizations required by KRS 141.010 to allocate and apportion net income shall allocate and apportion that income as follows:

(a) Nonapportionable income shall be allocated to this state as provided in KRS 141.120;

(b) Apportionable income shall be apportioned to this state as provided by KRS 141.120. Receipts shall be determined as provided by administrative regulations promulgated by the department; and

(c) An affiliated group required to file a consolidated return under Section 11 of this Act (KRS 141.200) that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or a financial organization shall determine the amount of receipts as provided by administrative regulations promulgated by the department.

(6) A corporation:

(a) That owns an interest in a limited liability pass-through entity; or

(b) That owns an interest in a general partnership;

shall include the proportionate share of receipts of the limited liability pass-through entity or general partnership when apportioning income. The phrases "an interest in a limited liability pass-through entity" and "an interest in a general partnership"
shall extend to each level of multiple-tiered pass-through entities.

(7) The department shall promulgate administrative regulations to detail the sourcing of the following receipts related to financial institutions:

(a) Receipts from the lease of real property;
(b) Receipts from the lease of tangible personal property;
(c) Interest, fees, and penalties imposed in connection with loans secured by real property;
(d) Interest, fees, and penalties imposed in connection with loans not secured by real property;
(e) Net gains from the sale of loans;
(f) Receipts from fees, interest, and penalties charged to card holders;
(g) Net gains from the sale of credit card receivables;
(h) Card issuer's reimbursement fees;
(i) Receipts from merchant discount;
(j) Receipts from ATM fees;
(k) Receipts from loan servicing fees;
(l) Receipts from other services;
(m) Receipts from the financial institution's investment assets and activity and trading assets and activity; and
(n) All other receipts.

Section 11. KRS 141.201 is amended to read as follows:

(1) This section shall apply to taxable years beginning on or after January 1, 2019.

(2) As used in this section:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;
(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section—The
determinations and computations required by this chapter shall be made in accordance with Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return];

(c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with this chapter;

(d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(e) "Election period" means the forty-eight (48) month period provided for in subsection (4)(d) of this section.

(3) Every corporation doing business in this state, except those corporations listed as exempt from taxation under KRS 141.040(1)(a) and (b), shall, for each taxable year:

(a) 1. File a combined report, if the corporation is a member of unitary business group as provided in KRS 141.202; or

2. Make an election to file a consolidated return with all members of the affiliated group as provided in this section; or

(b) File a separate return, if paragraph (a) of this subsection does not apply.

(4) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.

(b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under this chapter.
2. The determinations and computations required by this chapter shall be made in accordance with Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code.

3. Corporations listed as exempt from taxation under KRS 141.040(1)(a) and (b) shall not be included in the return.

4. All transactions between corporations included in the consolidated return shall be eliminated in computing net income as provided in KRS 141.039(2), and determining the apportionment fraction in accordance with KRS 141.120.

(c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return, including extensions, for the first taxable year for which the election is made.

(d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the forty-eighth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election provided in paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

(5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that
portion of the year that the corporation was a member of the affiliated group.

(6) Every corporation return or report required by this chapter shall be executed by one

(1) of the following officers of the corporation: the president, vice president,

secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting

officer. The department may require a further or supplemental report of further

information and data necessary for computation of the tax.

(7) In the case of a corporation doing business in this state that carries on transactions

with stockholders or with other corporations related by stock ownership, by

interlocking directorates, or by some other method, the department shall require

information necessary to make possible accurate assessment of the income derived

by the corporation from sources within this state. To make possible this assessment,

the department may require the corporation to file supplementary returns showing

information respecting the business of any or all individuals and corporations

related by one (1) or more of these methods to the corporation. The department may

require the return to show in detail the record of transactions between the

corporation and any or all other related corporations or individuals.

Section 12. KRS 141.202 is amended to read as follows:

(1) This section shall apply to taxable years beginning on or after January 1, 2019.

(2) As used in this section:

(a) "Combined group" means the group of all corporations whose income and

apportionment factors are required to be taken into account as provided in

subsection (3) of this section in determining the taxpayer's share of the net

income or loss apportionable to this state. A combined group shall include

only corporations, the voting stock of which is more than fifty percent (50%)

owned, directly or indirectly, by a common owner or owners;

(b) "Corporation" has the same meaning as in KRS 141.010, including an

organization of any kind treated as a corporation for tax purposes under KRS
141.040, wherever located, which if it were doing business in this state would be a taxpayer, and the business conducted by a pass-through entity which is directly or indirectly held by a corporation shall be considered the business of the corporation to the extent of the corporation's distributive share of the pass-through entity income, inclusive of guaranteed payments;

(c) "Doing business in a tax haven" means being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards;

(d) 1. "Tax haven" means a jurisdiction that, during the taxable year has no or nominal effective tax on the relevant income and:

   a. Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefitting from the tax regime;

   b. Has a tax regime which lacks transparency. A tax regime lacks transparency if the details of legislative, legal, or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;

   c. Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

   d. Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or
e. Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

2. "Tax haven" does not include a jurisdiction that has entered into a comprehensive income tax treaty with the United States, which the Secretary of the Treasury has determined is satisfactory for purposes of Section 1(h)(1)(C)(i)(II) of the Internal Revenue Code;

(e) "Taxpayer" means any corporation subject to the tax imposed under this chapter;

(f) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single corporation or of a commonly controlled group of corporations that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. For purposes of this section, the term "unitary business" shall be broadly construed, to the extent permitted by the United States Constitution; and

(g) "United States" means the fifty (50) states of the United States, the District of Columbia, and United States' territories and possessions.

(3) (a) Except as provided in KRS 141.201, a taxpayer engaged in a unitary business with one (1) or more other corporations shall file a combined report which includes the income, determined under subsection (5) of this section, and the apportionment fraction, determined under KRS 141.120 and paragraph (d) of this subsection, of all corporations that are members of the unitary business, and any other information as required by the department. The combined report shall be filed on a waters-edge basis under subsection (8) of this section.
(b) The department may, by administrative regulation, require that the combined report include the income and associated apportionment factors of any corporations that are not included as provided by paragraph (a) of this subsection, but that are members of a unitary business, in order to reflect proper apportionment of income of the entire unitary businesses. Authority to require combination by administrative regulation under this paragraph includes authority to require combination of corporations that are not, or would not be combined, if the corporation were doing business in this state.

(c) In addition, if the department determines that the reported income or loss of a taxpayer engaged in a unitary business with any corporation not included as provided by paragraph (a) of this subsection represents an avoidance or evasion of tax by the taxpayer, the department may, on a case-by-case basis, require all or any part of the income and associated apportionment factors of the corporation be included in the taxpayer's combined report.

(d) With respect to the inclusion of associated apportionment factors as provided in paragraph (a) of this subsection, the department may require the inclusion of any one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.

(e) A unitary business shall consider the combined gross receipts and combined income from all sources of all members under subsection (8) of this section, including eliminating entries for transactions among the members under subsection (8)(e) of this section.

(f) Notwithstanding paragraphs (a) to (e) of this subsection, a consolidated return may be filed as provided in KRS 141.201 if the taxpayer makes an election
according to KRS 141.201.

(4) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include, in addition to the other types of income, the taxpayer member's share of apportionable income of the combined group, where apportionable income of the combined group is calculated as a summation of the individual net incomes of all members of the combined group. A member's net income is determined by removing all but apportionable income, expense, and loss from that member's total income as provided in subsection (5) of this section.

(5) (a) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include:

1. Its share of any income apportionable to this state of each of the combined groups of which it is a member, determined under subsection (6) of this section;
2. Its share of any income apportionable to this state of a distinct business activity conducted within and without the state wholly by the taxpayer member, determined under KRS 141.120;
3. Its income from a business conducted wholly by the taxpayer member entirely within the state;
4. Its income sourced to this state from the sale or exchange of capital or assets, and from involuntary conversions, as determined under subsection (8)(g) of this section;
5. Its nonapportionable income or loss allocable to this state, determined under KRS 141.120;
6. Its income or loss allocated or apportioned in an earlier year, required to be taken into account as state source income during the income year,
other than a net operating loss; and

7. Its net operating loss carryover.

(b) No tax credit or post-apportionment deduction earned by one (1) member of
the group, but not fully used by or allowed to that member, may be used in
whole or in part by another member of the group or applied in whole or in part
against the total income of the combined group, except as provided in
paragraph (c) of this subsection.

(c) If the taxable income computed pursuant to KRS 141.039 results in a net loss
for a taxpayer member of the combined group, that taxpayer member has a
Kentucky net operating loss, subject to the net operating loss limitations and
carry forward provisions of KRS 141.011. No prior year net operating loss
carryforward shall be available to entities that were not doing business in this
state in the year in which the loss was incurred. A Kentucky net operating loss
carryover incurred by a taxpayer member of a combined group shall be
deducted from income or loss apportioned to this state pursuant to this section
as follows:

1. For taxable years beginning on or after the first day of the initial taxable
year for which a combined unitary tax return is required under this
section, if the computation of a combined group's Kentucky net income
before apportionment to this state results in a net operating loss, a
taxpayer member of the group may carry over its share of the net
operating loss as apportioned to this state, as calculated under this
section and in accordance with KRS 141.120 or 141.121, and it shall be
deductible from a taxpayer member's apportioned net income derived
from the unitary business in a future tax year to the extent that the
carryover and deduction is otherwise consistent with KRS 141.011;

2. Where a taxpayer member of a combined group has a Kentucky net
operating loss carryover derived from a loss incurred by a combined
group in a tax year beginning on or after the first day of the initial tax
year for which a combined unitary tax return is required under this
section, then the taxpayer member may share the net operating loss
carryover with other taxpayer members of the combined group if the
other taxpayer members were members of the combined group in the tax
year that the loss was incurred. Any amount of net operating loss
carryover that is deducted by another taxpayer member of the combined
group shall reduce the amount of net operating loss carryover that may
be carried over by the taxpayer member that originally incurred the loss;

3. Where a taxpayer member of a combined group has a net operating loss
carryover derived from a loss incurred in a tax year prior to the initial
tax year for which a combined unitary tax return is required under this
section, the carryover shall remain available to be deducted by that
taxpayer member and any other taxpayer members of the combined
group, but in no case shall the deduction reduce any taxpayer member's
Kentucky apportioned taxable income by more than fifty percent (50%) in
any taxable year, other than the taxpayer member that originally
incurred the net operating loss, in which case no limitation is provided except as provided by Section 172 of the Internal Revenue Code. Any
net operating loss carryover that is not utilized in a particular taxable
year shall be carried over by the taxpayer member that generated the loss
and utilized in the future consistent with the limitations of this
subparagraph; or

4. Where a taxpayer member of a combined group has a net operating loss
carryover derived from a loss incurred in a tax year during which the
taxpayer member was not a taxpayer member of the combined group, the
carryover shall remain available to be deducted by that taxpayer member
or other taxpayer members, but in no case shall the deduction reduce any
taxpayer member's Kentucky apportioned taxable income by more than
fifty percent (50%) in any taxable year, other than the taxpayer member
that originally incurred the net operating loss, in which case no
limitation is provided except as provided by Section 172 of the Internal
Revenue Code. Any net operating loss carryover that is not utilized in a
particular taxable year, shall be carried over by the taxpayer member that
generated the loss and utilized in the future consistent with the
limitations of this subparagraph.

(6) The taxpayer's share of the business income apportionable to this state of each
combined group of which it is a member shall be the product of:

(a) The apportionable income of the combined group, determined under
subsection (7) of this section; and

(b) The taxpayer member's apportionment fraction, determined under KRS
141.120, including in the sales factor numerator the taxpayer's sales associated
with the combined group's unitary business in this state, and including in the
denominator the sales of all members of the combined group, including the
taxpayer, which sales are associated with the combined group's unitary
business wherever located. The sales of a pass-through entity shall be included
in the determination of the partner's apportionment percentage in proportion to
a ratio, the numerator of which is the amount of the partner's distributive share
of the pass-through entity's unitary income included in the income of the
combined group as provided in subsection (8) of this section and the
denominator of which is the amount of pass-through entity's total unitary
income.

(7) The apportionable income of a combined group is determined as follows:
(a) The total income of the combined group is the sum of the income of each
member of the combined group determined under federal income tax laws, as
adjusted for state purposes, as if the member were not consolidated for federal
purposes; and

(b) From the total income of the combined group determined under subsection (8)
of this section, subtract any income and add any expense or loss, other than
the apportionable income, expense, or loss of the combined group.

(8) To determine the total income of the combined group, taxpayer members shall take
into account all or a portion of the income and apportionment factor of only the
following members otherwise included in the combined group as provided in
subsection (3) of this section:

(a) The entire income and apportionment percentage of any member, incorporated
in the United States or formed under the laws of any state, the District of
Columbia, or any territory or possession of the United States, that earns less
than eighty percent (80%) of its income from sources outside of the United
States, the District of Columbia, or any territory or possession of the United
States;

(b) Any member that earns more than twenty percent (20%) of its income, directly
or indirectly, from intangible property or service related activities that are
deductible against the apportionable income of other members of the
combined group, to the extent of that income and the apportionment factor
related to that income. If a non-United States corporation is includible as a
member in the combined group, to the extent that the non-United States
corporation's income is excluded from United States taxation pursuant to the
provisions of a comprehensive income tax treaty, the income or loss is not
includible in the combined group's net income or loss. The member's expenses
or apportionment factors attributable to income that is excluded from United
States taxation pursuant to the provisions of a comprehensive income tax treaty are not to be included in the combined report;

(c) The entire income and apportionment factor of any member that is doing business in a tax haven. If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions, and practices that cause the jurisdiction to meet the definition established in subsection (2)(d) of this section, the activity of the member shall be treated as not having been conducted in a tax haven;

(d) If a unitary business includes income from a pass-through entity, the income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the pass-through entity's unitary income;

(e) Income from an intercompany transaction between members of the same combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-13. Upon the occurrence of any of the following events, deferred income resulting from an intercompany transaction between members of a combined group shall be restored to the income of the seller, and shall be apportionable income earned immediately before the event:

1. The object of a deferred intercompany transaction is:
   a. Resold by the buyer to an entity that is not a member of the combined group;
   b. Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or
   c. Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

2. The buyer and seller are no longer members of the same combined
group, regardless of whether the members remain unitary;

(f) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction provided by Section 170 of the Internal Revenue Code, be subtracted first from the apportionable income of the combined group, subject to the income limitations of that section applied to the entire apportionable income of the group, and any remaining amount shall then be treated as a nonapportionable expense allocable to the member that incurred the expense, subject to the income limitations of that section applied to the nonapportionable income of that specific member. Any charitable deduction disallowed under this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and this paragraph shall apply in the subsequent year in determining the allowable deduction in that year;

(g) Gain or loss from the sale or exchange of capital assets, property described by Section 1231(a)(3) of the Internal Revenue Code, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:

1. For each class of gain or loss, including short-term capital, long-term capital, Internal Revenue Code Section 1231, and involuntary conversions, all members' gain and loss for the class shall be combined, without netting between the classes, and each class of net gain or loss separately apportioned to each member using the member's apportionment percentage determined under subsection (6) of this section;

2. Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any apportioned gain and loss from other
combined groups, against the taxpayer member's nonapportionable gain
and loss for all classes allocated to this state, using the rules of Sections
1231 and 1222 of the Internal Revenue Code, without regard to any of
the taxpayer member's gains or losses from the sale or exchange of
capital assets, Internal Revenue Code Section 1231 property, and
involuntary conversions which are nonapportionable items allocated to
another state;

3. Any resulting state source income or loss, if the loss is not subject to the
limitations of Section 1211 of the Internal Revenue Code, of a taxpayer
member produced by the application of subparagraphs 1. and 2. of this
paragraph shall then be applied to all other state source income or loss of
that member; and

4. Any resulting state source loss of a member that is subject to the
limitations of Section 1211 of the Internal Revenue Code shall be
carried forward by that member, and shall be treated as state source
short-term capital loss incurred by that member for the year for which
the carryover applies; and

(h) Any expense of one (1) member of the unitary group which is directly or
indirectly attributable to the nonapportionable or exempt income of another
member of the unitary group shall be allocated to that other member as
corresponding nonapportionable or exempt expense, as appropriate.

(9) (a) As a filing convenience, and without changing the respective liability of the
group members, members of a combined reporting group shall annually
designate one (1) taxpayer member of the combined group to file a single
return in the form and manner prescribed by the department, in lieu of filing
their own respective returns.

(b) The taxpayer member designated to file the single return shall consent to act
as surety with respect to the tax liability of all other taxpayers properly
included in the combined report, and shall agree to act as agent on behalf of
those taxpayers for the taxable year for matters relating to the combined
report. If for any reason the surety is unwilling or unable to perform its
responsibilities, tax liability may be assessed against the taxpayer members.

➤ Section 13. KRS 141.205 is amended to read as follows:

(1) As used in this section:

(a) "Intangible property" means franchises, patents, patent applications, trade
names, trademarks, service marks, copyrights, trade secrets, and similar types
of intangible assets;

(b) "Intangible expenses" includes the following only to the extent that the
amounts are allowed as deductions or costs in determining taxable net income
before the application of any net operating loss deduction provided under
Chapter 1 of the Internal Revenue Code:

1. Expenses, losses, and costs for, related to, or in connection directly or
   indirectly with the direct or indirect acquisition, use, maintenance,
   management, ownership, sale, exchange, or any other disposition of
   intangible property;

2. Losses related to, or incurred in connection directly or indirectly with,
   factoring transactions or discounting transactions;

3. Royalty, patent, technical, and copyright fees;

4. Licensing fees; and

5. Other similar expenses and costs;

(c) "Intangible interest expense" means only those amounts which are directly or
indirectly allowed as deductions under Section 163 of the Internal Revenue
Code for purposes of determining taxable income under that code, to the
extent that the amounts are directly or indirectly for, related to, or connected
to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;

(d) "Management fees" includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before application of the net operating loss deduction for the taxable year provided under Chapter 1 of the Internal Revenue Code;

(e) "Affiliated group" has the same meaning as [provided in Section 11 of this Act [KRS 141.200];

(f) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and that would be a related member if it were a domestic corporation;

(g) "Related member" means a person that, with respect to the entity during all or any portion of the taxable year, is:

1. A person or entity that has, directly or indirectly, at least fifty percent (50%) of the equity ownership interest in the taxpayer, as determined under Section 318 of the Internal Revenue Code;

2. A component member as defined in Section 1563(b) of the Internal Revenue Code;

3. A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or

4. A person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subparagraphs 1. to 3. of this paragraph;
(h) "Recipient" means a related member or foreign corporation to whom the item of income that corresponds to the intangible interest expense, the intangible expense, or the management fees, is paid;

(i) "Unrelated party" means a person that has no direct, indirect, beneficial or constructive ownership interest in the recipient; and in which the recipient has no direct, indirect, beneficial or constructive ownership interest;

(j) "Disclosure" means that the entity shall provide the following information to the Department of Revenue with its tax return regarding a related party transaction:

1. The name of the recipient;
2. The state or country of domicile of the recipient;
3. The amount paid to the recipient; and
4. A description of the nature of the payment made to the recipient;

(k) "Other related party transaction" means a transaction which:

1. Is undertaken by an entity which was not required to file a consolidated return under Section 11 of this Act [KRS 141.200];
2. Is undertaken by an entity, directly or indirectly, with one (1) or more of its stockholders, members, partners, or affiliated entities; and
3. Is not within the scope of subsections (2) and (3) of this section;

(l) "Related party costs" means intangible expense, intangible interest expense, management fees and any costs or expenses associated with other related party transactions; and

(m) "Entity" means any taxpayer other than a natural person.

(2) An entity subject to the tax imposed by this chapter shall not be allowed to deduct an intangible expense, an intangible interest expense, or a management fee directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more direct or indirect transactions with one (1) or more related members
or with a foreign corporation as defined in subsection (1) of this section, or with an
entity that would be included in the affiliated group based upon ownership interest
if it were organized as a corporation.

(3) The disallowance of deductions provided by subsection (2) of this section shall not
apply if:
(a) The entity and the recipient are both included in the same consolidated
Kentucky corporation income tax return for the relevant taxable year; or
(b) The entity makes a disclosure, and establishes by a preponderance of the
evidence that:
   1. The payment made to the recipient was subject to, in its state or country
      of commercial domicile, a net income tax, or a franchise tax measured
      by, in whole or in part, net income. If the recipient is a foreign
corporation, the foreign nation shall have in force a comprehensive
      income tax treaty with the United States; and
   2. The recipient is engaged in substantial business activities separate and
      apart from the acquisition, use, licensing, management, ownership, sale,
      exchange, or any other disposition of intangible property, or in the
      financing of related members, as evidenced by the maintenance of
      permanent office space and full-time employees dedicated to the
      maintenance and protection of intangible property; and
   3. The transaction giving rise to the intangible interest expense, intangible
      expense, or management fees between the entity and the recipient was
      made at a commercially reasonable rate and at terms comparable to an
      arm's-length transaction; or
(c) The entity makes a disclosure, and establishes by preponderance of the
evidence that the recipient regularly engages in transactions with one (1) or
more unrelated parties on terms identical to that of the subject transaction; or
(d) The entity and the Department of Revenue agree in writing to the application
or use of an alternative method of apportionment under KRS 141.120.

(4) An entity subject to the tax imposed by this chapter may deduct expenses or costs
associated with an other related party transaction only in an amount equal to the
amount which would have resulted if the other related party transaction had been
carried out at arm's length. In any dispute between the department and the entity
with respect to the amount which would have resulted if the transaction had been
carried out at arm's length, the entity shall bear the burden of establishing the
amount by a preponderance of the evidence.

(5) Nothing in this section shall be deemed to prohibit an entity from deducting a
related party cost in an amount permitted by this section, provided that the entity
has incurred related party costs equal to or greater than the amounts permitted by
this section.

(6) If it is determined by the department that the amount of a deduction claimed by an
entity with respect to a related party cost is greater than the amount permitted by
this section, the net income of the entity shall be adjusted to reflect the amount of
the related party cost permitted by this section.

(7) For tax periods ending before January 1, 2005, in the case of entities not required to
file a consolidated or combined return under subsection (1) of this section that
carried on transactions with stockholders or affiliated entities directly or indirectly,
the department shall adjust the net income of such entities to an amount that would
result if such transactions were carried on at arm's length.

Section 14. KRS 141.206 is amended to read as follows:

(1) Every pass-through entity doing business in this state shall, on or before the
fifteenth day of the fourth month following the close of its annual accounting
period, file a copy of its federal tax return with the form prescribed and furnished by
the department.
(2) Pass-through entities shall determine net income in the same manner as
in the case of an individual under KRS 141.010 and the adjustment
required under Sections 703(a) and 1363(b) of the Internal Revenue Code.
Computation of net income under this section and the computation of the partner's,
member's, or shareholder's distributive share shall be computed as nearly as
practicable identical with those required for federal income tax purposes except to
the extent required by differences between this chapter and the federal income tax
law and regulations.

(3) Individuals, estates, trusts, or corporations doing business in this state as a partner,
member, or shareholder in a pass-through entity shall be liable for income tax only
in their individual, fiduciary, or corporate capacities, and no income tax shall be
assessed against the net income of any pass-through entity, except as required for S
corporations by KRS 141.040.

(4) (a) Every pass-through entity required to file a return under subsection (1) of this
section, except publicly traded partnerships as described in KRS
141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the
distributive share, whether distributed or undistributed, of each:
1. Nonresident individual partner, member, or shareholder; and
2. Corporate partner or member that is doing business in Kentucky only
   through its ownership interest in a pass-through entity.
(b) Withholding shall be at the maximum rate provided in KRS 141.020 or
141.040.

(5) (a) Effective for taxable years beginning after December 31, 2018, every pass-
through entity required to withhold Kentucky income tax as provided by
subsection (4) of this section shall pay estimated tax for the taxable year if:
1. For a nonresident individual partner, member, or shareholder, the
   estimated tax liability can reasonably be expected to exceed five
hundred dollars ($500); or

2. For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the estimated tax liability can reasonably be expected to exceed five thousand dollars ($5,000).

(b) The payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.

(6) (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.

(b) An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner. An exemption so revoked shall be reinstated only with permission of the department. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.

(7) In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.
(8) In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection (1) of this section shall take into account:

(a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or

2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (11) of this section; and

(b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.

(9) A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:

(a) 1. For taxable years beginning on or after January 1, 2007, but prior to January 1, 2018, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and

2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and

(b) Credits from the partnership.

(10) (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or
shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection (11) of this section.

(b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:

1. Doing business both within and without this state; and
2. A partner or member in another pass-through entity;

then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.

(c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.

(d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection (11) of this section.

(11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in KRS 141.901, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be
reduced by two (2).

(b) For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in KRS 141.120.

(12) Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.

(13) An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.

(14) (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.

(b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.

(15) (a) 1. A pass-through entity may file a composite income tax return on behalf of electing nonresident individual partners, members, or shareholders.

2. The pass-through entity shall report and pay on the composite income tax return income tax at the highest marginal rate provided in this chapter on any portion of the partners', members', or shareholders' pro rata or distributive shares of income of the pass-through entity from
doing business in this state or deriving income from sources within this
state. Payments made pursuant to subsection (5) of this section shall be
credited against any tax due.

3. The pass-through entity filing a composite return shall still make
estimated tax payments if required to do so by subsection (5) of this
section, and shall remain subject to any penalty under KRS 141.044 and
141.305 for any underpayment of estimated tax determined under KRS
141.044 or 141.305.

4. The partners', members', or shareholders' pro rata or distributive share of
income shall include all items of income or deduction used to compute
adjusted gross income on the Kentucky return that is passed through to
the partner, member, or shareholder by the pass-through entity, including
but not limited to interest, dividend, capital gains and losses, guaranteed
payments, and rents.

(b) A nonresident individual partner, member, or shareholder whose only source
of income within this state is distributive share income from one (1) or more
pass-through entities may elect to be included in a composite return filed
pursuant to this section.

(c) A nonresident individual partner, member, or shareholder that has been
included in a composite return may file an individual income tax return and
shall receive credit for tax paid on the partner's behalf by the pass-through
entity.

(d) A pass-through entity shall deliver to the department a return upon a form
prescribed by the department showing the total amounts paid or credited to its
electing nonresident individual partners, members, or shareholders, the
amount paid in accordance with this subsection, and any other information the
department may require. A pass-through entity shall furnish to its nonresident
partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

Section 15. KRS 141.383 is amended to read as follows:

(1) As used in this section:

(a) "Above-the-line production crew" means the same as defined in KRS 148.542;

(b) "Approved company" means the same as defined in KRS 148.542;

(c) "Below-the-line production crew" means the same as defined in KRS 148.542;

(d) "Cabinet" means the same as defined in KRS 148.542;

(e) "Office" means the same as defined in KRS 148.542;

(f) "Qualifying expenditure" means the same as defined in KRS 148.542;

(g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;

(h) "Secretary" means the same as defined in KRS 148.542; and

(i) "Tax incentive agreement" means the same as defined in KRS 148.542.

(2) (a) There is hereby created a tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.

(b) The incentive available under paragraph (a) of this section is:

1. A refundable credit for applications approved prior to April 27, 2018; and

2. A nonrefundable and nontransferable credit for applications approved on or after April 27, 2018.

(c) 1. Beginning on April 27, 2018, the total tax incentive approved under KRS 148.544 shall be limited to one hundred million dollars ($100,000,000) for calendar year 2018 and each calendar year thereafter.
2. On April 27, 2018, if applications have been approved during the 2018
   calendar year which exceed the amount in \textit{subparagraph 1. of this}
   paragraph\[ (a) of this subsection\], the Kentucky Film Office shall
   immediately cease in approving any further applications for tax
   incentives.

(3) An approved company may receive a refundable tax credit on and after July 1,
   2010, but only for applications approved prior to April 27, 2018, if:
   (a) The cabinet has received notification from the office that the approved
       company has satisfied all requirements of KRS 148.542 to 148.546; and
   (b) The approved company has provided a detailed cost report and sufficient
       documentation to the office, which has been forwarded by the office to the
       cabinet, that:
       1. The purchases of qualifying expenditures were made after the execution
          of the tax incentive agreement; and
       2. The approved company has withheld income tax as required by KRS
          141.310 on all qualified payroll expenditures.

(4) Interest shall not be allowed or paid on any refundable credits provided under this
   section.

(5) The cabinet shall promulgate administrative regulations in accordance with KRS
   Chapter 13A to administer this section.

(6) On or before September 1, 2010, and on or before each September 1 thereafter, for
    the immediately preceding fiscal year, the cabinet shall report to the office the
    names of the approved companies and the amounts of refundable income tax credit
    claimed.

Section 16. KRS 141.900 is amended to read as follows:

The definitions in this section are the same as the definitions appearing in KRS 141.010
prior to its repeal and reenactment in Section 53 of 2018 Ky. Acts chs. 171 and 207. For
taxable years beginning prior to January 1, 2018, as used in this chapter, unless the
context requires otherwise:
(1) "Commissioner" means the commissioner of the department;
(2) "Department" means the Department of Revenue;
(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December
31, 2015, exclusive of any amendments made subsequent to that date, other than
amendments that extend provisions in effect on December 31, 2015, that would
otherwise terminate, and as modified by KRS 141.0101;
(4) "Dependent" means those persons defined as dependents in the Internal Revenue
Code;
(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal
Revenue Code;
(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal
Revenue Code;
(7) "Individual" means a natural person;
(8) "Modified gross income" means the greater of:
(a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code
of 1986, including any subsequent amendments in effect on December 31 of
the taxable year, and adjusted as follows:
1. Include interest income derived from obligations of sister states and
   political subdivisions thereof; and
2. Include lump-sum pension distributions taxed under the special
   transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
(b) Adjusted gross income as defined in subsection (10) of this section and
   adjusted to include lump-sum pension distributions taxed under the special
   transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
(9) "Gross income," in the case of taxpayers other than corporations, means "gross
income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income," in the case of taxpayers other than corporations, means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans. The "applicable amount" shall be:
   a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
   b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
   c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
   d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars ($41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

3. As used in this paragraph:
   a. "Distributions" includes but is not limited to any lump-sum
distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal
income tax purposes;

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

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit
Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;

(t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries; and

(u) For taxable years beginning on or after January 1, 2010, exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205;

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

(a) The deduction allowed by KRS 141.0202 as it existed prior to January 1, 2018;

(b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;

(c) For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and
(d) 1. All the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except:

   a. Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;

   b. Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

   c. The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

   d. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;

   e. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational
club, group, or establishment or any organization operated solely
for charitable or educational purposes which restricts membership
to persons of the same religion or denomination in order to
promote the religious principles for which it is established and
maintained;

f. Any deduction directly or indirectly allocable to income which is
either exempt from taxation or otherwise not taxed under this
chapter;

g. The itemized deduction limitation established in 26 U.S.C. sec. 68
shall be determined using the applicable amount from 26 U.S.C.
sec. 68 as it existed on December 31, 2006; and

h. A taxpayer may elect to claim the standard deduction allowed by
KRS 141.081 instead of itemized deductions allowed pursuant to
26 U.S.C. sec. 63 and as modified by this section; and

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

(12) "Gross income," in the case of corporations, means "gross income" as defined in
Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and
adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky
    Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political
    subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
    covered by Section 631(c) of the Internal Revenue Code if the corporation
does not claim any deduction for percentage depletion, or for expenditures
attributable to the making and administering of the contract under which such
disposition occurs or to the preservation of the economic interests retained
under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees
to lessors, under the provisions of Section 110 of the Internal Revenue Code,
and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(f) Ignore the provisions of Section 281 of the Internal Revenue Code in
computing gross income;

(g) Exclude income from "safe harbor leases" (Section 168(f)(8) of the
Internal Revenue Code);

(h) Exclude any amount received by a producer of tobacco or a tobacco
quota owner from the multistate settlement with the tobacco industry, known
as the Master Settlement Agreement, signed on November 22, 1998;

(i) Exclude any amount received from the secondary settlement fund,
referred to as "Phase II," established by tobacco companies to compensate
tobacco farmers and quota owners for anticipated financial losses caused by
the national tobacco settlement;

(j) Exclude any amount received from funds of the Commodity Credit
Corporation for the Tobacco Loss Assistance Program as a result of a
reduction in the quantity of tobacco quota allotted;

(k) Exclude any amount received as a result of a tobacco quota buydown
program that all quota owners and growers are eligible to participate in;

(l) For taxable years beginning after December 31, 2004, and before
January 1, 2007, exclude the distributive share income or loss received from a
corporation defined in subsection (24)(b) of this section whose income has
been subject to the tax imposed by KRS 141.040. The exclusion provided in
this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and

(m) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus:

(a) The deduction allowed by KRS 141.0202 as it existed prior to January 1, 2018;

(b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;

(c) For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and

(d) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except:

1. Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

2. The deductions contained in Sections 243,[244] 245, and 247 of the
Internal Revenue Code;

3. The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

4. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

6. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

7. Any deduction prohibited by KRS 141.205;

8. Any dividends-paid deduction of any captive real estate investment trust; and

9. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the
"Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section; and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.901. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax; in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid; "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code; "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under
regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero (0);

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and

(b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:

1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;

3. A foreign limited liability company as defined in KRS 275.015;

4. A limited liability company as defined in KRS 275.015;

5. A professional limited liability company as defined in KRS 275.015;

6. A foreign limited partnership as defined in KRS 362.2-102(9);

7. A limited partnership as defined in KRS 362.2-102(14);

8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or (8);

9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;

10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;

11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;

12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and

13. Other similar entities created with limited liability for their partners, members, or shareholders.

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

(25) "Doing business in this state" includes but is not limited to:

(a) Being organized under the laws of this state;

(b) Having a commercial domicile in this state;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services in this state;

(e) Maintaining an interest in a pass-through entity doing business in this state;

(f) Deriving income from or attributable to sources within this state, including
deriving income directly or indirectly from a trust doing business in this state,
or deriving income directly or indirectly from a single-member limited
liability company that is doing business in this state and is disregarded as an
entity separate from its single member for federal income tax purposes; or

(g) Directing activities at Kentucky customers for the purpose of selling them
goods or services.

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

(26) "Pass-through entity" means any partnership, S corporation, limited liability
company, limited liability partnership, limited partnership, or similar entity
recognized by the laws of this state that is not taxed for federal purposes at the
entity level, but instead passes to each partner, member, shareholder, or owner their
proportionate share of income, deductions, gains, losses, credits, and any other
similar attributes;

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

(28) "Limited liability pass-through entity" means any pass-through entity that affords
any of its partners, members, shareholders, or owners, through function of the laws
of this state or laws recognized by this state, protection from general liability for
actions of the entity; and

(29) "Captive real estate investment trust" means a real estate investment trust as defined
in Section 856 of the Internal Revenue Code that meets the following requirements:

(a) 1. The shares or other ownership interests of the real estate investment trust
are not regularly traded on an established securities market; or

2. The real estate investment trust does not have enough shareholders or
owners to be required to register with the Securities and Exchange
Commission; and

(b) 1. The maximum amount of stock or other ownership interest that is owned
or constructively owned by a corporation equals or exceeds:

   a. Twenty-five percent (25%), if the corporation does not occupy
property owned, constructively owned, or controlled by the real
estate investment trust; or

   b. Ten percent (10%), if the corporation occupies property owned,
constructively owned, or controlled by the real estate investment
trust.

The total ownership interest of a corporation shall be determined by
aggregating all interests owned or constructively owned by a
corporation;

2. For the purposes of this paragraph:

   a. "Corporation" means a corporation taxable under KRS 141.040,
and includes an affiliated group as defined in KRS 141.200, that is
required to file a consolidated return pursuant to the provisions of
KRS 141.200; and

   b. "Owned or constructively owned" means owning shares or having
an ownership interest in the real estate investment trust, or owning
an interest in an entity that owns shares or has an ownership
interest in the real estate investment trust. Constructive ownership
shall be determined by looking across multiple layers of a
multilayer pass-through structure; and
(c) The real estate investment trust is not owned by another real estate investment
trust.

Section 17. KRS 141.985 is amended to read as follows:

(1) Except for the addition to tax required when an underpayment of estimated tax
occurs under KRS 141.044 and 141.305, any tax imposed by this chapter, whether
assessed by the department, or the taxpayer, or any installment or portion of the tax
is not paid on or before the date prescribed for its payment, there shall be collected,
as a part of the tax, interest upon the unpaid amount at the tax interest rate as
defined in KRS 131.010(6) from the date prescribed for its payment until payment
is actually made to the department.

(2) Interest shall be assessed, collected, and paid in the same manner as if it were a
deficiency.

For purposes of this section, any addition to tax provided in Section 9 of this Act
and KRS 141.305 shall be considered a penalty.

Section 18. KRS 154.60-040 is amended to read as follows:

(1) As used in this section:

(a) 1. "Agricultural assets" means:

a. Agricultural land which has been appraised by an individual
certified by the Real Estate Appraisers Board created under KRS
324A.015; and

b. Buildings, facilities, machinery, equipment, agricultural
products, or horticultural products, if:

i. Owned by the same selling farmer owning the agricultural
land sold to a beginning farmer;

ii. Purchased at the same time and in the same transaction with the agricultural land; and

iii. Purchased with the intent to be used on the purchased agricultural land.

2. "Agricultural assets" does not mean:

   a. A personal residence or any other residential structures; and

   b. Any agricultural assets that have been previously included in an approved application for the Kentucky selling farmer tax credit;

(b) "Agricultural land" means:

   1. Any land located entirely in Kentucky that is zoned or permitted for farming, if the jurisdiction where the land is located has enacted an ordinance for zoning or permitting; and

   2. a. Is a tract of land of at least ten (10) contiguous acres in area for a farming operation for agricultural products; or

      b. Is a tract of land of at least five (5) contiguous acres in area for a farming operation for aquaculture or horticultural products; owned by the selling farmer prior to the sale;

(c) "Agricultural products" means:

   1. Livestock or livestock products;

   2. Poultry or poultry products;

   3. Milk or milk products; or

   4. Field crops and other crops, including timber if approved by the authority;

(d) "Aquaculture" means the farming of fish, crustaceans, mollusks, aquatic plants, algae, or other similar organisms;

(e) "Farm product" means aquaculture, agricultural products, or horticultural
products;

(f) 1. "Farming operation" means the management and operation of agricultural assets for the purpose of pursuing a profitable commercial business venture to produce agricultural products, horticultural products, or both for sale.

2. "Farming operation" does not mean any:
   a. Hobby farm, as determined by the Internal Revenue Service;
   b. Nonprofit venture;
   c. Farm used primarily for storing agricultural products or horticultural products; or
   d. Farm used to grow or raise agricultural products or horticultural products primarily for use by the immediate family members or owners of the agricultural assets;

(g) "Horticultural products" means orchards, fruits, vegetables, nuts, flowers, or ornamental plants; and

(h) "Immediate family member" means any of the following in relation to any owner or spouse of the owner of the agricultural assets:
   1. Parent or grandparent;
   2. Children or their spouses; or
   3. Siblings or their spouses.

(2) Any incentive offered to an eligible company under the selling farmer tax credit program shall be negotiated by Cabinet for Economic Development officials and shall be subject to approval by the authority.

(3) The purpose of the selling farmer tax credit program is to promote the continued use of agricultural land in Kentucky for farming purposes by granting a tax credit to a selling farmer who agrees to sell agricultural assets to a beginning farmer.
Selling farmers wanting to sell agricultural assets may be eligible for a tax credit up to five percent (5%) of the selling price of qualifying agricultural assets, subject to:

(a) A twenty-five thousand dollar ($25,000) cap for each taxable year of the selling farmer;

(b) A one hundred thousand dollar ($100,000) lifetime cap for each selling farmer; and

(c) A proration by the authority based on the overall cap shared between the small business tax credit program and the selling farmer tax credit program cap of three million dollars ($3,000,000) under KRS 154.60-020.

The tax credit allowed in subsection (4) of this section may be claimed under Section 19 of this Act.

In order to be eligible to receive approval for a tax credit, a selling farmer shall [have], at a minimum:

(a) 1. a. Be registered with the Kentucky Secretary of State; and
   b. Be in good standing with the Kentucky Secretary of State; or

   2. If not required to be registered with the Kentucky Secretary of State, be a resident of Kentucky;

(b) Prior to a sale of agricultural assets, be a small business with fifty (50) or fewer full-time employees and be the sole legal owner of agricultural assets sold to a beginning farmer;

(c) Not be a farm equipment dealer, livestock dealer, or similar entity primarily engaged in the business of selling agricultural assets for profit and not engaged in farming as a primary business activity;

(d) Not be a bank or any other similar lending or financial institution;

(e) Not be:

   1. An owner, partner, member, shareholder, or trustee;
2. A spouse of an owner, partner, member, shareholder, or trustee;

3. An immediate family member of any of the owners, partners, members, shareholders, or trustees;

of the beginning farmer to whom the selling farmer is seeking to sell agricultural assets;

(f) 1. Demonstrate management and operation of real and personal property for the production of a farm product;

2. Execute and effectuate a purchase contract to sell agricultural land with a beginning farmer for an amount evidenced by an appraisal; and

(g) Sell, convey, and transfer ownership of related agricultural assets to a beginning farmer.

(7) In order for the selling farmer to qualify for the tax credit, a beginning farmer shall, at a minimum:

(a) 1. a. Be registered with the Kentucky Secretary of State; and

   b. Be in good standing with the Kentucky Secretary of State; or

   2. If not required to be registered with the Kentucky Secretary of State, be a resident of Kentucky;

(b) Possess all licenses, registrations, and experience needed to legally operate a farming operation within the jurisdiction for the agricultural land purchased from a selling farmer;

(c) Not previously have held an ownership interest in agricultural land used for a farming operation for a period exceeding ten (10) years prior to entering into an agreement to purchase agricultural assets from a selling farmer;

(d) Not have an ownership interest in any of the agricultural assets included in the transaction with the selling farmer; and
(e) Provide a majority of the management, and materially participate in the
operation of a for-profit farming operation located in Kentucky and
purchased from a selling farmer, with the intent to continue a for-profit
farming operation on the purchased agricultural land for a minimum of
five (5) years after the sale date.

(8) The selling farmer shall submit an application after consummation of the sale,
transfer of title, and conveyance of agricultural assets together with all information necessary for the authority to determine eligibility for the tax credit.

(9) An application for the selling farmer tax credit shall contain, at a minimum, information about the:
   (a) Selling farmer and purchasing beginning farmer eligibility;
   (b) Purchase contract and closing statement;
   (c) Documentation, such as a deed, title conveyance for the transfer of assets,
       including verification of Kentucky residency; and
   (d) Any other information the authority may require to determine eligibility for
       the credit.

(10) For each approved application, the authority shall transmit to the Department of
Revenue sufficient information about the selling farmer to ensure compliance
with this section and Section 19 of this Act, including the amount of approved tax
credit allowed to the selling farmer.

(11)(a) The maximum amount of the farmer small business tax credit for an
approved selling farmer in each calendar year shall not exceed twenty five
thousand dollars ($25,000) and shall be prorated based on factors determined
by the authority.

(b) The maximum amount of credit an individual may claim over a lifetime shall
not exceed one hundred thousand dollars ($100,000).
The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

Beginning January 1, 2020, the authority may approve selling farmer [farmer small business] tax credits [for selling farmers].

SECTION 19. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The selling farmers tax credit permitted by Section 18 of this Act:

(a) Shall be nonrefundable and nontransferable; and

(b) May be claimed against the taxes imposed in KRS 141.020 or 141.040 and 141.0401, with the ordering of the credit as provided in Section 20 of this Act.

(2) (a) The maximum amount of credit that may be claimed by a selling farmer in each taxable year is limited to:

1. No more than the total amount of credit approved by the Kentucky Economic Development Finance Authority;

2. Twenty-five thousand dollars ($25,000) in any taxable year; and

3. No more than one hundred thousand dollars ($100,000) total tax credit over the lifetime of the selling farmer.

(b) The credit shall be first claimed on the tax return for the taxable year during which the credit was approved.

(c) Any unused credit in a taxable year may be carried forward for up to five (5) taxable years and, if not utilized within the five (5) year period, shall be lost.

(3) In order for the General Assembly to evaluate the fulfillment of the purpose stated in Section 18 of this Act, the department shall provide the following information, on a cumulative basis, for each selling farmer, for each taxable year:

...
(a) The location, by county, of the agricultural assets sold to a beginning farmer and approved for a tax credit under Section 18 of this Act;

(b) The total amount of tax credit approved by the Kentucky Economic Development Finance Authority for each selling farmer;

(c) The amount of tax credit claimed for each selling farmer in each taxable year; and

(d) 1. In the case of all taxpayers other than corporations, based on ranges of adjusted gross income of no larger than five thousand dollars ($5,000) for the taxable year, the total amount of tax credits claimed and the number of returns claiming a tax credit for each adjusted gross income range; and

2. In the case of all corporations, based on ranges of net income no larger than fifty thousand dollars ($50,000) for the taxable year, the total amount of tax credit claimed and the number of returns claiming a tax credit for each net income range.

(4) The report required by subsection (3) of this section shall be submitted to the Interim Joint Committee on Appropriations and Revenue beginning no later than November 1, 2021, and no later than each November 1 thereafter, as long as the credit is claimed on any return processed by the department.

Section 20. KRS 141.0205 is amended to read as follows:

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

(1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The limited liability entity tax credit permitted by KRS 141.0401;
(b) The economic development credits computed under KRS 141.347, 141.381, 141.384, Section 19 of this Act, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;

c) The qualified farming operation credit permitted by KRS 141.412;

d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

e) The health insurance credit permitted by KRS 141.062;

(f) The tax paid to other states credit permitted by KRS 141.070;

g) The credit for hiring the unemployed permitted by KRS 141.065;

(h) The recycling or composting equipment credit permitted by KRS 141.390;

(i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(j) The research facilities credit permitted by KRS 141.395;

(k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The clean coal incentive credit permitted by KRS 141.428;

(o) The ethanol credit permitted by KRS 141.4242;

(p) The cellulosic ethanol credit permitted by KRS 141.4244;

(q) The energy efficiency credits permitted by KRS 141.436;

(r) The railroad maintenance and improvement credit permitted by KRS 141.385;

(s) The Endow Kentucky credit permitted by KRS 141.438;

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

(u) The distilled spirits credit permitted by KRS 141.389;

(v) The angel investor credit permitted by KRS 141.396;

(w) The film industry credit permitted by KRS 141.383 for applications approved
on or after April 27, 2018; and

(x) The inventory credit permitted by KRS 141.408; and

(y) The renewable chemical production credit permitted by Section 25 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069;

(d) The household and dependent care credit permitted by KRS 141.067; and

(e) The income gap credit permitted by KRS 141.066.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305;

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

(d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

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

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

(a) The economic development credits computed under KRS 141.347, 141.381,
141.384, **Section 19 of this Act.** 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;

(b) The qualified farming operation credit permitted by KRS 141.412;

c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

d) The health insurance credit permitted by KRS 141.062;

e) The unemployment credit permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

g) The coal conversion credit permitted by KRS 141.041;

(h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(j) The research facilities credit permitted by KRS 141.395;

(k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The clean coal incentive credit permitted by KRS 141.428;

(o) The ethanol credit permitted by KRS 141.4242;

(p) The cellulosic ethanol credit permitted by KRS 141.4244;

(q) The energy efficiency credits permitted by KRS 141.436;

(r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;

(s) The railroad maintenance and improvement credit permitted by KRS 141.385;

t) The railroad expansion credit permitted by KRS 141.386;

(u) The Endow Kentucky credit permitted by KRS 141.438;
(v) The New Markets Development Program credit permitted by KRS 141.434;

(w) The distilled spirits credit permitted by KRS 141.389;

(x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018; and

(y) The inventory credit permitted by KRS 141.408; and

(z) The renewable chemical production credit permitted by Section 25 of this Act.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

(a) The corporation estimated tax payment credit permitted by KRS 141.044;

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

(c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018.

Section 21. KRS 131.190 is amended to read as follows:

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

(2) The prohibition established by subsection (1) of this section shall not extend to:

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

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

c) Furnishing any taxpayer or his properly authorized agent with information respecting his own return;

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

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

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

(g) Providing information to a licensing agency, the Transportation Cabinet, or
the Kentucky Supreme Court under KRS 131.1817;

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

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

(j) Providing documents, data, or other information to a third party pursuant to an 
order issued by a court of competent jurisdiction; or

(k) Providing information to the Legislative Research Commission under:

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

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

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

4. KRS 148.544 for purposes of the film industry incentives;

5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization 
   tax credits and the job assessment fees;

6. KRS 141.068 for purposes of the Kentucky investment fund;

7. KRS 141.396 for purposes of the angel investor tax credit;

8. KRS 141.389 for purposes of the distilled spirits credit;

9. KRS 141.408 for purposes of the inventory credit;

10. KRS 141.390 for purposes of the recycling and composting credit;

11. Section 19 of this Act for purposes of the selling farmer tax credit; and

12. Section 25 of this Act for purposes of the renewable chemical 
production credit.

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

(4) Access to and inspection of information received from the Internal Revenue Service is for department use only, and is restricted to tax administration purposes. Information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, or any other person.

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

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

➤ Section 22. KRS 154.60-005 is amended to read as follows:

This subchapter shall be known as the small business tax credit and selling farmer tax credit programs program.
Section 23. KRS 154.60-020 is amended to read as follows:

(1) The authority shall develop a Small Business Development Credit Program in consultation with the Office of Entrepreneurship to assist new or existing small businesses operating in the Commonwealth. The nonrefundable credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall be as provided in KRS 141.0205.

(2) The authority shall determine the terms, conditions, and requirements for application for the credit, in consultation with the Office of Entrepreneurship, subject to the provisions of subsection (3) of this section. The application shall contain identification information about the number of eligible positions created and filled, a calculation of the base employment of the small business, verification of investment of five thousand dollars ($5,000) or more in qualifying equipment or technology, and other information the authority may specify to determine eligibility for the credit.

(3) (a) The maximum amount of credits that may be committed in each fiscal year by the authority and shared between the small business tax credit program and the selling farmer [farmer small business] tax credit program shall be capped at three million dollars ($3,000,000).

(b) In order to be eligible to receive final approval for a credit, a small business shall, within the twenty-four (24) month period immediately preceding the application submission date:

1. Create and fill one (1) or more eligible positions over the base employment; and

2. Invest five thousand dollars ($5,000) or more in qualifying equipment or technology.

(c) Each eligible position that is created and filled shall be maintained for twelve (12) months. If a full-time employee filling a newly created eligible position
ceases to be employed by the small business for any reason, that employee shall be replaced within forty-five (45) days in order for the eligible position to maintain its eligible status, in addition to meeting all other applicable requirements.

(d) The small business shall submit all information necessary for the authority to determine credit eligibility for each year, and the amount of credit for which the small business is eligible.

(e) The maximum amount of credit for each small business for each year shall not exceed twenty-five thousand dollars ($25,000).

(f) The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

SECTION 24. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) (a) The department shall create and administer the renewable chemical production program by promulgating administrative regulations under KRS Chapter 13A and authorizing tax credits for that production.

(b) The department may consult with the chemical engineering departments of any university to create and administer the renewable chemical production program that may best serve this Commonwealth.

(c) The department shall coordinate with the Department of Revenue related to awarding tax credits while remaining within the annual biodiesel, renewable diesel, and renewable chemical tax credit cap provided in Section 26 of this Act.

(2) To be eligible for receiving the renewable chemical production tax credit under Section 25 of this Act, a business shall:

(a) Be physically located in this state:
(b) Operate for profit;

(c) Organize, expand, or locate in this state on or after July 1, 2020;

(d) 1. Create new jobs and retain those jobs for at least four (4) years; or

2. Invest a substantial amount of new capital in the Commonwealth and maintain that capital for at least four (4) years;

(e) Certify to the department:

1. That the business:

   a. Has not applied for and will not receive economic development incentives under KRS Chapter 154 for the jobs created or capital investment made under the renewable chemical production program; and

   b. Is in compliance with all agreements entered into under the renewable chemical production program or other programs administered by the department; and

2. The date that the business first qualified as an eligible business;

(f) Not provide professional services, health care services, medical treatments, or engage in retail operations; and

(g) Not relocate operations from another area of the state or reduce operations in another area of the state while seeking this incentive. To determine whether a project meets the requirement under this paragraph, the department shall:

1. Consider a project that does not create new jobs or invest a substantial amount of new capital a relocation or reduction in operations; and

2. Require sufficient data from the business related to jobs created and the amount of substantial capital investment before the business applies for this incentive and for four (4) years following the approval of this incentive to ensure that new jobs or substantial capital
investment have occurred and remain productive in this state;

(3) (a) Before being approved for the tax credit permitted by Section 25 of this Act, an eligible business shall enter into an agreement with the department for the successful completion of all requirements of the program.

(b) As part of the agreement, the eligible business shall agree to:

1. Collect and provide all information required by the department, allowing the department and the Department of Revenue to maintain the annual tax credit cap and to fulfill each of the reporting and compliance obligations under this section and Section 25 of this Act; and

2. Agree to allow information about the production of renewable chemicals and the related tax credit to be shared with the Interim Joint Committee on Appropriations and Revenue.

(c) The business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business.

(4) (a) The department may impose a nonrefundable compliance cost fee of five hundred dollars ($500), collected by the department at the time a business applies for participation in the program.

(b) An eligible business shall fulfill all the requirements of the program and the agreement before receiving a tax credit or entering into a subsequent agreement under this section.

(c) The department may decline to enter into a subsequent agreement under this section or award a tax credit if an agreement is not successfully fulfilled.

(5) (a) After the production of renewable chemicals by an eligible business, the business shall apply, in the manner prescribed by the department, for the renewable chemicals tax credit. The application shall include the following
information:

1. A description of the renewable chemicals produced in this state;

2. The amount or volume of renewable chemicals produced;

3. The costs associated with the production of the renewable chemicals;

4. The amount of gross receipts generated by the sale of the renewable chemicals; and

5. Any other information required by the department in order to establish and verify eligibility under the program.

(b) The department may accept applications on a continuous basis or may establish, by administrative regulation, an annual application deadline.

(6) Upon establishing that all requirements of the program and the agreement have been fulfilled, the department shall certify the amount of preliminary tax credit for the applicant to the Department of Revenue.

(7) (a) The department shall work with the Department of Revenue to provide all information necessary to ensure compliance with KRS Chapter 141 by the successful tax credit applicant.

(b) On or before December 31, 2020, and on or before each December 31 thereafter, the department shall submit to the Department of Revenue all information received from each eligible business related to the renewable chemical tax credit.

(c) When the Department of Revenue receives the information provided under paragraph (b) of this subsection, the Department of Revenue shall consider the renewable chemical tax credit applications together with the total amount of approved credit for all biodiesel producers, biodiesel blenders, and renewable diesel producers required in Section 27 of this Act.

(8) The renewable chemical production program shall sunset on December 31, 2024.

(9) (a) Failure to fulfill any requirement of the program or any of the terms and
obligations of an agreement entered into under this section by an eligible business shall:

1. Result in the rescission of the tax credit permitted by Section 25 of this Act by the department; and

2. Subject the eligible business to the repayment of all tax credits claimed.

(b) Upon the rescission of any tax credit, the department shall report to the Department of Revenue, within thirty (30) days, all information necessary by the Department of Revenue to ensure compliance with KRS Chapter 141.

SECTION 25. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) (a) An eligible business that:

1. Has entered into an agreement under subsection (3) of Section 24 of this Act;

2. Receives certification from the Department of Agriculture of the preliminary tax credit under subsection (6) of Section 24 of this Act; and

3. Receives authorization from the department regarding the amount of tax credit that is allowed;

may claim the renewable chemical production tax credit in an amount equal to the amount authorized by the department as provided in Section 27 of this Act.

(b) For taxable years beginning on or after January 1, 2021, the renewable chemical production tax credit shall be nonrefundable, nontransferable, and allowed against taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits as provided in Section 20 of this Act.
(c) 1. Any amount of credit that a taxpayer is unable to utilize during a taxable year may be carried forward for use in a succeeding taxable year for a period not to exceed three (3) taxable years.

2. Any amount of credit not used within the three (3) taxable years shall be lost.

3. No amount of credit may be carried back to a prior taxable year by any taxpayer.

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

(3) If the Department of Agriculture rescinds any tax credit under subsection (9) of Section 24 of this Act, the repayment of any tax credit by the taxpayer shall be:

(a) Considered a tax payment due and payable to the Kentucky State Treasurer;

and

(b) Collected by the department in the same manner as failure to pay the tax shown due or required to be shown due with the filing of that return.

(4) (a) In order for the General Assembly to evaluate the renewable chemical tax credit program, the department, in cooperation with the Department of Agriculture, shall submit to the Interim Joint Committee on Appropriations and Revenue a cumulative report describing the activities of the program by taxable year.

(b) The report shall include:

1. The aggregate number of pounds, by each type of renewable chemicals produced in this state, for all successful tax credit applicants under the program;

2. The aggregate gross receipts from sales, by each type of renewable

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chemicals produced in this state, for all successful tax credit applicants under the program;

3. The number of employees located in this state of all successful tax credit applicants during the calendar year immediately preceding the calendar year for which the successful applicants first applied for a tax credit under the program;

4. The number of employees located in this state of all successful tax credit applicants during each calendar year that the tax credit is claimed;

5. The number of tax credit certificates and aggregate amount of tax credits awarded under the program for each calendar year; and

6. For each eligible business issued a renewable chemical production tax credit during each taxable year:
   a. The county within which the eligible business is producing the renewable chemical;
   b. The amount of the tax credit claimed by the eligible business;
   c. The manner in which the eligible business first qualified as an eligible business, whether by organizing, expanding, or locating in this state;
   d. The amount of renewable chemical production tax credit claimed during each taxable year; and
   e. Any repayment of incentives by the business, if the business does not meet the requirements of the agreement.

➤ Section 26. KRS 141.422 is amended to read as follows:

As used in KRS 141.422 to 141.425:

(1) "Annual biodiesel and renewable diesel tax credit cap" means:

(a) For calendar years beginning prior to January 1, 2008, one million five
hundred thousand dollars ($1,500,000);

(b) For the calendar year beginning on January 1, 2008, five million dollars ($5,000,000);[and]

c) For calendar years beginning on or after January 1, 2009, **but before January 1, 2021**, ten million dollars ($10,000,000);

(2) "Annual biodiesel, renewable diesel, and renewable chemical tax credit cap" means, for calendar years beginning on or after January 1, 2021, ten million dollars ($10,000,000);

(3) "Annual cellulosic ethanol tax credit cap" means five million dollars ($5,000,000), unless the annual cellulosic ethanol tax credit cap is modified pursuant to KRS 141.4248, in which case the cap established by KRS 141.4248 shall be the annual cellulosic ethanol tax credit cap for that year. Any adjustments to the annual cellulosic ethanol tax credit cap made pursuant to KRS 141.4248 shall be made on an annual basis and shall not carry forward to subsequent years;

(4) "Annual ethanol tax credit cap" means five million dollars ($5,000,000), unless the annual credit cap is modified pursuant to KRS 141.4248, in which case the cap established by KRS 141.4248 shall be the annual ethanol tax credit cap for that year. Any adjustments to the annual ethanol tax credit cap made pursuant to KRS 141.4248 shall be made on an annual basis and shall not carry forward to subsequent years;

(5) "Biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid that is derived from agriculture crops, agriculture plant oils, agriculture residues, animal fats, or waste products that meets current American Society for Testing and Materials specification D6751 for biodiesel fuel (B100) blend stock distillate fuels;

(6) "Biodiesel producer" means an entity that manufactures biodiesel at a location in this Commonwealth;
"Cellulosic ethanol" means ethyl alcohol for use as motor fuel that meets the current American Society for Testing and Materials specification D4806 for ethanol that is produced from cellulosic biomass materials of any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including:

(a) Plant wastes from industrial processes such as sawdust and paper pulp;
(b) Energy crops grown specifically for fuel production such as switchgrass; or
(c) Agricultural plant residues such as corn stover, rice hulls, sugarcane, and cereal straws;
"Cellulosic ethanol producer" means an entity that uses cellulosic biomass materials to manufacture cellulosic ethanol at a location in this Commonwealth;
"Blended biodiesel" means a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater);
"Ethanol" means ethyl alcohol produced from corn, soybeans, or wheat for use as a motor fuel that meets the current American Society for Testing and Materials specification D4806 for ethanol;
"Ethanol-based tax credits" means the cellulosic ethanol tax credit provided for in KRS 141.4244 and the ethanol tax credit provided for in KRS 141.4242;
"Ethanol producer" means an entity that uses corn, soybeans, or wheat to manufacture ethanol at a location in this Commonwealth;
"Renewable diesel" means a renewable, biodegradable, non-ester combustible liquid that:
(a) Is derived from biomass resources as defined in KRS 152.715; and
(b) Meets the current American Society for Testing and Materials Specification D396 for fuel oils intended for use in various types of fuel-oil-burning equipment; D975 for diesel fuel oils suitable for various types of diesel fuel engines; or D1655 for aviation turbine fuels; and
"Renewable diesel producer" means an entity that manufactures renewable
Section 27. KRS 141.423 is amended to read as follows:

(1) (a) A biodiesel producer, biodiesel blender, or renewable diesel producer shall be entitled to a nonrefundable tax credit against the taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 in an amount certified by the department under subsection (4) of this section.

(b) The credit rate shall be:

1. One dollar ($1) per biodiesel gallon produced by a biodiesel producer;

2. One dollar ($1) per gallon of biodiesel used in the blending process by a biodiesel blender and

3. One dollar ($1) per gallon of renewable diesel produced by a renewable diesel producer;

unless the total amount of approved credit for all biodiesel producers, biodiesel blenders, and renewable diesel producers exceeds the annual biodiesel and renewable diesel tax credit cap for calendar years beginning prior to January 1, 2021, or the annual biodiesel, renewable diesel, and renewable chemical tax credit cap for calendar years beginning on or after January 1, 2021.

(c) For calendar years beginning prior to January 1, 2021, if the total amount of approved credit for all biodiesel producers, biodiesel blenders, and renewable diesel producers exceeds the annual biodiesel and renewable diesel tax credit cap, the department shall determine the amount of credit each biodiesel producer, biodiesel blender, and renewable diesel producer receives by multiplying the annual biodiesel and renewable diesel tax credit cap by a fraction, the numerator of which is the amount of approved credit for the biodiesel producer, biodiesel blender, and renewable diesel producer and the denominator of which is the total approved credit for all biodiesel producers,
biodiesel blenders, and renewable diesel producers.

(d) For calendar years beginning on or after January 1, 2021, if the total amount of approved credit for all biodiesel producers, biodiesel blenders, renewable diesel producers, and renewable chemical producers exceeds the annual biodiesel, renewable diesel, and renewable chemical tax credit cap, the department shall determine the amount of credit each biodiesel producer, biodiesel blender, renewable diesel producer, and renewable chemical producer receives by multiplying the annual biodiesel, renewable diesel, and renewable chemical tax credit cap by a fraction, the numerator of which is the amount of approved credit for each producer and the denominator of which is the total approved credit for all producers.

(e)(b) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.

(2) Re-blending of blended biodiesel shall not qualify for the credit provided under this section.

(3) The credit allowed in subsection (1) of this section shall not be carried forward to a return for any other period.

(4) (a) Each biodiesel producer, biodiesel blender, and renewable diesel producer eligible for the credit provided under subsection (1) of this section shall file a tax credit claim for biodiesel gallons produced or blended in this state or for renewable diesel produced in this state on forms prescribed by the department by the fifteenth day of the first month following the close of the preceding calendar year.

(b) The department shall determine the amount of the approved credit based on the amount of biodiesel produced, biodiesel blended, renewable diesel
produced, **or renewable chemical produced** in this state during the preceding calendar year and issue a credit certificate to the biodiesel producer, biodiesel blender, **or renewable chemical producer** by the fifteenth day of the fourth month following the close of the calendar year.

(5) In the case of a biodiesel producer, biodiesel blender, **or renewable chemical producer** that has a fiscal year end for purposes of computing the tax imposed by KRS 141.020, 141.040, and 141.0401, the amount of approved credit shall be claimed on the return filed for the first fiscal year ending after the close of the preceding calendar year.

**Section 28.** KRS 141.0101 is amended to read as follows:

(1) (a) The provisions of subsections (2) to (11) of this section shall apply to taxable years beginning before January 1, 1994.

(b) The provisions of subsections (12) to (15) of this section shall apply to taxable years beginning after December 31, 1993.

(c) The provisions of subsection (16) of this section apply to property placed in service after September 10, 2001.

(2) For property placed in service prior to January 1, 1990, in lieu of the depreciation and expense deductions allowed under Internal Revenue Code Sections 168 and 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and tear, and obsolescence of property used in a trade or business shall be allowed and computed as set out in subsections (3) to (11) of this section. For property placed in service after December 31, 1989, the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code shall be allowed.

(3) Effective August 1, 1985, "reasonable allowance" as used in subsection (2) of this section shall mean depreciation computed in accordance with Section 167 of the Internal Revenue Code and related regulations in effect on December 31, 1980, for all property placed in service on or after January 1, 1981, except as provided in
subsections (6) to (8) of this section.

(4) Depreciation of property placed in service prior to January 1, 1981, shall be computed under Section 167 of the Internal Revenue Code, and the method elected thereunder at the time the property was first placed in service or as changed with the approval of the Commissioner of Internal Revenue Service or as required by changes in federal regulations.

(5) Taxpayers other than corporations shall be allowed to deduct as depreciation on recovery property placed in service before August 1, 1985, an amount calculated under Section 168 of the Internal Revenue Code subject to the provisions of subsections (6) and (8) of this section. Corporations with a taxable year beginning on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for depreciation on recovery property placed in service prior to August 1, 1985, using either of the following alternative methods:

(a) Dividing the total of the deductions allowed under Internal Revenue Code Section 168 by one and four tenths (1.4); and

(b) Calculating the deduction that would be allowed or allowable under the provisions of Section 167 of the Internal Revenue Code.

(6) Recovery property placed in service on or after January 1, 1981, and before August 1, 1985, and subject to transition under subsection (8) of this section, shall be subject to depreciation under Section 167 of the Internal Revenue Code, restricted to the straight line method therein provided over the remaining useful life of such assets.

(7) Depreciation of property placed in service on or after August 1, 1985, shall be computed under Section 167 of the Internal Revenue Code.

(8) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost Recovery System (ACRS) depreciation, to the depreciation allowed or allowable under this section shall be reported in the first taxable year beginning on or after
August 1, 1985. To implement the transition, the following adjustments shall be made:

(a) Taxpayers other than corporations shall use the adjusted Kentucky basis for property placed in service on or after January 1, 1981. "Adjusted Kentucky basis" means the basis used for determining depreciation under Section 168 of the Internal Revenue Code less the allowed or allowable depreciation and adjustment for election to expense an asset (Section 179 of the Internal Revenue Code);

(b) Corporations shall adjust the federal unadjusted basis by increasing such basis by the ACRS depreciation not allowed as a deduction in determining Kentucky net income for tax years beginning after June 30, 1984, less allowed or allowable ACRS depreciation for federal income tax purposes. Corporations will not be permitted to adjust the basis by the ACRS depreciation not allowed for Kentucky income tax purposes in tax years beginning on or before June 30, 1984.

(9) A taxpayer may elect to treat the cost of property placed in service on or before July 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1981, except that the aggregate cost which may be expensed for corporations shall not exceed five thousand dollars ($5,000). A taxpayer may elect to treat the cost of property placed in service on or after August 1, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1980. Computations, limitations, definitions, exceptions, and other provisions of Section 179 of the Internal Revenue Code and related regulations shall be construed to govern the computation of the allowable deduction.

(10) Upon the sale, exchange, or disposition of any depreciable property placed in service on or after January 1, 1981, capital gains or losses and the amount of ordinary income determined under the provisions of the Internal Revenue Code
shall be computed for Kentucky income tax purposes as follows:

(a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced by any basis adjustment made by the taxpayer under Section 48(q)(1) of the Internal Revenue Code and any expense allowed and utilized under Section 179 of the Internal Revenue Code (First Year Expense) in determining Kentucky net income in prior years, and

(b) Compute the adjusted basis by subtracting the depreciation allowed or allowable for Kentucky income tax purposes from the unadjusted basis, except corporations will not be permitted to adjust the basis of assets by the ACRS depreciation not allowed for Kentucky income tax purposes in the tax years beginning on or before June 30, 1984, and

(c) Compute the gain or loss by subtracting the adjusted basis from the value received from the disposition of the depreciable property, and

(d) Compute the recapture of depreciation required under Sections 1245 through 1256 of the Internal Revenue Code and related regulations, and

(e) Unless otherwise provided in this subsection the provisions of the Internal Revenue Code and related regulations governing the determination of capital gains or losses shall apply for Kentucky income tax purposes.

(11) Unless otherwise provided by this chapter, the basis of property placed in service prior to January 1, 1990, for purposes of Kentucky income tax shall be the basis, adjusted or unadjusted, required to be used under Section 167 of the Internal Revenue Code in effect on December 31, 1980.

(12) As used in this subsection to subsection (14) of this section:

(a) "Transition property" means any property placed in service before the first day of the first taxable year beginning after December 31, 1993, and owned by the taxpayer on the first day of the first taxable year beginning after December 31, 1993.
(b) "Adjusted Kentucky basis" means the amount computed in accordance with the provisions of paragraph (b) of subsection (10) of this section for transition property.

(c) "Adjusted federal basis" means the original cost, or, in the case of Section 338 property, the adjusted grossed-up basis of transition property less:

1. Any basis adjustments required by the Internal Revenue Code for credits; and

2. The total accumulated depreciation and election to expense deductions allowed or allowable for federal income tax purposes.

(d) "Section 338 property" means property to which an adjusted grossed-up basis has been allocated pursuant to a valid election made by a purchasing corporation under the provisions of Section 338 of the Internal Revenue Code.

(e) "Transition amount" means the net difference between the adjusted Kentucky basis and the adjusted federal basis of all transition property determined as of the first day of the first taxable year beginning after December 31, 1993.

(13) For taxable years beginning after December 31, 1993, the amounts of depreciation and election to expense deductions, allowed or allowable, the basis of assets, adjusted or unadjusted, and the gain or loss from the sale or other disposition of assets shall be the same for Kentucky income tax purposes as determined under Chapter 1 of the Internal Revenue Code.

(14) For taxable years beginning after December 31, 1993, the transition amount computed in accordance with the provisions of paragraph (e) of subsection (12) of this section shall be reported by the taxpayer as follows:

(a) In the first taxable year beginning after December 31, 1993, and the eleven (11) succeeding taxable years, the taxpayer shall include in gross income one-twelfth (1/12) of the transition amount if:

1. The adjusted federal basis of transition property exceeds the adjusted
Kentucky basis of transition property;

2. The transition amount exceeds five million dollars ($5,000,000);

3. The transition amount includes property for which an election was made under Section 338 of the Internal Revenue Code; and

4. The taxpayer elects the provisions of this paragraph with the filing of an amended income tax return for the first taxable year beginning after December 31, 1993.

(b) In the first taxable year beginning after December 31, 1993 and the three (3) succeeding taxable years, if the transition amount exceeds one hundred thousand dollars ($100,000), or if the transition amount does not exceed one hundred thousand dollars ($100,000) and the taxpayer elects the provision of this paragraph with the filing of the income tax return for the first taxable year beginning after December 31, 1993, the taxpayer shall:

1. Deduct from gross income twenty-five percent (25%) of the transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or

2. Add to gross income twenty-five percent (25%) of the transition amount if the adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property.

(c) In the first taxable year beginning after December 31, 1993, if the transition amount does not exceed one hundred thousand dollars ($100,000) and the taxpayer does not elect the provisions of paragraph (b) of this subsection, the taxpayer shall:

1. Deduct from gross income the total transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or

2. Add to gross income the total transition amount if the adjusted federal
basis of transition property exceeds the adjusted Kentucky basis of transition property.

(15) Notwithstanding any other provision of this section to the contrary, any qualified farming operation, as defined in KRS 141.410, shall be allowed to compute the depreciation deduction for new buildings and equipment purchased to enable participation in a networking project, as defined in KRS 141.410, on an accelerated basis at two (2) times the rate that would otherwise be permitted under the provisions of this section. The accumulated depreciation allowed under this subsection shall not exceed the taxpayer’s basis in such property.

(16) (a) For property placed in service after September 10, 2001, only the depreciation deduction allowed under Section 168 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed.

(b) For property placed in service after September 10, 2001, but prior to January 1, 2020, only the expense deduction allowed under Section 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed.

(c) For property placed in service on or after January 1, 2020, only the expense deduction allowed under Section 179 of the Internal Revenue Code in effect on December 31, 2003, exclusive of any amendments made subsequent to that date, shall be allowed, except that the phase-out provisions of Section 179 of the Internal Revenue Code, limiting the qualifying investment in property, shall not apply.

➔ Section 29. KRS 224.50-868 is amended to read as follows:

(1) As used in this section:

(a) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways that is self-propelled, including a low-
speed motor vehicle as defined in KRS 186.010;

(b) "Semitrailer" means any vehicle:

1. Designed:
   a. As temporary living quarters for recreation, camping, or travel;
   or
   b. For carrying persons or property;

2. Designed for being drawn by a motor vehicle; and

3. Constructed that:
   a. Some part of its weight; or
   b. Some part of its load;
   rests upon or is carried by another vehicle; and

(c) "Trailer" means any vehicle:

1. Designed:
   a. As temporary living quarters for recreation, camping, or travel;
   or
   b. For carrying persons or property;

2. Designed for being drawn by a motor vehicle; and

3. Constructed that:
   a. No part of its weight; and
   b. No part of its load;
   rests upon or is carried by another vehicle.

(2) (a) 1. Prior to July 1, 2018, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar ($1) fee at the time of the purchase of that tire. The fee shall not be subject to the Kentucky sales tax.

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

3. **Beginning July 1, 2020, but prior to July 1, 2024, a fee is hereby**
   **imposed upon a retailer at the rate of two dollars ($2) for each new**
   **motor vehicle, trailer, or semitrailer tire sold in Kentucky. The fee**
   **shall be subject to the Kentucky sales tax.**

4. A retailer may pass the fee imposed by this paragraph on to the
   purchaser of the new tire.

   (b) **A new tire is a tire that has never been placed on a motor vehicle,**
       **trailer, or semitrailer wheel rim.**

   2. **A new tire is not a tire placed on a motor vehicle, trailer, or**
       **semitrailer prior to its original retail sale or a recapped tire.**

   (c) The term "motor vehicle" as used in this section shall mean "motor vehicle" as
defined in KRS 138.450.

(3) When a retailer sells a new motor vehicle tire in Kentucky to replace another
tire, the tire that is replaced becomes a waste tire subject to the waste tire program.
The retailer shall encourage the purchaser of the new tire to leave the waste tire with
the retailer or meet the following requirements:

   (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);

   (b) Deliver the waste tire to a person registered in accordance with the waste tire
       program; or

   (c) Reuse the waste tire for its original intended purpose or an agricultural
       purpose.

(4) (a) A retailer shall report to the Department of Revenue on or before the
twentieth day of each month the number of new motor vehicle tires sold
during the preceding month and the number of waste tires received from
customers that month.
(b) The report shall be filed on forms and contain information as the Department of Revenue may require.

(c) The retailer shall be allowed to retain an amount equal to five percent (5%) of the fees due, provided the amount due is not delinquent at the time of payment.

A retailer shall:

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

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

1. The retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section; and

2. The two dollar ($2) new tire fee is used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires.

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

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

The cabinet shall, in conjunction with the Waste Tire Working Group, develop the informational fact sheet to be made publicly available on the cabinet's Web site and available in print upon request. The fact sheet shall identify ways to properly dispose of the waste tire and present information on the problems caused by improper waste tire disposal.
Section 30. KRS 224.50-855 is amended to read as follows:

(1) The Waste Tire Working Group is hereby established and shall be attached to the cabinet for administrative purposes and staff support.

(2) The Waste Tire Working Group shall have the following eight (8) members:

(a) The director of the Division of Waste Management or his or her designee who shall be an ex officio member and also serve as chair;

(b) The manager of the Recycling and Local Assistance Branch within the Division of Waste Management or his or her designee who shall be an ex officio member;

(c) One (1) representative of the Kentucky Department of Agriculture, to be selected by the Commissioner of Agriculture and appointed by the Governor for an initial term of two (2) years and who may be reappointed;

(d) Two (2) representatives of the Solid Waste Coordinators of Kentucky selected by the Solid Waste Coordinators of Kentucky and appointed by the Governor for an initial term of three (3) years and who may be reappointed;

(e) One (1) county judge/executive appointed by the Governor from a list of three (3) nominees submitted by the Kentucky County Judge/Executive Association for an initial term of three (3) years and who may be reappointed;

(f) One (1) mayor of a Kentucky city appointed by the Governor from a list of three (3) nominees submitted by the Kentucky League of Cities; and

(g) One (1) representative of private industry engaged in the business of retail tire sales appointed by the Governor for an initial term of three (3) years and who may be reappointed.

(3) The members of the Waste Tire Working Group identified in paragraphs (c), (d), (e), (f), and (g) of subsection (2) of this section shall receive travel-related expenses but no salary as compensation.

(4) The first meeting of the Waste Tire Working Group shall be no later than August
15, 2011. The working group shall meet at least twice a year or more frequently at
the call of the chair.

(5) The Waste Tire Working Group shall:

(a) Provide advice and input to the cabinet regarding:

1. The administration and implementation of alternative methods for
   controlling the local accumulation of waste tires;

2. Developing the concept of a core fee for waste tires;

3. Improving the manifest system that tracks tires from point of sale to
   point of disposal;

4. Developing ways to assist local governments with direct grants for waste
tire disposal; and

5. Developing an informational fact sheet on proper waste tire disposal
   under KRS 224.50-868(3) and (8) to be made
   available on the cabinet's Web site and available in print upon request;

(b) Serve as an advisory body to the cabinet in the development of a formula that
   the cabinet will use to apportion the money in the waste tire trust fund
   established by KRS 224.50-880 for crumb rubber grants, tire amnesties, and
   tire-derived fuel, and to return a portion of the waste tire funds to local
   governments during Commonwealth Cleanup Week for waste tire disposal;
   and

(c) Provide advice and input to the cabinet on the data development and
   preparation of the waste tire report mandated under KRS 224.50-872.

Section 31. KRS 224.60-130 is amended to read as follows:

(1) The Energy and Environment Cabinet, Department for Environmental Protection,
Division of Waste Management, shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures
   to administer the financial responsibility and petroleum storage tank accounts
of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks. The division may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the division for reimbursement from the fund for the performance of corrective action. At a minimum, the division shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the division shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The division may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or
operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the division. To ensure cost effectiveness, the division shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent ($0.004) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the division;

(d) Establish a small operator assistance account within the fund which may be used by the division to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from
eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2028. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent ($0.01) from the one and four-tenths cent ($0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the division shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The division shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the division shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the division regarding the payment of claims from the fund in accordance with KRS 224.10-410 to 224.10-470;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the division, for determining an
appropriate reserve in the financial responsibility account and the petroleum
storage tank account sufficient to satisfy the obligations in each account for all
eligible facilities and to satisfy future liabilities and expenses necessary to
operate each account. The division shall, by administrative regulation, set the
entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-
105 to 224.60-160, including reasonable costs of administering the fund, the
procurement of legal services, and the procurement of analytical testing
services when necessary to confirm the accuracy of analytical testing results
obtained by a petroleum storage tank owner or operator. The expenditures
shall be paid from the appropriate account;

(j) Establish a small operators' tank removal account within the fund to reimburse
the reasonable cost of tank system removal for small owners and operators.
The account shall not be used when an owner or operator is removing the tank
with the intention of replacing or upgrading the tank. In promulgating
administrative regulations to carry out this paragraph, the division may
distinguish among owners and operators based on income and types and
classes of tanks. The division shall not place a limit on the number of tanks
that an owner or operator has in order to be eligible to participate in the
program and receive reimbursement under this paragraph;

(k) Establish by administrative regulation the policy, guidelines, and procedures
to perform financial audits of any petroleum storage tank owner or operator
receiving reimbursement from the fund or any entity contracting or
subcontracting to provide corrective action services for facilities eligible for
fund reimbursement. Financial audits shall be limited to those files, records,
computer records, receipts, and other documents related to corrective action
performed at a facility where the costs of corrective action have been
reimbursed by the fund. Files, records, computer records, receipts, and other
documents related to corrective action reimbursed by the fund shall be subject
to a financial audit for a period of three (3) years after the date of final
reimbursement from the fund. Results of the audits shall be protected from
disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may
be contracted for or personnel may be employed as needed to implement the
requirements of this paragraph;

(l) Be authorized to enter and inspect any facility intending to seek
reimbursement for the cost of corrective action to determine the
reasonableness and necessity of the cost of corrective action. The division may
collect soil or water samples or require storage tank owners or operators to
split samples with the division for analytical testing. Refusal to allow entry
and inspection of a facility or refusal to allow the division to collect or split
samples shall make the facility ineligible for fund participation;

(m) Have inspectors on site at all tank system removals. Failure to comply with
this provision shall make the facility ineligible for fund participation. A
petroleum storage tank owner or operator may request through certified mail
that the division schedule an inspector to be present at an upcoming tank
removal. If the request is made at least two (2) weeks before the time for the
removal and an inspector fails to be present at the time scheduled, the tank
removal may proceed without making the facility ineligible for fund
participation unless the owner is notified by the division no later than ten (10)
days prior to the proposed date that an inspector is not available on the
proposed date, in which event a representative of the division shall contact the
operator and schedule a new date. If no inspector is present at the rescheduled
date, the removal may then proceed without penalty; and

(n) Establish that the deadline for submission of final reimbursement requests
under the petroleum storage tank account is two (2) years after receipt of a no

further action letter.

(2) The division may advise the cabinet on the promulgation of administrative
regulations concerning petroleum storage tanks.

(3) The division may sue and be sued in its own name.

(4) The division may transfer funds from the petroleum storage tank account to the

small operator tank removal account as needed to satisfy the obligations, future

liabilities, and expenses necessary to operate that account. The division may transfer

funds to the financial responsibility account as needed to maintain within that

account sufficient funds to demonstrate financial responsibility and to ensure

payment of claims as provided in subsection (1)(c) of this section.

Section 32. KRS 224.60-142 is amended to read as follows:

(1) To be eligible to participate in the fund, the owner of any petroleum storage tank
containing motor fuels installed and placed in operation after July 15, 2004, shall
register the petroleum storage tank with the cabinet as required by KRS 224.60-105
prior to applying for participation in the financial responsibility account.

(2) The owner of any petroleum storage tank containing motor fuels currently existing,
or removed from the ground after January 1, 1974, shall register the petroleum
storage tank containing motor fuels with the cabinet prior to applying to the fund,
and shall register the petroleum storage tank containing motor fuels by July 15,
2021. Owners or operators may submit affidavits and applications relevant to

current petroleum storage tank accounts through July 15, 2025.

Section 33. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum
environmental assurance fee to be paid by dealers on each gallon of gasoline and

special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2) and all credits detailed in KRS 138.358
are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Department of Revenue at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at one and four-tenths cent ($0.014) for each gallon. Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the Department of Revenue's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Department of Revenue by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Department of Revenue shall refund the fee imposed by KRS 224.60-145(1) to
any person who paid the fee provided they are entitled to a refund of motor fuel tax
under KRS 138.344 to KRS 138.355 and to any person who paid the fee on
transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606,
139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142,
and this section to the contrary, the small operator assistance account and small
operator tank removal account established under KRS 224.60-130 shall continue in
effect until July 15, 2025, and thereafter until all eligible claims related to
tanks registered by that date are resolved, and sufficient money shall be allocated to
and maintained in that account to assure prompt payment of all eligible claims, and
to provide for removal of tanks for eligible owners and operators as directed by this
chapter.

Section 34. KRS 139.010 is amended to read as follows:

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

(1) (a) "Admissions" means the fees paid for:

1. The right of entrance to a display, program, sporting event, music
   concert, performance, play, show, movie, exhibit, fair, or other
   entertainment or amusement event or venue; and

2. The privilege of using facilities or participating in an event or activity,
   including but not limited to:

   a. Bowling centers;
   b. Skating rinks;
   c. Health spas;
   d. Swimming pools;
   e. Tennis courts;
   f. Weight training facilities;
   g. Fitness and recreational sports centers; and
h. Golf courses, both public and private;
regardless of whether the fee paid is per use or in any other form,
including but not limited to an initiation fee, monthly fee, membership
fee, or combination thereof.

(b) "Admissions" does not include:

1. Any fee paid to enter or participate in a fishing tournament; or
2. Any fee paid for the use of a boat ramp for the purpose of allowing boats
to be launched into or hauled out from the water;

(2) "Advertising and promotional direct mail" means direct mail the primary purpose of
which is to attract public attention to a product, person, business, or organization, or
to attempt to sell, popularize, or secure financial support for a product, person,
business, or organization. As used in this definition, "product" means tangible
personal property, an item transferred electronically, or a service;

(3) "Business" includes any activity engaged in by any person or caused to be engaged
in by that person with the object of gain, benefit, or advantage, either direct or indirect;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Department" means the Department of Revenue;

(6) (a) "Digital audio-visual works" means a series of related images which, when
shown in succession, impart an impression of motion, with accompanying
sounds, if any.

(b) "Digital audio-visual works" includes movies, motion pictures, musical
videos, news and entertainment programs, and live events.

(c) "Digital audio-visual works" shall not include video greeting cards, video
games, and electronic games;

(7) (a) "Digital audio works" means works that result from the fixation of a series of
musical, spoken, or other sounds.
(b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.

(c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;

(8) (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.

(b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;

(9) (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.

(b) "Digital code" shall not include a code that represents:

1. A stored monetary value that is deducted from a total as it is used by the purchaser; or

2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;

(10) (a) "Digital property" means any of the following which is transferred electronically:

1. Digital audio works;

2. Digital books;

3. Finished artwork;

4. Digital photographs;
5. Periodicals;
6. Newspapers;
7. Magazines;
8. Video greeting cards;
9. Audio greeting cards;
10. Video games;
11. Electronic games; or
12. Any digital code related to this property.

(b) "Digital property" shall not include digital audio-visual works or satellite radio programming;

(11) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address;

(12) "Directly used in the manufacturing or industrial processing process" means the process that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;

(13) (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property or digital
property according to the terms of the contract if:

1. The service contract agreement is sold or purchased on or after July 1, 2018; and
2. The tangible personal property or digital property for which the service contract agreement is provided is subject to tax under this chapter or under KRS 138.460.

(b) "Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in KRS 136.602 or broadband as defined in KRS 278.5461;

(14) (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.

(b) "Finished artwork" includes:

1. Assemblies;
2. Charts;
3. Designs;
4. Drawings;
5. Graphs;
6. Illustrative materials;
7. Lettering;
8. Mechanicals;
9. Paintings; and
10. Paste-ups;

(15) (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in
money, whether received in money or otherwise, without any deduction for any of the following:

1. The retailer's cost of the tangible personal property, digital property, or services sold;
2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
3. Charges by the retailer for any services necessary to complete the sale;
4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.

(b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:

1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
3. The amount of consideration attributable to the sale is fixed and
determinable by the retailer at the time of the sale of the item to the
purchaser; and

4. One (1) of the following criteria is met:
   a. The purchaser presents a coupon, certificate, or other
documentation to the retailer to claim a price reduction or discount
where the coupon, certificate, or documentation is authorized,
distributed, or granted by a third party with the understanding that
the third party will reimburse any seller to whom the coupon,
certificate, or documentation is presented;
   b. The price reduction or discount is identified as a third-party price
reduction or discount on the invoice received by the purchaser or
on a coupon, certificate, or other documentation presented by the
purchaser; or
   c. The purchaser identifies himself or herself to the retailer as a
member of a group or organization entitled to a price reduction or
discount. A "preferred customer" card that is available to any
patron does not constitute membership in such a group.

(c) "Gross receipts" and "sales price" shall not include:
   1. Discounts, including cash, term, or coupons that are not reimbursed by a
third party and that are allowed by a retailer and taken by a purchaser on
a sale;
   2. Interest, financing, and carrying charges from credit extended on the sale
of tangible personal property, digital property, or services, if the amount
is separately stated on the invoice, bill of sale, or similar document given
to the purchaser; or
   3. Any taxes legally imposed directly on the purchaser that are separately
stated on the invoice, bill of sale, or similar document given to the
(d) As used in this subsection, "third party" means a person other than the purchaser;

(16) "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;

(17) "Industrial processing" includes:

(a) Refining;

(b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

(c) Mining, quarrying, fabricating, and industrial assembling;

(d) The processing and packaging of raw materials, in-process materials, and finished products; and

(e) The processing and packaging of farm and dairy products for sale;

(18) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:

1. Purchase the property; or

2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).

(b) "Lease or rental" shall not include:

1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments
and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; or

3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.

(c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;

(19) (a) "Machinery for new and expanded industry" means machinery:

1. Directly used in the manufacturing or industrial processing process of:
   a. **Tangible personal property at a plant facility;**
   
   b. **Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or**
   
   c. **Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;**

2. Which is incorporated for the first time into:
   a. A plant facility established in this state; or
   
   b. **Licensed premises located in this state;** and

3. Which does not replace machinery in the plant facility **or licensed premises** unless that machinery purchased to replace existing machinery:
   a. Increases the consumption of recycled materials at the plant
facility by not less than ten percent (10%);

b. Performs different functions;

c. Is used to manufacture a different product; or

d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.

(b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;

(20) "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;

(21) "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell tangible personal property, digital property, or services, or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;

(22) (a) "Marketplace provider" means a person, including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:

1. The person directly or indirectly:

   a. Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;

   b. Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer
or acceptance of a retail sale of tangible personal property, digital
property, or services between a marketplace retailer and a
purchaser in a forum including a shop, store, booth, catalog,
Internet site, or similar forum;

c. Owns, rents, licenses, makes available, or operates any electronic
or physical infrastructure or any property, process, method,
copyright, trademark, or patent that connects marketplace retailers
to purchasers for the purpose of making retail sales of tangible
personal property, digital property, or services;

d. Provides a marketplace for making retail sales of tangible personal
property, digital property, or services, or otherwise facilitates retail
sales of tangible personal property, digital property, or services,
regardless of ownership or control of the tangible personal
property, digital property, or services, that are the subject of the
retail sale;

e. Provides software development or research and development
activities related to any activity described in this subparagraph, if
the software development or research and development activities
are directly related to the physical or electronic marketplace
provided by a marketplace provider;

f. Provides or offers fulfillment or storage services for a marketplace
retailer;

g. Sets prices for a marketplace retailer's sale of tangible personal
property, digital property, or services;

h. Provides or offers customer service to a marketplace retailer or a
marketplace retailer's customers, or accepts or assists with taking
orders, returns, or exchanges of tangible personal property, digital
property, or services sold by a marketplace retailer; or

i. Brands or otherwise identifies sales as those of the marketplace provider; and

2. The person directly or indirectly:

   a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;

   b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;

   c. Charges, collects, or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available tangible personal property, digital property, or services on a marketplace, or receives other consideration from the facilitation of a retail sale of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services that are the subject of the retail sale;

   d. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or

   d.[e.] Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.

(b) "Marketplace provider" includes but is not limited to a person that satisfies the
requirements of this subsection through the ownership, operation, or control
of a digital distribution service, digital distribution platform, online portal, or
application store;
(23) "Marketplace retailer" means a seller that makes retail sales through any
marketplace owned, operated, or controlled by a marketplace provider;
(24) (a) "Occasional sale" includes:
1. A sale of tangible personal property or digital property not held or used
by a seller in the course of an activity for which he or she is required to
hold a seller's permit, provided such sale is not one (1) of a series of
sales sufficient in number, scope, and character to constitute an activity
requiring the holding of a seller's permit. In the case of the sale of the
entire, or a substantial portion of the nonretail assets of the seller, the
number of previous sales of similar assets shall be disregarded in
determining whether or not the current sale or sales shall qualify as an
occasional sale; or
2. Any transfer of all or substantially all the tangible personal property or
digital property held or used by a person in the course of such an activity
when after such transfer the real or ultimate ownership of such property
is substantially similar to that which existed before such transfer.
(b) For the purposes of this subsection, stockholders, bondholders, partners, or
other persons holding an interest in a corporation or other entity are regarded
as having the "real or ultimate ownership" of the tangible personal property or
digital property of such corporation or other entity;
(25) (a) "Other direct mail" means any direct mail that is not advertising and
promotional direct mail, regardless of whether advertising and promotional
direct mail is included in the same mailing.
(b) "Other direct mail" includes but is not limited to:
1. Transactional direct mail that contains personal information specific to
   the addressee, including but not limited to invoices, bills, statements of
   account, and payroll advices;

2. Any legally required mailings, including but not limited to privacy
   notices, tax reports, and stockholder reports; and

3. Other nonpromotional direct mail delivered to existing or former
   shareholders, customers, employees, or agents, including but not limited
   to newsletters and informational pieces.

(c) "Other direct mail" does not include the development of billing information or
the provision of any data processing service that is more than incidental to the
production of printed material;

(26) "Person" includes any individual, firm, copartnership, joint venture, association,
social club, fraternal organization, corporation, estate, trust, business trust, receiver,
trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other
group or combination acting as a unit;

(27) "Permanent," as the term applies to digital property, means perpetual or for an
indefinite or unspecified length of time;

(28) "Plant facility" means a single location that is exclusively dedicated to
manufacturing or industrial processing activities. A location shall be deemed to be
exclusively dedicated to manufacturing or industrial processing activities even if
retail sales are made there, provided that the retail sales are incidental to the
manufacturing or industrial processing activities occurring at the location. The term
"plant facility" shall not include any restaurant, grocery store, shopping center, or
other retail establishment;

(29) (a) "Prewritten computer software" means:

1. Computer software, including prewritten upgrades, that are not designed
   and developed by the author or other creator to the specifications of a
specific purchaser;

2. Software designed and developed by the author or other creator to the
   specifications of a specific purchaser when it is sold to a person other
   than the original purchaser; or

3. Any portion of prewritten computer software that is modified or
   enhanced in any manner, where the modification or enhancement is
   designed and developed to the specifications of a specific purchaser,
   unless there is a reasonable, separately stated charge on an invoice or
   other statement of the price to the purchaser for the modification or
   enhancement.

(b) When a person modifies or enhances computer software of which the person
    is not the author or creator, the person shall be deemed to be the author or
    creator only of the modifications or enhancements the person actually made.

(c) The combining of two (2) or more prewritten computer software programs or
    portions thereof does not cause the combination to be other than prewritten
    computer software;

(30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease,
    or rental, conditional or otherwise, in any manner or by any means
    whatsoever, of:

1. Tangible personal property;
2. An extended warranty service;
3. Digital property transferred electronically; or
4. Services included in KRS 139.200;

for a consideration.

(b) "Purchase" includes:

1. When performed outside this state or when the customer gives a resale
   certificate, the producing, fabricating, processing, printing, or imprinting
of tangible personal property for a consideration for consumers who
furnish either directly or indirectly the materials used in the producing,
fabricating, processing, printing, or imprinting;

2. A transaction whereby the possession of tangible personal property or
digital property is transferred but the seller retains the title as security for
the payment of the price; and

3. A transfer for a consideration of the title or possession of tangible
personal property or digital property which has been produced,
fabricated, or printed to the special order of the customer, or of any
publication;

(31) "Recycled materials" means materials which have been recovered or diverted from
the solid waste stream and reused or returned to use in the form of raw materials or
products;

(32) "Recycling purposes" means those activities undertaken in which materials that
would otherwise become solid waste are collected, separated, or processed in order
to be reused or returned to use in the form of raw materials or products;

(33) "Remote retailer" means a retailer with no physical presence in this state;

(34) (a) "Repair, replacement, or spare parts" means any tangible personal property
used to maintain, restore, mend, or repair machinery or equipment.
(b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
industrial tools;

(35) (a) "Retailer" means:

1. Every person engaged in the business of making retail sales of tangible
personal property, digital property, or furnishing any services in a retail
sale included in KRS 139.200;

2. Every person engaged in the business of making sales at auction of
tangible personal property or digital property owned by the person or
others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;

3. Every person making more than two (2) retail sales of tangible personal property, digital property, or services included in KRS 139.200 during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.

(b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property, digital property, or services sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

(c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:

   a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;

   b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and

   c. The qualifying entity, not the person making sales at the auction,
responsible for the collection, control, and disbursement of the
auction proceeds.

2. If the conditions set forth in subparagraph 1. of this paragraph are met,
the qualifying entity sponsoring the auction shall be the retailer for
purposes of the sales made at the charitable auction.

3. For purposes of this paragraph, "qualifying entity" means a resident:
   a. Church;
   b. School;
   c. Civic club; or
   d. Any other nonprofit charitable, religious, or educational
      organization;

(36) "Retail sale" means any sale, lease, or rental for any purpose other than resale,
sublease, or subrent;

(37) (a) "Ringtones" means digitized sound files that are downloaded onto a device
and that may be used to alert the customer with respect to a communication.
   (b) "Ringtones" shall not include ringback tones or other digital files that are not
stored on the purchaser's communications device;

(38) (a) "Sale" means:
   1. The furnishing of any services included in KRS 139.200;
   2. Any transfer of title or possession, exchange, barter, lease, or rental,
conditional or otherwise, in any manner or by any means whatsoever, of:
      a. Tangible personal property; or
      b. Digital property transferred electronically;
   for a consideration.
   (b) "Sale" includes but is not limited to:
   1. The producing, fabricating, processing, printing, or imprinting of
tangible personal property or digital property for a consideration for
purchasers who furnish, either directly or indirectly, the materials used
in the producing, fabricating, processing, printing, or imprinting;

2. A transaction whereby the possession of tangible personal property or
digital property is transferred, but the seller retains the title as security
for the payment of the price; and

3. A transfer for a consideration of the title or possession of tangible
personal property or digital property which has been produced,
fabricated, or printed to the special order of the purchaser.

(c) This definition shall apply regardless of the classification of a transaction
under generally accepted accounting principles, the Internal Revenue Code, or
other provisions of federal, state, or local law;

(39) "Seller" includes every person engaged in the business of selling tangible personal
property, digital property, or services of a kind, the gross receipts from the retail
sale of which are required to be included in the measure of the sales tax, and every
person engaged in making sales for resale;

(40) (a) "Storage" includes any keeping or retention in this state for any purpose
except sale in the regular course of business or subsequent use solely outside
this state of tangible personal property or digital property purchased from a
retailer.

(b) "Storage" does not include the keeping, retaining, or exercising any right or
power over tangible personal property for the purpose of subsequently
transporting it outside the state for use thereafter solely outside the state, or for
the purpose of being processed, fabricated, or manufactured into, attached to,
or incorporated into, other tangible personal property to be transported outside
the state and thereafter used solely outside the state;

(41) "Tangible personal property" means personal property which may be seen, weighed,
measured, felt, or touched, or which is in any other manner perceptible to the senses
and includes natural, artificial, and mixed gas, electricity, water, steam, and
prewritten computer software;

(42) "Taxpayer" means any person liable for tax under this chapter;

(43) "Transferred electronically" means accessed or obtained by the purchaser by means
other than tangible storage media; and

(44) (a) "Use" includes the exercise of:

1. Any right or power over tangible personal property or digital property
   incident to the ownership of that property, or by any transaction in which
   possession is given, or by any transaction involving digital property
   where the right of access is granted; or

2. Any right or power to benefit from extended warranty services.

(b) "Use" does not include the keeping, retaining, or exercising any right or power
over tangible personal property or digital property for the purpose of:

1. Selling tangible personal property or digital property in the regular
   course of business; or

2. Subsequently transporting tangible personal property outside the state
   for use thereafter solely outside the state, or for the purpose of being
   processed, fabricated, or manufactured into, attached to, or incorporated
   into, other tangible personal property to be transported outside the state
   and thereafter used solely outside the state.

Section 35. KRS 139.470 is amended to read as follows:

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

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this
    state of, tangible personal property or digital property which this state is prohibited
    from taxing under the Constitution or laws of the United States, or under the
    Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state
of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

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

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

(4) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(5) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to
counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the department;

(b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;
(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(8) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

(9) (a) Gross receipts derived from the sale of the following tangible personal property, as provided in paragraph (b) of this subsection, to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of:

1. Tangible personal property at a plant facility;

2. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or

3. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;

and which will be for sale.

(b) The following tangible personal property shall qualify for exemption under this subsection:
1. Materials which enter into and become an ingredient or component part
   of the manufactured product;

2. Other tangible personal property which is directly used in the
   manufacturing or industrial processing process, if the property has a
   useful life of less than one (1) year. Specifically these items are
   categorized as follows:
   a. Materials. This refers to the raw materials which become an
      ingredient or component part of supplies or industrial tools exempt
      under subdivisions b. and c. below;
   b. Supplies. This category includes supplies such as lubricating and
      compounding oils, grease, machine waste, abrasives, chemicals,
      solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
      dyes, refrigerants, and explosives. The supplies indicated above
      need not come in direct contact with a manufactured product to be
      exempt. "Supplies" does not include repair, replacement, or spare
      parts of any kind; and
   c. Industrial tools. This group is limited to hand tools such as jigs,
      dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
      and to tools attached to a machine such as molds, grinding balls,
      grinding wheels, dies, bits, and cutting blades. Normally, for
      industrial tools to be considered directly used in the manufacturing
      or industrial processing process, they shall come into direct contact
      with the product being manufactured or processed; and

3. Materials and supplies that are not reusable in the same manufacturing
   or industrial processing process at the completion of a single
   manufacturing or processing cycle. A single manufacturing cycle shall
   be considered to be the period elapsing from the time the raw materials
enter into the manufacturing process until the finished product emerges
at the end of the manufacturing process.

(c) The property described in paragraph (b) of this subsection shall be
regarded as having been purchased for resale.

(d) For purposes of this subsection, a manufacturer or industrial processor
includes an individual or business entity that performs only part of the
manufacturing or industrial processing activity, and the person or business
entity need not take title to tangible personal property that is incorporated into,
or becomes the product of, the activity.

(e) The exemption provided in this subsection does not include repair,
replacement, or spare parts;

(10) Any water use fee paid or passed through to the Kentucky River Authority by
facilities using water from the Kentucky River basin to the Kentucky River
Authority in accordance with KRS 151.700 to 151.730 and administrative
regulations promulgated by the authority;

(11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
use, or other consumption outside this state and delivered by the retailer's own
vehicle to a location outside this state, or delivered to the United States Postal
Service, a common carrier, or a contract carrier for delivery outside this state,
regardless of whether the carrier is selected by the purchaser or retailer or an agent
or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special
order of the purchaser and composed substantially of information
regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or
distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(12) Gross receipts from the sale of water used in the raising of equine as a business;

(13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(14) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(15) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or
otherwise, is received by a retailer from a manufacturer or wholesaler based upon
the quantity and unit price of tobacco products sold at retail that requires the retailer
to reduce the selling price of the product to the purchaser without the use of a
manufacturer's or wholesaler's coupon or redemption certificate;

(16) Gross receipts from the sale of tangible personal property or digital property
returned by a purchaser when the full sales price is refunded either in cash or credit.
This exclusion shall not apply if the purchaser, in order to obtain the refund, is
required to purchase other tangible personal property or digital property at a price
greater than the amount charged for the property that is returned;

(17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
Chapter 138;

(18) The amount of any tax imposed by the United States upon or with respect to retail
sales, whether imposed on the retailer or the consumer, not including any
manufacturer's excise or import duty;

(19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
is:
(a) Sold to a Kentucky resident, registered for use on the public highways, and
   upon which any applicable tax levied by KRS 138.460 has been paid; or
(b) Sold to a nonresident of Kentucky if the nonresident registers the motor
   vehicle in a state that:
   1. Allows residents of Kentucky to purchase motor vehicles without
      payment of that state's sales tax at the time of sale; or
   2. Allows residents of Kentucky to remove the vehicle from that state
      within a specific period for subsequent registration and use in Kentucky
      without payment of that state's sales tax;

(20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
truck as defined in KRS 189.010(17);
(21) Gross receipts from the collection of:

(a) Any fee or charge levied by a local government pursuant to KRS 65.760;
(b) The charge imposed by KRS 65.7629(3);
(c) The fee imposed by KRS 65.7634; and
(d) The service charge imposed by KRS 65.7636;

(22) Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process of:

(a) **Tangible personal property at a plant facility:**
(b) **Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030; or**
(c) **Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040**, and

that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser;

(23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to January 1, 2019, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars ($6,000) during calendar year 2018. When gross receipts from these services exceed six thousand dollars ($6,000) in a calendar year:

1. All gross receipts over six thousand dollars ($6,000) are taxable in that calendar year; and
2. All gross receipts are subject to tax in subsequent calendar years.

(b) The exemption provided in this subsection shall not apply to a person also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f); and
(24) (a) For persons that first begin making sales of services included in KRS 139.200(2)(g) to (q) on or after January 1, 2019, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars ($6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars ($6,000) in a calendar year:

1. All gross receipts over six thousand dollars ($6,000) are taxable in that calendar year; and
2. All gross receipts are subject to tax in subsequent calendar years.

(b) The exemption provided in this subsection shall not apply to a person that is also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f).

Section 36. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the General Assembly retains full authority to prescribe and limit by statute local governmental activities when it deems that action necessary.

(2) (a) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the Constitution of the Commonwealth of Kentucky, provided that the fee or tax is allowed by the statutes of this state now or hereafter enacted.

(b) The fiscal court of any county is not authorized to levy a sales or use tax on:

1. Retail sales of tangible personal property or digital property; or
2. The furnishing of any service.

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the
Kentucky Constitution, the fiscal court of any county may enact ordinances, issue
regulations, levy taxes, issue bonds, appropriate funds, and employ personnel in
performance of the following public functions:
(a) Control of animals, and abatement of public nuisances;
(b) Regulation of public gatherings;
(c) Public sanitation and vector control;
(d) Provision of hospitals, ambulance service, programs for the health and welfare
of the aging and juveniles, and other public health facilities and services;
(e) Provision of corrections facilities and services, and programs for the
confinement, care, and rehabilitation of juvenile law offenders;
(f) Provision of parks, nature preserves, swimming pools, recreation areas,
libraries, museums, and other recreational and cultural facilities and programs;
(g) Provision of cemeteries and memorials;
(h) Conservation, preservation and enhancement of natural resources including
soils, water, air, vegetation, and wildlife;
(i) Control of floods;
(j) Facilitating the construction and purchase of new and existing housing;
causing the repair or demolition of structures which present a hazard to public
health, safety, or morals or are otherwise inimical to the welfare of residents
of the county; causing the redevelopment of housing and related commercial,
industrial, and service facilities in urban or rural areas; providing education
and counseling services and technical assistance to present and future
residents of publicly assisted housing;
(k) Planning, zoning, and subdivision control according to the provisions of KRS
Chapter 100;
(l) Adoption, by reference or in full, of technical codes governing new
construction, renovation, or maintenance of structures intended for human
occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 to 244;

(o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including, but not limited to, training, educational services, and cooperative extension service programs;

(r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;

(s) Licensing or franchising of cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, and enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses, and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;

(y) Preservation of historic structures; and

(z) Regulation of establishments or commercial enterprises offering adult entertainment and adult entertainment activities.
(4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights, and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation:

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation;

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard;

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute; or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor of each city in the county.

(8) (a) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. These powers, other
than the power to tax, may be exercised cooperatively by two (2) or more counties, or by a county and a city, or by a county and a special district, or by a county and the state through, but not limited to, joint contracts, joint ownership of property, or the exchange of services, including personnel and equipment. When counties cooperate in the provision of public services, contracts shall be drawn to document the benefits and relative cost for each of the participating governments. One (1) government may pay one hundred percent (100%), or a lesser percentage, of all or any part of the cost of the joint undertaking, based upon the written contract required by this subsection.

(b) A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.

(9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising that authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of that authority.

Section 37. KRS 92.281 is amended to read as follows:

(1) (a) Cities of all classes are authorized to levy and collect any and all taxes not in conflict with [provided for in Section 181 of] the Constitution of the Commonwealth of Kentucky, provided that the fee or tax is allowed by the statutes of this state now or hereafter enacted, and to use the revenue therefrom for [the] purposes as may be provided by the legislative body of the city.

(b) Cities of all classes are not authorized to levy a sales or use tax on:

1. Retail sales of tangible personal property or digital property; or

2. The furnishing of any service.
(2) Nothing in this section shall be construed to repeal, amend, or affect in any way the provisions of KRS 243.070.

(3) This section shall not in any wise repeal, amend, affect, or apply to any existing statute exempting property from local taxation or fixing a special rate on proper classification or imposing a state tax which is declared to be in lieu of all local taxation, nor shall it be construed to authorize a city to require any company that pays both an ad valorem tax and a franchise tax to pay a license tax.

(4) This section shall also be subject to the provisions of KRS 91.200 in cities of the first class having a sinking fund and commissioners of a sinking fund.

(5) License fees or occupational taxes may not be imposed against or collected on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(6) License fees or occupational taxes may not be imposed against or collected on any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.

(7) (a) It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.

(b) To further this intent, license fees or occupational taxes may not be imposed against any company providing multichannel video programming services or communications services as defined in KRS 136.602. If only a portion of an entity's business is providing multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or
communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services including products or services that are related to and provided in support of the multichannel video programming services or communications services.

Section 38. KRS 610.350 is amended to read as follows:

(1) In proceedings in the juvenile session of the District Court, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition. No public officer shall be entitled to receive any fee from the service of process or for attendance in court in any such proceedings. All other persons acting under orders of the court may be paid for service of process and attendance as witnesses. The payments for fees provided by law for like services in civil cases in the Circuit Court are to be made out of the county treasury. The county or state may compensate any officer or person in the amount prescribed by law for the transportation of a child to a place where he will be detained or placed or the return of any child to the jurisdiction of the court, and funds for this purpose may be appropriated and paid by the fiscal court.

(2) (a) For the purpose of paying salaries and expenses necessary to carry out the purposes of KRS Chapters 600 to 645, the fiscal court of any county, or urban-county council of an urban-county government, may levy taxes and make appropriations within constitutional limitations, provided that the tax is allowed by the statutes of this state now or hereafter enacted.

(b) The fiscal court of any county, or urban-county council of an urban-county government, is not authorized to levy a sales or use tax on:

1. Retail sales of tangible personal property or digital property; or

2. The furnishing of any service.

(c) The legislative body of any city also is authorized to appropriate funds to
assist the county in carrying out the purposes of KRS Chapters 600 to 645, including providing facilities for custody and care of children coming within the purview of KRS Chapters 600 to 645.

Section 39. KRS 83.520 is amended to read as follows:

(1) The legislative body of a city of the first class shall have the power to exercise all of the rights, privileges, powers, franchises, including the power to levy all taxes, not in conflict with the Constitution, provided that the taxes are allowed by the statutes of this state now or hereafter enacted.

(2) The legislative body of a city of the first class is not authorized to levy a sales or use tax on:

(a) Retail sales of tangible personal property or digital property; or

(b) The furnishing of any service.

(3) The powers granted under subsection (1) of this section are to provide for the health, education, safety and welfare of the inhabitants of the city, to the same extent and with the same force and effect as if the General Assembly had granted and delegated to the legislative body of the city all of the authority and powers that are within its powers to grant to a municipal corporation as if expressly enumerated herein.

(4) Nothing therein contained to the contrary, the provisions of KRS Chapters 65, 66, 76, 77, 79, 80, 91, 95, 96, 97, 98, 99, 103, 104, 106, 107, 108 and 109 shall be considered permissive rather than mandatory and the powers, rights and duties therein delineated may be modified or delegated by the legislative body to different departments and agencies of city government and any restrictions therein set forth shall not be considered abridging in any manner the complete grant of home rule set forth in this grant of power except no right heretofore vested by operation of statute shall in any way be affected.

Section 40. KRS 65.760 is amended to read as follows:
Any local government may establish 911 emergency service upon approval of the governing body of the city, county, or urban-county government and may adopt regulations concerning the provision of this service by ordinance.

Any local government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency service.

The funds required by a local government to establish and operate 911 emergency service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the Constitution and statutes of this state, provided that no local government, or any combination thereof, is authorized to levy a sales or use tax on:

1. Retail sales of tangible personal property or digital property; or
2. The furnishing of any service.

The special tax, license, or fee may include a subscriber charge for 911 emergency service that shall be levied on an individual exchange-line basis, limited to a maximum of twenty-five (25) exchange lines per account per government entity.

Any private commercial telephone service or owner of a dispersed private telephone system (DPTS) that provides local and 911 emergency service to subscribers for compensation shall collect and remit the subscriber charge to the local government on the same basis as the primary local exchange carrier, except that this requirement shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point.

Any provider of interconnected VoIP local and 911 emergency services to subscribers for compensation shall collect and remit any special tax,
license, or fee levied under paragraph (a) of this subsection to the local
government, except that the special tax, license, or fee levied under paragraph
(a) of this subsection shall not apply to a commercial mobile radio service
subject to a fee imposed under KRS 65.7629 or 65.7634.

(4) All revenues raised from any special tax, license, or fee levied under subsection (3)
of this section shall be expended only as provided in this subsection and only to the
extent that the expenditure is directly attributable to the establishment, operation, or
maintenance of a PSAP, the delivery of 911 emergency services, or the provision of
wireless enhanced 911 services, as follows:

(a) The hiring of personnel;

(b) The following costs for employees:

1. Salaries;

2. Fringe benefits;

3. MSAG coordination;

4. Uniforms; and

5. Addressing and database development and management;

(c) Facility costs for the following expenses:

1. Capital improvements for construction, remodeling, or expansion;

2. Lease or rental payments;

3. Utilities;

4. Heating and air conditioning;

5. Fire suppression systems;

6. Security systems;

7. Cleaning and maintenance;

8. Emergency power and uninterruptable power equipment;

9. Insurance;

10. Office supplies;
11. Printing and copying services; and
12. Furniture;

(d) Training and memberships in professional associations, including:
1. Vendor-provided training;
2. Conferences;
3. Necessary travel and lodging;
4. On-the-job training; and
5. Memberships in 911-related associations;

(e) Costs for the following equipment shall be allowed to the extent its function is
directly attributable to the provision of 911 emergency services, whether on
the premises or remotely located:
1. 911 controllers, equipment, or software;
2. 911 trunks or administrative lines for the 911 center;
3. Remote 911 hardware or modems;
4. ACD systems or other call management facilities and software;
5. Call-time stamping or other clock functions;
6. Computer workstations;
7. Telephone and related services to support the receipt of 911 contact
   from the deaf and hard of hearing community;
8. Voice and data recording systems;
9. Radio systems, including consoles and any fixed radio asset that is not
   mobile or portable and that is used for 911 and emergency response;
10. CAD, GIS mapping, paging, mobile data, LINK/NCIC, or AVL systems
    and associated databases;
11. Network connectivity;
12. Software licenses; and
13. Maintenance or service agreements for equipment or software listed in
(f) Vehicle costs for the following, either as reimbursement to an employee for the use of a private vehicle or direct costs for a vehicle assigned to the agency:
1. MSAG development and maintenance;
2. GIS data development, verification, and testing; and
3. Public education;

(g) Costs for the following professional services:
1. Legal;
2. Architectural;
3. Auditing; and
4. Consultation; and

(h) Costs for public education regarding the proper use of 911 emergency services.

(5) A local government shall not use revenues from any special tax, license, or fee levied under subsection (3) of this section for personnel costs, facility costs, training and membership costs, equipment costs, vehicle costs, professional services costs, public education costs, nor any of the following costs, unless the expense is directly attributable to the delivery of 911 emergency services:

(a) Personnel costs for the following personnel, unless directly functioning as PSAP staff:
1. Law enforcement;
2. Emergency medical services personnel;
3. Fire protection personnel;
4. Emergency management staff; and
5. Shared support or technical staff;

(b) Facility costs for the following purposes and facilities, except for that portion used for the delivery of 911 emergency services:
1. Capital and furnishing costs for facilities whose primary purpose is not the delivery of 911 emergency services;
2. Facilities primarily intended for use by police, fire, emergency medical services, or other emergency management personnel; and
3. Facilities providing general offices for local government operations;

(c) Training and membership costs for the following purposes:
1. Costs for training for staff not directly involved in the delivery of 911 emergency services or courses whose content is not intended to increase the knowledge, skills, and abilities of 911 personnel with regard to delivery of 911 emergency services; and
2. Costs for memberships in organizations or associations whose primary purpose is not public safety communications or the delivery of 911 emergency services;

(d) The following hardware, software, or peripheral costs:
1. Law enforcement, fire protection, emergency medical services, or jail record management systems;
2. Word processing and other general computer applications;
3. GIS applications providing data layers not needed for the location of emergency calls or other general mapping and locations services for government operations;
4. Court information systems;
5. Field equipment used outside of the PSAP by emergency responders or other government personnel for radio, paging, mobile data, LINK/NCIC, ACD, or AVL systems;
6. Internet connectivity for an application listed in this subsection;
7. A maintenance or service agreement for an application listed in this subsection; and
8. A software license for an application listed in this subsection;

(e) The cost of an emergency response or other government vehicle;

(f) Costs for professional services; and

(g) Costs for public education.

(6) The governing body may apply for and accept federal moneys and may accept contributions and donations from any source for the purpose of funding 911 emergency service.

(7) Nothing in this section shall preclude other means of establishing or funding a 911 emergency service within any local area or exchange, nor require the operation of such service by any local government.

SECTION 41. A NEW SECTION OF KRS CHAPTER 92 IS CREATED TO READ AS FOLLOWS:

(1) Municipal corporations that are authorized to levy and collect taxes or fees shall not levy the tax or fee unless the tax or fee is allowed by the statutes of this state now or hereafter enacted.

(2) Municipal corporations are not authorized to levy a sales or use tax on:

(a) Retail sales of tangible personal property or digital property; or

(b) The furnishing of any service.

Section 42. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall be sentenced to pay a service fee of four hundred twenty-five dollars ($425), which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 and KRS 534.060.

(3) The first fifty dollars ($50) of each service fee imposed by this section shall be paid into the general fund, the second fifty dollars ($50) of each service fee imposed by
this section shall be paid to the ignition interlock administration fund established in Section 44 of this Act, and the remainder of the revenue collected from the service fee imposed by this section shall be utilized as follows:

(a) Twelve percent (12%)[ of the amount collected] shall be transferred to the Department of Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b) Twenty percent (20%)[ of the service fee collected pursuant to this section] shall be allocated to the Department of Public Advocacy;

(c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) Sixteen percent (16%)[ of the amount collected] shall be transferred as follows:

1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and

2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by
this subparagraph;

(e) Any amount specified by a specific statute shall be transferred as provided in that statute;

(f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy; and

(g) The remainder of the amount collected shall be transferred to the general fund.

(4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 43. KRS 189A.350 (Effective July 1, 2020) is amended to read as follows:

(1) (a) The Transportation Cabinet shall:

1. Issue ignition interlock license application forms and other forms necessary for the implementation of ignition interlock licenses;

2. Create a uniform ignition interlock certificate of installation to be provided to a defendant by an ignition interlock provider upon installation of an ignition interlock device;

3. Create an ignition interlock license. The ignition interlock license may be a regular driver's or operator's license with an ignition interlock restriction printed on the license;

4. Require a person issued an ignition interlock license to maintain motor vehicle insurance for the duration of his or her ignition interlock license;

5. Certify ignition interlock devices approved for use in the Commonwealth;

6. Publish and periodically update on the Transportation Cabinet Web site...
a list of contact information, including a link to the Web site of each certified ignition interlock device provider, with the entity appearing first on the list changing on a statistically random basis each time a unique visitor visits the list of the approved ignition interlock installers and the approved servicing and monitoring entities;

7. Monitor the ignition interlock device service locations of providers and create a random or designated selection process to require a provider to provide ignition interlock device services in any area of the Commonwealth which the Transportation Cabinet determines is underserved by providers; and

8. Except as provided in paragraph (b) of this subsection, promulgate administrative regulations to carry out the provisions of this section.

(b) The Transportation Cabinet shall not create any ignition interlock license or device violations in administrative regulations. The sole ignition interlock license or device violations are established in this chapter.

(2) No model of ignition interlock device shall be certified for use in the Commonwealth unless it meets or exceeds standards promulgated by the Transportation Cabinet pursuant to this section.

(3) In bidding for a contract with the Transportation Cabinet to provide ignition interlock devices and servicing or monitoring or both, the ignition interlock device provider shall take into account that some defendants will not be able to pay the full amount of the fees established pursuant to KRS 189A.340(7)(a).

(4) Any contract between the cabinet and an ignition interlock device provider shall include the following:

(a) A requirement that the provider accept reduced payments as a full payment for all purposes from persons determined to be at or below two hundred percent (200%) of the federal poverty guidelines by the Transportation Cabinet as
provided by KRS 189A.340(7)(c);

(b) A requirement that no unit of state or local government and no public officer or employee shall be liable for the cost of purchasing or installing the ignition interlock device or associated costs;

(c) A requirement that the provider agree to a price for the cost of leasing or purchasing an ignition interlock device and any associated servicing or monitoring fees during the duration of the contract. This price shall not be increased but may be reduced during the duration of the contract;

(d) Requirements and standards for the servicing, inspection, and monitoring of the ignition interlock device;

(e) Provisions for training for service center technicians and clients;

(f) A requirement that the provider electronically transmit reports on driving activity within seven (7) days of servicing an ignition interlock device to the Transportation Cabinet, prosecuting attorney, and defendant;

(g) Requirements for a transition plan for the ignition interlock device provider before the provider leaves the state to ensure that continuous monitoring is achieved and to provide a minimum forty-five (45) day notice to the cabinet of any material change to the design of the ignition interlock device, or any changes to the provider's installation, servicing, or monitoring capabilities;

(h) A requirement that, before beginning work, the ignition interlock device provider have and maintain insurance as approved by the cabinet, including provider's public liability and property damage insurance, in an amount determined by the cabinet, that covers the cost of defects or problems with product design, materials, workmanship during manufacture, calibration, installation, device removal, or any use thereof;

(i) A provision requiring that an ignition interlock provider agree to hold harmless and indemnify any unit of state or local government, public officer,
or employee from all claims, demands, and actions, as a result of damage or
injury to persons or property which may arise, directly or indirectly, out of any
action or omission by the ignition interlock provider relating to the
installation, service, repair, use, or removal of an ignition interlock device;

(j) A requirement that a warning label to be affixed to each ignition interlock
device upon installation. The label shall contain a warning that any person
who tampers with, circumvents, or otherwise misuse the device commits a
violation of law under KRS 189A.345;

(k) A requirement that a provider will remove an ignition interlock device without
cost, if the device is found to be defective;

(l) A requirement that a provider have at least one (1) ignition interlock device
service location in each Transportation Cabinet highway district; and

(m) A requirement that a provider accept assignments to provide ignition interlock
device services in areas of the Commonwealth which the Transportation
Cabinet determines are underserved by providers in accordance with
subsection (1) of this section.

(5) (a) The Transportation Cabinet may require ignition interlock device providers
to pay the following fees:

1. An application fee not to exceed five hundred dollars ($500);

2. An annual renewal fee not to exceed two hundred dollars ($200);

3. An annual service inspection fee not to exceed one hundred dollars
   ($100); or

4. A revisit fee for a failed inspection not to exceed one hundred fifty
dollars ($150).

(b) Any fees collected pursuant to this subsection shall be paid to the ignition
interlock administration fund established in Section 44 of this Act.
TO READ AS FOLLOWS:

(1) The ignition interlock administration fund is created as a restricted fund. The restricted fund shall consist of funds deposited pursuant to Sections 42 and 43 of this Act. The Transportation Cabinet shall administer the fund.

(2) The funds deposited pursuant to:

(a) Section 42 of this Act shall be appropriated to the Department of Vehicle Regulation; and

(b) Section 43 of this Act shall be appropriated to the Office of Highway Safety; for administrative costs associated with ignition interlock pursuant to this chapter.

(3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in subsection (2) of this section.

(4) Any interest earned on moneys in the fund shall become a part of the fund and shall not lapse.

Section 45. KRS 138.146 is amended to read as follows:

(1) The cigarette tax shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) (a) The cigarette tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the wholesaler receives the cigarettes.

(b) A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the cigarette tax on the package.

(c) The affixed stamp shall be prima facie evidence of payment of the cigarette tax.

(d) Unless stamps have been previously affixed, they shall be affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or
any person in this state.

(e) The evidence of cigarette tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state.

(f) The evidence of cigarette tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by the unclassified acquirer.

(3) (a) The department shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of cigarette tax evidence, and the method and manner that tax evidence shall be affixed to the cigarettes.

(b) All cigarette tax evidence prescribed by the department shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence.

(c) The department shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

(4) (a) Units of cigarette tax evidence shall be sold at their face value, but the department shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of tax evidence purchased at face value and attributable to the tax assessed in KRS 138.140(1)(a). No compensation shall be allowed for tax evidence purchased at face value attributable to the surtaxes imposed in KRS 138.140(1)(b) or (c).

(b) The department shall have the power to withhold compensation as provided in
paragraph (a) of this subsection from any licensed wholesaler for failure to
abide by any provisions of KRS 138.130 to 138.205 or any administrative
regulations promulgated thereunder. Any refund or credit for unused cigarette
tax evidence shall be reduced by the amount allowed as compensation at the
time of purchase.

(5) (a) **Payment for units of cigarette tax evidence shall be made at the time the
units are sold, unless the licensed wholesaler:**

1. **Has filed with the department a bond, issued by a corporation
authorized to do surety business in Kentucky, in an amount equal to
or greater than the amount of payment for the units of cigarette tax
evidence purchased, plus all penalties, interest, and collection fees
applicable to that amount, should the taxpayer default on the
payment; and

2. **Has registered and agrees to make the payment of tax to the
department electronically.**

(b) **Except as provided in paragraph (c) of this subsection, if the licensed
wholesaler qualifies under paragraph (a) of this subsection, the licensed
wholesaler shall have ten (10) days from the date of purchase to remit
payment of cigarette tax, without the assessment of civil penalties under
KRS 131.180 or interest under KRS 131.183 during the ten (10) day period.

(c) 1. **The ten (10) day payment period under paragraph (b) of this
subsection shall not apply to the payment for units of cigarette tax
evidence during the last ten (10) days of the month of June during
each fiscal year.**

2. **All payments for units of cigarette tax evidence made under paragraph
(b) of this subsection during the month of June shall be made the
earlier of:**
a. The ten (10) period; or

b. June 25.

(d) If the licensed wholesaler does not make the payment of cigarette tax within the ten (10) day period, or within the period of time under paragraph (c) of this subsection, the department shall:

1. Revoke the license required under KRS 138.195;

2. Issue a demand for payment in an amount equal to the cigarette tax evidence purchased, plus all penalties, interest, and collection fees applicable to that amount; and

3. Require immediate payment of the bond.

(6) (a) The bond required under subsection (5) of this section shall be on a form and with a surety approved by the department.

(b) The licensed wholesaler shall be named as the principal obligor and the department shall be named as the obligee within the bond.

(c) The bond shall be conditioned upon the payment by the licensed wholesaler of all cigarette tax imposed by the Commonwealth.

(d) The provisions of KRS 131.110 shall not apply to the demand for payment required under paragraph (c) of subsection (5) of this section.

(7) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing the evidence from the department.

(b) Tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person.

(c) Unaffixed tax evidence may be returned to the department for credit or refund for any reason satisfactory to the department.

(8) [(6)] (a) In the event any retailer receives into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, the retailer shall,
within twenty-four (24) hours, notify the department of the receipt.

(b) The notification to the department shall be in writing, stating the name of the person from whom the cigarettes were received and the quantity of those cigarettes.

(c) The written notice may be:

1. Given to any field agent of the department; or
2. Directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.

(d) If the notice is given by means of the United States mail, it shall be sent by certified mail.

(e) Any such cigarettes shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection.

(f) The retailer may, at his option, pay the tax due on those cigarettes according to administrative regulations prescribed by the department, and proceed to sell those cigarettes after the payment.

(9) (7)

(a) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed.

(b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

Section 46. KRS 91A.040 is amended to read as follows:

(1) Except as provided in subsections (2) to (4) of this section, each city shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audit shall be completed by February 1 immediately following the fiscal year being audited. The city shall forward an electronic copy of the audit report to the Department for Local
Government for information purposes by no later than March 1 immediately following the fiscal year being audited.

(2) In lieu of the annual audit requirements in subsection (1) of this section, a city with a population equal to or less than one thousand (1,000) based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year in the following manner:

(a) After the close of each odd-numbered fiscal year, the city shall cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than March 1 immediately following the fiscal year being audited; and

(b) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.

(3) In lieu of the annual audit requirements in subsection (1) of this section, a city with a population of more than one thousand (1,000) but less than two thousand (2,000) based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year to cover the two (2) fiscal years occurring since the prior audit in the following manner:

(a) After the close of each odd-numbered fiscal year, the city shall cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audit shall include both fiscal years since the prior audit and shall be completed by February 1 immediately following the fiscal year being audited.
years to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than March 1 immediately following the fiscal years being audited; and

(b) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement[prepared in accordance with KRS 424.220] to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.

(4) Any city, which for any fiscal year receives and expends, from all sources and for all purposes, less than seventy-five thousand dollars ($75,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city exempted in accordance with this subsection shall annually prepare a financial statement[in accordance with KRS 424.220] and shall, not later than October 1 following the conclusion of the fiscal year, forward one (1) electronic copy to the Department for Local Government for information purposes.

(5) If a city is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the city shall also comply with the provisions of that law.

(6) The Department for Local Government shall, upon request, make available electronic copies of the audit reports and financial statements received by it under subsections (1) to (4) of this section to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.

(7) Each city required by this section to conduct an annual or biennial audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include but not be limited to
requirements that:

(a) The auditor be employed to examine the basic financial statements, which shall include the government-wide and fund financial statements;

(b) The auditor shall include in the annual or biennial city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual or biennial audit report that the funds were expended for the purpose intended;

(c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(d) The auditor shall prepare a typewritten or printed report embodying:

1. The basic financial statements and accompanying supplemental and required supplemental information;

2. The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and

3. Findings required to be reported as a result of the audit;

(e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and

(f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.

(8) A copy of an audit report which meets the requirements of this section shall be
considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

(9) (a) Each city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish the audit by posting the full audit report, including the auditor's opinion letter, on a Web site maintained by the city government, for a period of at least one (1) year.

(b) The posting under paragraph (a) of this subsection shall satisfy all advertisement requirements under KRS Chapter 424 for the city containing:

(a) The auditor's opinion letter;

(b) The "Budgetary Comparison Schedules-Major Funds," which shall include the general fund and all major funds;

(c) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours;

(d) A statement that any citizen may obtain from city hall a copy of the complete audit report, including financial statements and supplemental information, for his personal use;

(e) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents ($0.25) per page; and

(f) A statement that copies of the financial statement prepared in accordance with KRS 424.220, when a financial statement is required by KRS 424.220, are available to the public at no cost at the business address of the officer responsible for preparation of the statement.
(10) (a) A city may publish bid solicitations by posting the solicitations, on a Web site maintained by the city government, for a period of at least one (1) year.

(b) The posting under paragraph (a) of this subsection shall satisfy all advertisement requirements under Section 48 of this Act for the city.

(11) If a city publishes an audit or a bid solicitation on a Web site under subsections (9) or (10) of this section, the city shall also publish an advertisement, in a city newspaper qualified under KRS 424.120, providing a description of the audit or bid solicitation published on the Web site, including the Uniform Resource Locator (URL) where the document can be viewed.

(12) Any resident of the city or owner of real property within the city may bring an action in the Circuit Court to enforce the provisions of this section. Any person who violates any provision of this section shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars ($50) nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city or owner of real property within the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident or property owner bringing the action, shall be assessed against the unsuccessful party.

(13) In the event of extenuating circumstances that prevent a city from completing and submitting a required audit or financial statement in compliance with the applicable deadlines in subsections (1) to (4) of this section, the city may submit a written request for an extension of time to the Department for Local Government on a form prescribed by the Department for Local Government. The Department for Local Government shall approve the request if it is submitted on or before the applicable deadline and, in the judgment of the Department for Local Government,
the request is warranted by extenuating circumstances beyond the control of the
city. Extensions granted under this subsection shall not exceed nine (9) months
from the original due date of the audit or financial statement. If the Department for
Local Government approves an extension for a city and the city fails to complete
and submit the required audit or financial statement in compliance with that
extended deadline, then the provisions of subsection (12) of this section shall apply.

(14) If a city fails to complete an audit or financial statement and submit it to the
Department for Local Government as required in subsections (1) to (4) and
(13) of this section, the Department for Local Government shall notify the
Finance and Administration Cabinet that the city has failed to comply with the audit
requirements of this section, and that any funds in the possession of any agency,
entity, or branch of state government shall be withheld from the city until further
notice. The Department for Local Government shall immediately notify the Finance
and Administration Cabinet when the city complies with the requirements of
sections (1) to (4) and (13) of this section for all prior fiscal years it has
failed to comply with the audit requirements of this section, and the Finance and
Administration Cabinet shall direct the reinstatement of payments to the city,
including any funds that were withheld due to the noncompliance.

(15) Within a reasonable time after the completion of a special audit or
examination conducted pursuant to KRS 43.050, the Auditor shall bill the city for
the actual expense of the audit or examination conducted. The actual expense shall
include the hours of work performed on the audit or examination as well as
reasonable associated costs, including but not limited to travel costs. The bill
submitted to the city shall include a statement of the hourly rate, total hours, and
total costs for the entire audit or examination.

Section 47. KRS 424.220 is amended to read as follows:

(1) Excepting officers who are exempted under subsection (8) of this section, every
public officer of any school district, county, or district less than a county, or of any board, commission, or other authority of a county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of any funds collected from the public in any form shall, at the expiration of each fiscal year, prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him or her during the fiscal year just closed, unless he or she has complied with KRS 424.230.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee. The list shall include only aggregate amounts to vendors exceeding one thousand dollars ($1,000).

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.

(4) (a) The financial reporting and publishing requirements for a school district are provided in KRS 160.463.

(b) The financial reporting and publishing requirements for a city are provided in Section 46 of this Act.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) To provide notice to the public that the city's financial statement has been
completed as required by this section:

(a) The appropriate officer of a city that has performed an audit under KRS 91A.040 for the fiscal year or years, including the appropriate officer of any municipally owned electric, gas, or water system, shall publish the audit report in accordance with KRS 91A.040(9); and

(b) The appropriate officer of a city that has not conducted an annual audit for the fiscal year under one (1) of the exceptions provided in KRS 91A.040(2), (3), or (4) shall publish a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 that the statement required by subsection (1) of this section has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to be provided a statement. The advertisement shall be published within ninety (90) days after the close of the fiscal year.

(7) To provide notice to the public that the county's financial statement has been completed as required by this section, the appropriate officer of a county shall publish the county's audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040(9).

(7)(8) The provisions of this section shall not apply to officers of:

(a) A city of the first class;
(b) A county containing a city of the first class;
(c) A consolidated local government;
(d) An urban-county government;
(e) A city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census;
(f) A public agency or joint public agency of a:
   1. City of the first class;
2. Consolidated local government; or
3. County containing a city of the first class; or

(g) A school district of a:
1. City of the first class;
2. Consolidated local government; or
3. County containing a city of the first class.

Section 48. KRS 424.260 is amended to read as follows:

(1) Except under subsection (10)(a) of Section 46 of this Act or
where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement
for bids, no city, county, or district, or board or commission of a city or county, or
sheriff or county clerk, may make a contract, lease, or other agreement for materials,
supplies except perishable meat, fish, and vegetables, equipment, or for contractual
services other than professional, involving an expenditure of more than thirty
thousand dollars ($30,000) without first making newspaper advertisement for bids.
This subsection shall not apply to the transfer of property between governmental
agencies as authorized in KRS 82.083(4)(a).

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on
expenditures of less than thirty thousand dollars ($30,000), the fiscal court
requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district
to acquire supplies and equipment outside of the bidding procedure if those
supplies and equipment meet the specifications of the contracts awarded by
the Office of Material and Procurement Services in the Office of the
Controller within the Finance and Administration Cabinet or a federal, local,
or cooperative agency and are available for purchase elsewhere at a lower
price. A board of education may purchase those supplies and equipment
without advertising for bids if, prior to making the purchases, the board of
education obtains certification from the district’s finance or purchasing officer that
the items to be purchased meet the standards and specifications fixed by
state price contract, federal (GSA) price contract, or the bid of another school
district whose bid specifications allow other districts to utilize their bids, and
that the sales price is lower than that established by the various price contract
agreements or available through the bid of another school district whose bid
specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be
available to the district for any specific item once the bidding procedure has
been initiated by an invitation to bid and a publication of specifications for
that specific item has been published. In the event that all bids are rejected, the
district may again avail itself of the provisions of paragraph (a) of this
subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of
the city, county, or district has duly certified that an emergency exists, and has filed
a copy of the certificate with the chief financial officer of the city, county, or
district, or if the sheriff or the county clerk has certified that an emergency exists,
and has filed a copy of the certificate with the clerk of the court where his necessary
office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the
superintendent of the board of education has duly certified that an emergency exists,
and has filed a copy of the certificate with the chief state school officer.

(5) The provisions of subsection (1) of this section shall not apply for the purchase of
wholesale electric power for resale to the ultimate customers of a municipal utility
organized under KRS 96.550 to 96.900.

Section 49. KRS 139.495 is amended to read as follows:

(1) The taxes imposed by this chapter shall apply to:

(a) Resident, nonprofit educational, charitable, or religious institutions which
have qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(b) Any resident, single member limited liability company that is:

1. Wholly owned and controlled by a resident or nonresident, nonprofit educational, charitable, or religious institution which has qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code; and

2. Disregarded as an entity separate from the resident or nonresident, nonprofit educational, charitable, or religious institution for federal income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2; as provided in this section.

(2) (a) Tax does not apply to:

1. Sales of tangible personal property, digital property, or services to these institutions or limited liability companies described in subsection (1) of this section, provided the tangible personal property, digital property, or service is to be used solely in this state within the educational, charitable, or religious function;

2. Sales of food to students in school cafeterias or lunchrooms;

3. Sales by school bookstores of textbooks, workbooks, and other course materials;

4. Sales by nonprofit, school sponsored clubs and organizations, provided such sales do not include tickets for athletic events;

5. Sales of admissions, including the sales of admissions to a golf course when the admission is the result of a fundraising event, by nonprofit educational, charitable, or religious institutions described in subsection (1) of this section. All other sales of admissions to a golf course by these institutions are not exempt from tax under this section; or
6. a. Fundraising event sales made by nonprofit educational, charitable, or religious institutions and limited liability companies described in subsection (1) of this section.

b. For the purposes of this subparagraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.

(b) The exemptions provided in subparagraphs 5. and 6. of paragraph (a) of this subsection shall not apply to sales generated by or arising at a tourism development project approved under KRS 148.851 to 148.860.

(3) An institution shall be entitled to a refund equal to twenty-five percent (25%) of the tax collected on its sale of donated goods if the refund is used exclusively as reimbursement for capital construction costs of additional retail locations in this state, provided the institution:

(a) Routinely sells donated items;

(b) Provides job training and employment to individuals with workplace disadvantages and disabilities;

(c) Spends at least seventy-five percent (75%) of its annual revenue on job training, job placement, or other related community services;

(d) Submits a refund application to the department within sixty (60) days after the new retail location opens for business; and

(e) Provides records of capital construction costs for the new retail location and any other information the department deems necessary to process the refund. The maximum refund allowed for any location shall not exceed one million dollars ($1,000,000). As used in this subsection, "capital construction cost" means the cost of construction of any new facilities or the purchase and renovation of any existing
facilities, but does not include the cost of real property other than real property
designated as a brownfield site as defined in KRS 65.680(4).

(4) Notwithstanding any other provision of law to the contrary, refunds under
subsection (3) of this section shall be made directly to the institution. Interest shall
not be allowed or paid on the refund. The department may examine any refund
within four (4) years from the date the refund application is received. Any
overpayment shall be subject to the interest provisions of KRS 131.183 and the
penalty provisions of KRS 131.180.

(5) All other sales made by nonprofit educational, charitable, or religious institutions or
limited liability companies described in subsection (1) of this section are taxable
and the tax may be passed on to the purchaser as provided in KRS 139.210.

Section 50. KRS 139.498 is amended to read as follows:

(1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as
described in KRS 139.495 and 139.497, the taxes imposed by this chapter do
not apply to:

1. The sale of admissions, including the sales of admissions to a golf
course when the admission is the result of a fundraising event. All
other sales of admissions to a golf course by these organizations are
not exempt from tax under this section; or

2. a. Fundraising event sales.

   b. For the purposes of this paragraph, "fundraising event sales" does
not include sales related to the operation of a retail business,
including but not limited to thrift stores, bookstores, surplus
property auctions, recycle and reuse stores, or any ongoing
operations in competition with for-profit retailers.

   (b) The exemption provided in subparagraph 1. of paragraph (a) of this subsection
shall not apply to the sale of admissions to a public facility that qualifies for a
sales tax rebate under KRS 139.533.

(2) All other sales made by organizations referred to in subsection (1) of this section are taxable.

Section 51. KRS 139.200 is amended to read as follows:

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

(1) Retail sales of:

(a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and

(b) Digital property regardless of whether:

1. The purchaser has the right to permanently use the property;

2. The purchaser's right to access or retain the property is not permanent; or

3. The purchaser's right of use is conditioned upon continued payment; and

(2) The furnishing of the following:

(a) The rental of any room or rooms, lodgings, campsites, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which rooms, lodgings, campsites, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions, except:

1. Admissions to racetracks taxed under KRS 138.480;

2. Admissions to historical sites exempt under KRS 139.482;

3. Admissions taxed under KRS 229.031;

4. Admissions that are charged by nonprofit educational, charitable, or
religious institutions and for which an exemption is provided under KRS 139.495; and

5. Admissions that are charged by nonprofit civic, governmental, or other nonprofit organizations and for which an exemption is provided under KRS 139.498;

(d) Prepaid calling service and prepaid wireless calling service;

(e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;

(f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:

1. For natural gas that is classified as residential use as provided in KRS 139.470(7); or

2. To a seller or reseller of natural gas;

(g) Landscaping services, including but not limited to:

1. Lawn care and maintenance services;

2. Tree trimming, pruning, or removal services;

3. Landscape design and installation services;

4. Landscape care and maintenance services; and

5. Snow plowing or removal services;

(h) Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;

(i) Small animal veterinary services, excluding veterinary services for equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;

(j) Pet care services, including but not limited to grooming and boarding services,
pet sitting services, and pet obedience training services;

(k) Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;

(l) Non-coin-operated laundry and dry cleaning services;

(m) Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;

(n) Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;

(o) Non-medical diet and weight reducing services;

(p) Limousine services, if a driver is provided; and

(q) Extended warranty services.

Section 52. KRS 45A.077 is amended to read as follows:

(1) A public-private partnership delivery method may be utilized as provided in this section and administrative regulations promulgated thereunder. State contracts using this method shall be awarded by competitive negotiation.

(2) A contracting body utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.

(3) On or before December 31, 2016, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The administrative regulations shall reflect the intent of the General Assembly to promote and encourage the use of public-private partnerships in the Commonwealth. The secretary shall consult with design-builders, construction managers, contractors, design professionals including engineers and architects, and other appropriate professionals during the development of these administrative
(4) A request for proposal for a project utilizing a public-private partnership shall include at a minimum:

(a) The parameters of the proposed public-private partnership agreement;

(b) The duties and responsibilities to be performed by the private partner or partners;

(c) The methods of oversight to be employed by the contracting body;

(d) The duties and responsibilities that are to be performed by the contracting body and any other partners to the contract;

(e) The evaluation factors and the relative weight of each to be used in the scoring of awards;

(f) Plans for financing and operating the qualifying project and the revenues, service payments, bond financings, and appropriations of public funds needed for the qualifying project;

(g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity;

(h) The ability of a private partner or partners to quickly respond to the needs presented in the request for proposal, and the importance of economic development opportunities represented by the qualifying project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and

(i) Other information required by the contracting body or the cabinet to evaluate the proposals submitted by respondents and the overall proposed public-private partnership.

(5) A private entity desiring to be a private partner shall demonstrate to the satisfaction
of the contracting body or the cabinet that it is capable of performing any duty,
responsibility, or function it may be authorized or directed to perform as part of the
public-private partnership agreement.

(6) When a request for proposal for a project utilizing a public-private partnership is
issued for a capital project, the contracting body shall transmit a copy of the request
for proposal to the Capital Projects and Bond Oversight Committee staff, clearly
identifying to the staff that a public-private partnership is being utilized. The
contracting body shall submit the final contract to the Capital Projects and Bond
Oversight Committee under KRS 45.763 before work may be begun on the project.

(7) A request for proposal or other solicitation may be canceled, or all proposals may be
rejected, if it is determined in writing that the action is taken in the best interest of
the Commonwealth and approved by the purchasing officer.

(8) (a) Beginning July 1, 2022[2020], in the case of any public-private partnership for
a capital project with an aggregate value of twenty-five million dollars
($25,000,000) or more, the project shall be authorized by the General
Assembly, by inclusion in the branch budget bill or by any other means
specified by the General Assembly, explicitly identifying and authorizing the
utilization of a public-private partnership delivery method for the applicable
capital project. The authorization of a capital project required by this
subsection is in addition to any other statutorily required authorization for a
capital project.

(b) The provisions of this subsection shall not apply to any public-private
partnership project made public through a request for proposal or a public
notice of an unsolicited proposal issued prior to July 1, 2022[2020].

(9) Any corporation as described by KRS 45.750(2)(c), or as created under the
Kentucky Revised Statutes as a governmental agency and instrumentality of the
Commonwealth, that manages its capital construction program shall:
(a) Adhere to the administrative regulations promulgated under this section when utilizing a public-private partnership for financing capital projects;

(b) Report to legislative committees as specified in this section; and

(c) Submit public-private partnership agreements issued by it to the General Assembly for authorization as provided in subsection (8) of this section.

(10) (a) The governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580 shall report to the Capital Projects and Bond Oversight Committee staff as specified in this section.

(b) Any provision of a public-private partnership agreement issued by a postsecondary institution which provides for a lease by or to the postsecondary institution shall be valid and enforceable if approved by the governing board of the institution.

(11) (a) A person or business may submit an unsolicited proposal to a governmental body, which may receive the unsolicited proposal.

(b) Within ninety (90) days of receiving an unsolicited proposal, a governmental body may elect to consider further action on the proposal, at which point the governmental body shall provide public notice of the proposal. Discussion of the project shall not be deemed a solicitation of the project or its concepts after public notice is given. The public notice shall:

1. Provide specific information regarding the proposed nature, timing, and scope of the unsolicited proposal, except that trade secrets, financial records, or other records of the person or business making the proposal shall not be posted unless otherwise agreed to by the governmental body and the person or business; and

2. Provide for a notice period for the submission of competing proposals as follows:

a. Unsolicited proposals valued below five million dollars
($5,000,000) shall be posted for thirty (30) days;

b. Unsolicited proposals valued between five million dollars ($5,000,000) and twenty-five million dollars ($25,000,000) shall be posted for sixty (60) days; and

c. Unsolicited proposals valued over twenty-five million dollars ($25,000,000) shall be posted for ninety (90) days.

(c) Upon the end of the notice period provided under paragraph (b)2. of this subsection, the governmental body may consider the unsolicited proposal and any competing proposals received. If the governmental body determines it is in the best interest of the Commonwealth to implement some or all of the concepts contained within the unsolicited proposal or competing proposals received by it, the governmental body may begin an open, competitive procurement process to do so pursuant to this chapter.

(d) An unsolicited proposal shall be deemed rejected if no written response is received from the governmental body within ninety (90) days of submission, during which time the governmental body has not taken any action on the proposal under paragraph (b) of this subsection.

Section 53. Service Rates: Notwithstanding KRS 45.253(6), the Commonwealth Office of Technology shall maintain the rate schedule in effect in fiscal year 2019-2020 for services rendered or materials furnished during the 2020-2022 fiscal biennium, unless the services or materials are required by law to be furnished gratuitously. Enterprise assessments and security assessments not directly related to specific rated services shall not exceed fiscal year 2019-2020 levels.

Section 54. Kentucky Agricultural Finance Corporation: Notwithstanding KRS 247.978(2), the total amount of principal which a qualified applicant may owe the Kentucky Agricultural Finance Corporation at any one time shall not exceed $5,000,000.

Section 55. Administrative Fee on Infrastructure for Economic
Development Fund Projects: A one-half of one percent administrative fee is authorized
to be paid to the Kentucky Infrastructure Authority for the administration of each project
funded by the Infrastructure for Economic Development Fund for Coal-Producing
Counties and the Infrastructure for Economic Development Fund for Tobacco Counties.
These administrative fees shall be paid, upon inception of the project, out of the fund
from which the project was allocated.

Section 56. Charges for Federal, State, and Local Audits: Any additional
expenses incurred by the Auditor of Public Accounts for required audits of Federal Funds
shall be charged to the government or agency that is the subject of the audit. The Auditor
of Public Accounts receives General Fund appropriations for audits of the statewide
systems of personnel and payroll, cash and investments, revenue collection, and the state
accounting system. Any expenses incurred by the Auditor of Public Accounts for any
other audits shall be charged to the agency that is the subject of such audit. The Auditor
of Public Accounts shall maintain a record of all time and expenses for each audit or
investigation.

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

Section 57. Personnel Board Operating Assessment: Each agency of the
Executive Branch with employees covered by KRS Chapter 18A shall be assessed each
fiscal year the amount required for the operation of the Personnel Board. The agency
assessment shall be determined by the Secretary of the Finance and Administration
Cabinet based on the authorized full-time positions of each agency on July 1 of each year
of the biennium. The Secretary of the Finance and Administration Cabinet shall collect
the assessment.

Section 58. Water Withdrawal Fees: The water withdrawal fees imposed by
the Kentucky River Authority shall not be subject to state and local taxes.
Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

Section 59. **Urgent Needs School Assistance:** If a school district receives an allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A., 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), 2016 Ky. Acts ch. 149, Part I, A., 28., (4) and (5), or 2018 Ky. Acts ch. 169, Part I, A., 27., (3) and subsequently, as a result of litigation or insurance, receives funds for the original facility, the school district shall reimburse the Commonwealth an amount equal to that received for such purposes. If the litigation or insurance receipts are less than the amount received, the district shall reimburse the Commonwealth an amount equal to that received as a result of litigation or insurance less the district’s costs and legal fees in securing the judgment or payment. Any funds received in this manner shall be deposited in the Budget Reserve Trust Fund Account (KRS 48.705).

Section 60. **Pro Rata Assessment:** The Personnel Cabinet shall collect a pro rata assessment from all state agencies, in all three branches of government, and other organizations that are supported by the System. Those collections shall be deposited and retained in a Restricted Funds account within the Personnel Cabinet.

Section 61. **Premium and Retaliatory Taxes:** Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

Section 62. **Monthly Per Employee Health Insurance Benefits Assessment:** The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance.
program.

Section 63. KRS 424.215 is amended to read as follows:

Notwithstanding KRS 65.070, 83A.060, 91A.040, 160.463, 424.180, 424.190, 424.220, 424.230, 424.260, 424.270, 424.330, any public agency required to advertise or publish notices or documents in a newspaper shall be charged the lowest rate generally charged for advertising by the newspaper.

Section 64. KRS 424.990 is amended to read as follows:

Any person who violates any provision of KRS 424.110 to 424.370 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of KRS 424.220, 424.230, 424.250, 424.290 or 424.330 shall, for each such failure, be subject to a forfeiture of not less than fifty dollars ($50) nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once, in a civil action brought by any citizen of the city, county or district for which the officer serves. The costs of all proceedings, including a reasonable fee for the attorney of the citizen bringing the action, shall be assessed against the unsuccessful party.

Section 65. The following KRS sections are repealed:

132.550 County clerk to compute amount due from each taxpayer -- Compensation of clerk.
132.635 Application of KRS 132.590 and 132.630 to urban-county governments and consolidated local governments.
189A.360 Nonrefundable application fee for ignition interlock license. (Effective July 1, 2020)
424.240 County or city budget.
424.250 School district budget.

Section 66. Sections 1 and 7 to 17 of this Act apply to taxable years beginning on or after January 1, 2019.
Section 67. Sections 34, 35, 45, and 49 to 51 of this Act take effect August 1, 2020.

Section 68. Sections 36 to 41 of this Act shall become effective only upon the ratification by voters at the November 3, 2020, election of an amendment to Section 181 of the Kentucky Constitution authorizing the implementation of the provisions of that amendment by the enactment of laws by the General Assembly. If such an amendment is not ratified, Sections 36 to 41 of this Act shall be void and shall be given no effect.

Section 69. Section 43 of this Act takes effect July 1, 2020.

Section 70. Sections 53 to 62 of this Act apply to the fiscal year beginning July 1, 2020, and ending June 30, 2021, and the fiscal year beginning July 1, 2021, and ending June 30, 2022, and shall expire at the end of June 30, 2022.

Section 71. Whereas many taxpayers are currently preparing to file returns, and clarifications for these taxpayers are needed immediately, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.