

1 AN ACT relating to the establishment of a tax credit to promote investments in
2 Kentucky businesses.

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

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

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

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

14 *(2) Through the establishment of a rural growth fund program under Sections 1 to 8*
15 *of this Act and the tax credit under Section 9 of this Act, the Commonwealth will*
16 *attract capital to stimulate business development in rural areas, retain and attract*
17 *new business and industry to the rural areas, create high-paying jobs for*
18 *residents of rural areas, and stimulate growth in businesses in rural areas.*

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

21 *As used in Sections 1 to 10 of this Act:*

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

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

- 1 day operations of the controlled person by contract or by law;
- 2 (2) "Closing date" means the date on which a growth fund has collected all of the
3 amounts specified by subsection (8)(a) of Section 3 of this Act;
- 4 (3) "Department" means the Department of Revenue;
- 5 (4) "Growth business" means a business that, at the time of the initial investment in
6 the company by a growth fund:
- 7 (a) 1. Has fewer than two hundred fifty (250) employees;
- 8 2. Has its principal business operations in one (1) or more growth zones
9 in this state; and
- 10 3. a. Is engaged in the industries described in North American
11 Industry Classification System codes 11, 21, 22, 23, 31-33, 48-49,
12 54, or 62; or
- 13 b. If not engaged in those industries, the department determines
14 that the industry within which the business is engaged will be
15 beneficial to the growth zone and the economic growth of this
16 state; or
- 17 (b) Is located in one (1) or more counties in west Kentucky named in the
18 Presidential Declaration of Emergency related to the storms in December
19 2021;
- 20 (5) "Growth fund" means an entity that:
- 21 (a) Has applied to the department and received an application determination
22 granting the application under subsection (2) of Section 3 of this Act; and
- 23 (b) Is licensed, or is an affiliate of an entity that is licensed, as a rural business
24 investment company under 7 U.S.C. sec. 2009cc-3 or as a small business
25 investment company under 15 U.S.C. sec. 681, provided that an affiliate of
26 the entity used to meet this requirement has been an affiliate of the entity
27 for at least four (4) years, and that the entity or affiliate of the entity have at

1 least one (1) principal who is, or has been for at least four (4) years, an
2 employee or officer of the entity or its affiliates;

3 (6) (a) "Growth investment" means any capital or equity investment in a growth
4 business or any loan to a growth business with a stated maturity at least one
5 (1) year after the date of issuance. A secured loan or the provision of a
6 revolving line of credit to a rural business concern shall only qualify as a
7 rural growth investment if the rural growth fund obtains an affidavit from
8 an officer of the rural business concern attesting that the rural business
9 concern applied for and was denied similar financing from a commercial
10 bank prior to the date of issuance of the secured loan or revolving line of
11 credit.

12 (b) "Growth investment" excludes any amount of any investment or loan
13 which is also designated as an investment under:

14 1. The Kentucky New Markets Development Program, under KRS
15 141.432 to 141.434;

16 2. The Kentucky Angel Investment Act, under KRS 154.20-230 to
17 154.20-240; or

18 3. The Kentucky Investment Fund Act, under KRS 154.20-250 to 154.20-
19 284;

20 (7) "Growth zone" means the following geographic areas within this state:

21 (a) A rural county;

22 (b) An underemployment zone; or

23 (c) An opportunity zone;

24 (8) "High wage" means a wage that is at least one hundred percent (100%) of the
25 county average as calculated by the United States Department of Labor, Bureau
26 of Labor Statistics;

27 (9) "Initial investment authority" means the amount stated on the notice issued

1 under subsection (7) of Section 3 of this Act certifying the growth fund, sixty
2 percent (60%) of which shall be composed of an amount equal to the authorized
3 investor contributions;

4 (10) "Investor contribution" means an investment of cash in a growth fund by an
5 entity with a state premium tax liability that shall:

6 (a) Equal the amount specified in the department's approval of a growth fund
7 related to the entity under subsection (7)(b) of Section 3 of this Act; and

8 (b) Purchase an equity interest in the growth fund or purchase, at par value or
9 premium, a debt instrument that has a maturity date at least five (5) years
10 from the closing date;

11 (11) "Jobs retained" means the number of employment positions at a growth business
12 paying a high wage and requiring at least thirty-five (35) hours of work each
13 week, or any other period of time generally accepted by custom, industry, or
14 practice as full-time employment, that existed before the initial growth investment
15 and for which the growth business's chief executive officer or similar officer
16 certifies that the employment position would have been eliminated but for the
17 initial growth investment. The retained jobs of a growth business shall be
18 calculated each year based on the monthly average of high wage employment
19 positions. The reported number of retained jobs may not exceed the number
20 reported on the initial report under subsection (1) of Section 8 of this Act;

21 (12) "New annual jobs" means the difference between:

22 (a) 1. The monthly average of employment positions at a growth business
23 paying a high wage and requiring at least thirty-five (35) hours of
24 work each week for the preceding calendar year, or any other period
25 of time generally accepted by custom, industry, or practice as full-time
26 employment; or

27 2. If the preceding calendar year contains the initial growth investment,

1 the monthly average of employment positions at a growth business
2 paying a high wage and requiring at least thirty-five (35) hours of
3 work each week, or any other period of time generally accepted by
4 custom, industry, or practice as full-time employment, for the months
5 including and after the initial growth investment and before the end of
6 the preceding calendar year; and

7 (b) The number of full-time high wage employment positions at the growth
8 business on the date of the initial growth investment.

9 If, however, the amount calculated in paragraph (a)1. of this subsection is less
10 than zero, the new annual jobs amount is equal to zero;

11 (13) "Opportunity zone" means a qualified opportunity zone as defined by 26 U.S.C.
12 sec. 1400Z-1;

13 (14) "Principal business operations" means the location where:

14 (a) At least sixty percent (60%) of a business entity's employees work; or

15 (b) At least sixty percent (60%) of the business entity's payroll works.

16 A business that has agreed to relocate employees using the proceeds of a growth
17 investment to establish its principal business operations in a new location shall be
18 deemed to have its principal business operations in this new location if it satisfies
19 those requirements no later than one hundred eighty (180) days after receiving
20 the growth investment;

21 (15) "Rural county" means all Kentucky counties with a population of less than fifty
22 thousand (50,000) based upon the most recent federal decennial census. The
23 department shall publish a list of rural counties;

24 (16) "State premium tax liability" means any liability incurred by any entity under
25 KRS 136.320, 136.330, 136.340, 136.350, 136.370, 136.390, or 304.3-270; and

26 (17) "Underemployment zone" means a county with a labor force participation rate,
27 as calculated by the United States Department of Labor, Bureau of Labor

1 Statistics, below the national average for six (6) of the twelve (12) months prior to
2 a growth fund's closing date.

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

5 (1) Beginning October 1, 2022, the department shall accept applications from entities
6 seeking approval as a growth fund. The application shall be made on standard
7 forms prescribed by the department and shall include:

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

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

12 1. The applicant or an affiliate of the applicant, has at least one (1)
13 principal in a rural business investment company under 7 U.S.C. sec.
14 2009cc-3, or a small business investment company under 15 U.S.C.
15 sec. 681, who is, and has been for at least four (4) years, an officer or
16 employee of the applicant or the affiliate, and in the case of an
17 affiliate, the affiliate has been an affiliate of the applicant for at least
18 four (4) years;

19 2. As of the date the application is submitted, the applicant or an affiliate
20 of the applicant has invested:

21 a. More than one hundred million dollars (\$100,000,000) in
22 nonpublic companies located in non-metropolitan counties as
23 defined by the Office of Management and Budget within the
24 Office of the President of the United States on the basis of
25 county or county-equivalent units; and

26 b. At least one hundred million dollars (\$100,000,000) in nonpublic
27 companies located in low-income communities as defined in 26

1 U.S.C. sec. 45D; and

2 3. The applicant and all affiliates of the applicant are, as of the date the
3 application is submitted, in compliance with applicable state and
4 federal securities laws and regulations and are current and in good
5 standing on all taxes owed to the Commonwealth;

6 (c) An estimate of the number of aggregate new annual jobs and jobs retained
7 in this state as a result of the applicant's proposed growth investments;

8 (d) A business plan that describes in detail the applicant's investment strategy
9 and includes a revenue impact assessment that projects state and local tax
10 revenue to be generated by the applicant's proposed growth investments, as
11 well as reduced state expenditures prepared by a nationally recognized
12 third-party independent economic forecasting firm using a dynamic
13 economic forecasting model that analyzes the applicant's business plan over
14 the ten (10) years following the date the application is submitted to the
15 department;

16 (e) A signed affidavit from each investor stating the amount of investor
17 contributions each investor commits to make;

18 (f) A representation that the applicant shall remain in compliance with
19 applicable state and federal securities laws and regulations;

20 (g) An education and marketing plan to educate growth businesses regarding
21 the availability of funds and requirements for participation; and

22 (h) A nonrefundable application fee of five thousand dollars (\$5,000).

23 (2) (a) The department shall:

24 1. Review applications on a first-come, first-served basis;

25 2. Determine that each investor is in good standing; and

26 3. Make an application determination granting or denying an
27 application within sixty (60) days of receipt.

- 1 (b) The department shall deem applications received on the same day to have
2 been received simultaneously.
- 3 (3) (a) The department shall not approve initial investment authority that would
4 allow more than fifteen million dollars (\$15,000,000) in tax credits to be
5 taken in any one (1) year, excluding any credits that are carried forward
6 under subsection (5) of Section 9 of this Act.
- 7 (b) If applications for initial investment authority being reviewed by the
8 department exceed the limitations provided in paragraph (a) of this
9 subsection, the department shall proportionally reduce the initial investment
10 authority and the investor contributions for each approved application as
11 necessary to avoid exceeding the limits.
- 12 (c) The department shall not issue approval for any amount of investment
13 authority, or any amount of investor contributions, on or after October 1,
14 2023.
- 15 (4) The department shall deny an application submitted under this section if:
- 16 (a) The application is incomplete, or the application fee is not paid in full;
17 (b) The applicant does not satisfy all the criteria provided in subsection (1)(b)
18 of this section;
19 (c) The investor contributions that investors have committed to make, as
20 described in affidavits submitted under subsection (1)(e) of this section, do
21 not equal sixty percent (60%) of the total amount of initial investment
22 authority sought by the applicant;
23 (d) The department has already approved the maximum amount of initial
24 investment authority and investor contributions allowed under subsection
25 (3)(a) of this section; or
26 (e) The application is received by the department on or after August 1, 2023, in
27 which case the department would not have the full sixty (60) day period

1 allowed for review of applications prior to reaching the sunset date
2 limitation provided in subsection (3)(c) of this section.

3 (5) If the department denies an application, the applicant may provide additional
4 information to the department to complete, clarify, or cure defects in the
5 application identified by the department, except for a denial under subsection
6 (4)(e) of this section, within fifteen (15) days of the notice of denial and resubmit
7 the application for reconsideration. The department shall review resubmitted
8 applications within thirty (30) days, and prior to reviewing any pending
9 application submitted after the original submission date of the reconsidered
10 application.

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

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

15 (a) A written approval to the applicant certifying it as a growth fund and
16 specifying the amount of the applicant's initial investment authority; and

17 (b) A written tax credit certificate to each investor whose affidavit was included
18 in the application, specifying the amount of each investor credit
19 contribution.

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

22 (a) Within sixty (60) days:

23 1. Collect the investor contributions from each investor issued a tax
24 credit certificate under subsection (7)(b) of this section; and

25 2. Collect one (1) or more investments of cash that, when added to the
26 investor capital contributions collected under subparagraph 1. of this
27 paragraph, equal the growth fund's entire approved initial investment

1 authority. At least ten percent (10%) of the growth fund's initial
2 investment authority shall be composed of equity investments
3 contributed directly or indirectly by affiliates of the growth fund,
4 including employees, officers, and directors of those affiliates;

5 **(b) Within sixty-five (65) days, submit to the department written documentation**
6 sufficient to prove that the amounts described in paragraph (a) of this
7 subsection have been collected; and

8 **(c) Within two (2) years of the closing date, invest one hundred percent (100%)**
9 of its initial investment authority in growth investments in this state,
10 including at least seventy-five percent (75%) of its initial investment
11 authority in growth businesses located in rural counties, and maintain that
12 level of investment until the sixth anniversary of the closing date.

13 **(9) (a) If the growth fund fails to fully comply with subsection (8)(a) and (b) of this**
14 section, the growth fund's approval shall lapse and the corresponding
15 initial investment authority and investor contributions shall not count
16 toward the limits on total initial investment authority and investor
17 contributions prescribed by subsection (3) of this section.

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

26 **(c) Any remaining initial investment authority and investor contributions may**
27 be awarded by the department to new applications submitted under

1 subsection (1) of this section, subject to the sunset date limitation provided
2 in subsection (3)(c) of this section.

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

6 (a) The name, address, and industry of the business entity receiving the growth
7 investment;

8 (b) The amount of the growth investment;

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

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

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

15 (12) The department shall review the applications received under subsection (1) of this
16 section and documents received under subsections (8) and (10) of this section to
17 ensure compliance with Sections 1 to 10 of this Act.

18 (13) The department may promulgate administrative regulations as necessary to
19 administer Sections 1 to 10 of this Act.

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

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

25 (a) The growth fund in which the investor contribution associated with the tax
26 credit certificate was made does not invest one hundred percent (100%) of
27 its initial investment authority in growth investments in this state within two

1 (2) years of the closing date;

2 **(b) 1. The growth fund, after investing one hundred percent (100%) of its**
3 **investment authority in growth investments in this state, fails to**
4 **maintain that investment until the sixth anniversary of the closing**
5 **date.**

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

16 **3. A growth fund shall not be required to reinvest capital returned from**
17 **growth investments after the fifth anniversary of the closing date, and**
18 **those amounts shall be considered to be held continuously by the**
19 **growth fund through the sixth anniversary of the closing date;**

20 **(c) The growth fund, before exiting the program in accordance with subsection**
21 **(5) of this section, makes a distribution or payment that results in the**
22 **growth fund having less than one hundred percent (100%) of its initial**
23 **investment authority invested in growth investments in this state or**
24 **available for investment in growth investments and held in cash and other**
25 **marketable securities; or**

26 **(d) 1. The growth fund makes a growth investment in a growth business that**
27 **directly, or indirectly through an affiliate owns, has the right to**

- 1 acquire an ownership interest in, makes a loan to, or makes an
2 investment in the growth fund, an affiliate of the growth fund, or an
3 investor in the growth fund.
- 4 2. This paragraph shall not apply to investments in publicly traded
5 securities made by a growth business or an owner or affiliate of that
6 growth business.
- 7 3. For purposes of this paragraph, a growth fund shall not be considered
8 an affiliate of a growth business solely as a result of its growth
9 investment.
- 10 (2) The amount by which a growth fund's interest in a growth business exceeds five
11 million dollars (\$5,000,000) shall not count towards the satisfaction required by
12 subsection (1)(a) and (b) of this section.
- 13 (3) Before revoking one (1) or more tax credit certificates under this section, the
14 department shall notify the growth fund of the reasons for the pending
15 revocation. The growth fund shall have ninety (90) days from the date of the
16 notice to correct any violation outlined in the notice to the satisfaction of the
17 department and to avoid revocation of the tax credit certificate.
- 18 (4) Upon revocation of a tax credit certificate, any taxpayer that has received the tax
19 credit certificate shall not be allowed to claim any amount of credit not yet
20 claimed.
- 21 (5) (a) If tax credit certificates are revoked under this section, the corresponding
22 initial investment authority and investor capital contributions shall not
23 count toward the limits on total investment authority and credit-eligible
24 capital contributions prescribed by subsection (3)(a) of Section 3 of this Act.
25 (b) The department shall first award reverted initial investment authority and
26 investor contribution amounts pro rata to each growth fund that was
27 awarded less than its requested initial investment authority and investor

1 contribution amounts under subsection (3)(b) of Section 3 of this Act. A
2 growth fund receiving awards under this paragraph may allocate investor
3 contribution amounts to its investors in its discretion, upon the submission
4 of written notification to the department detailing the investor to which the
5 amount approved for investor contributions has been allocated.

6 (c) The department may award any remaining initial investment authority and
7 investor contributions to new applications submitted under subsection (1) of
8 Section 3 of this Act, subject to the sunset date limitation provided in
9 subsection (3)(c) of Section 3 of this Act.

10 (6) (a) On or after the sixth anniversary of the closing date, a growth fund that has
11 not committed any of the acts described in subsection (1) of this section may
12 submit a written request to the department to exit the program and to no
13 longer be subject to regulation under Sections 1 to 10 of this Act.

14 (b) The department shall respond to the request within sixty (60) days. In
15 evaluating the request, the fact that no tax credit certificates have been
16 revoked and that the growth fund has not received a notice of revocation,
17 which has not been cured under subsection (3) of this section, shall be
18 sufficient evidence to prove that the growth fund is eligible for exit.

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

22 (7) After its exit from the program in accordance with of subsection (5)(a) of this
23 section, a growth fund shall not be permitted to make distributions to its equity
24 holders unless and until it has made growth investments equal to at least one
25 hundred fifty percent (150%) of its initial investment authority. Each growth fund
26 shall continue to report the amount of growth investments made to the
27 department annually until it has made growth investments equal to at least one

1 hundred fifty percent (150%) of its initial investment authority.

2 (8) At any time the growth fund proposes to make a distribution to its equity holders
3 that, when added to all previous distributions to its equity holders, would be in
4 excess of its initial investment authority, the growth fund shall remit to the
5 department, if applicable, a payment equal to the product of the proposed
6 distribution and a fraction, the numerator of which is the aggregate number of
7 new annual jobs and jobs retained reported to the department under subsection
8 (1) of Section 8 of this Act and the denominator of which is the number of new
9 annual jobs and jobs retained projected in the growth fund's application, as
10 prorated based on the amount of initial investment authority received by the
11 growth fund. No payment shall be due if the aggregate number of new annual
12 jobs and jobs retained as of the date of the proposed distribution equal or exceed
13 the number of new annual jobs and jobs retained projected in the growth fund's
14 application, as prorated based on the amount of initial investment authority
15 received.

16 (9) The department shall not revoke a tax credit certificate after the associated
17 growth fund exits the program under subsection (6) of this section.

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

20 (1) A growth fund may, prior to making a growth investment, request from the
21 department a written determination as to whether the business entity in which it
22 proposes to invest qualifies as a growth business. Each request for a written
23 opinion shall be accompanied by a five hundred dollar (\$500) opinion fee
24 submitted to the department and made payable to the Kentucky State Treasurer.

25 (2) Within twenty (20) days after receiving a request under this section, the
26 department shall notify the growth fund of its determination.

27 (3) To enable the department to make a determination under this section, the growth

1 fund shall supply information concerning the business entity and the proposed
2 investment as requested by the department. If the growth fund does not, or is
3 unable to, supply information requested by the department, the department may
4 refuse to issue a determination under this section, in which case subsection (2) of
5 this section shall not apply.

6 (4) If the department fails to notify the growth fund of its determination within
7 twenty (20) days, the business in which the growth fund proposes to invest shall
8 be considered a growth business.

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

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

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

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

25 The Commonwealth, or any officer, director, official, employee, or agent of the
26 Commonwealth, shall not be liable to any growth fund or any investor making an
27 investor contribution to growth fund. This limitation of liability includes without

1 limitation:

2 (1) Losses or damages investors incur in connection with any committed or
 3 contributed investor contributions made to a growth fund or any growth
 4 investments made by a growth fund in any business entity; and

5 (2) Any claim, liability, obligation, loss, damage, assessment, judgment, cost, and
 6 expense of any kind or character relating to federal or state securities laws, rules,
 7 regulations, or orders.

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

10 To enable the General Assembly to evaluate and measure the effectiveness of the tax
 11 credit allowed by Section 9 of this Act in addressing the needs and achieving the goals
 12 as stated in Section 1 of this Act, the following reporting requirements shall apply:

13 (1) Each growth fund shall submit a written report to the department and the Interim
 14 Joint Committee on Appropriations and Revenue on or before the fifth business
 15 day following the anniversary of the closing date and on or before the fifth
 16 business day following each subsequent anniversary of the closing date prior to
 17 the growth fund's exit from the program as set forth in subsection (6) of Section
 18 4 of this Act. The report shall provide detailed documentation as to the growth
 19 fund's growth investments made to date and shall include:

20 (a) A bank statement evidencing each growth investment;

21 (b) 1. The name, address, and industry of each growth business receiving a
 22 growth investment;

23 2. Either a determination letter issued by the department under
 24 subsection (7) of Section 3 of this Act relating to the growth business,
 25 or evidence that it qualified as a growth business at the time the
 26 investment was made; and

27 3. A detailed description of the business activities engaged in by the

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growth business;

(c) The location, by county, of each growth business;

(d) The number of employment positions at each growth business on the date of the growth fund's initial growth investment;

(e) The number of new annual jobs created or jobs retained during the year by the growth business;

(f) The average annual salary of new annual jobs and jobs retained at each growth business during the year;

(g) The cumulative amount of growth investments made in each growth business;

(h) Whether any tax certificates have been revoked by the department; and

(i) Any other information required by the department to provide evidence that the program is valuable to the Commonwealth and meeting the goals of the program; and

(2) If the information is available, the growth fund shall provide the annual report set forth in subsection (1) of this section for growth investments that have been redeemed or repaid.

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

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

(a) KRS 136.320;

(b) KRS 136.330;

(c) KRS 136.340;

(d) KRS 136.350;

- 1 (e) KRS 136.370;
2 (f) KRS 136.390; or
3 (g) KRS 304.3-270;
4 with the ordering of the credit as provided in Section 10 of this Act.
- 5 (3) The credit may not be sold, transferred, or allocated to any other taxpayer other
6 than an affiliate that was an affiliate at the time of the submission of the
7 investor's affidavit included in the growth fund's application and is itself subject
8 to the tax imposed by KRS 136.320, 136.330, 136.340, 136.350, 136.370, 136.390,
9 or 304.3-270.
- 10 (4) (a) On the closing date, the taxpayer shall earn a vested credit equal to the
11 amount of the taxpayer's investor contribution made to a growth fund as
12 specified on the tax credit certificate.
- 13 (b) A taxpayer may claim no more than twenty percent (20%) of the credit
14 allowed by this section in each of the years that include the second, third,
15 fourth, fifth, and sixth anniversaries of the closing date, exclusive of
16 amounts carried forward under subsection (5) of this section.
- 17 (5) If the amount of the credit allowed for a taxable year under subsection (4) of this
18 section exceeds the tax otherwise due for that year, the excess shall be carried
19 forward to succeeding taxable years until fully used, for a period not to exceed
20 ten (10) years.
- 21 (6) A taxpayer claiming a credit under this section shall submit a copy of the tax
22 credit certificate with the taxpayer's return filed for each taxable year for which
23 the credit is claimed.
- 24 (7) On or before December 1, 2023, and annually thereafter as long as the credit is
25 claimed by a taxpayer, the department shall submit a written report to the Interim
26 Joint Committee on Appropriations and Revenue, providing cumulative
27 information by taxable year:

1 (a) The number of taxpayers claiming a credit under this section, and the total
 2 value of credits claimed;

3 (b) The total value of initial investment authority and investor contributions
 4 approved by the department since the initial creation of the credit by fiscal
 5 year, listed by the date on which the approvals were issued; and

6 (c) The number and total value of any tax credit certificates revoked by the
 7 department during the fiscal year, with an explanation of the reason for
 8 each revocation.

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

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

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

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

16 and

17 (c) The rural growth fund credit permitted by Section 9 of this Act.

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

21 ➔Section 11. KRS 131.190 is amended to read as follows:

22 (1) No present or former commissioner or employee of the department, present or
 23 former member of a county board of assessment appeals, present or former property
 24 valuation administrator or employee, present or former secretary or employee of the
 25 Finance and Administration Cabinet, former secretary or employee of the Revenue
 26 Cabinet, or any other person, shall intentionally and without authorization inspect or
 27 divulge any information acquired by him or her of the affairs of any person, or

1 information regarding the tax schedules, returns, or reports required to be filed with
2 the department or other proper officer, or any information produced by a hearing or
3 investigation, insofar as the information may have to do with the affairs of the
4 person's business.

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

- 6 (a) Information required in prosecutions for making false reports or returns of
7 property for taxation, or any other infraction of the tax laws;
- 8 (b) Any matter properly entered upon any assessment record, or in any way made
9 a matter of public record;
- 10 (c) Furnishing any taxpayer or his or her properly authorized agent with
11 information respecting his or her own return;
- 12 (d) Testimony provided by the commissioner or any employee of the department
13 in any court, or the introduction as evidence of returns or reports filed with the
14 department, in an action for violation of state or federal tax laws or in any
15 action challenging state or federal tax laws;
- 16 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
17 energy resources assessed under KRS 132.820, or owners of surface land
18 under which the unmined minerals lie, factual information about the owner's
19 property derived from third-party returns filed for that owner's property, under
20 the provisions of KRS 132.820, that is used to determine the owner's
21 assessment. This information shall be provided to the owner on a confidential
22 basis, and the owner shall be subject to the penalties provided in KRS
23 131.990(2). The third-party filer shall be given prior notice of any disclosure
24 of information to the owner that was provided by the third-party filer;
- 25 (f) Providing to a third-party purchaser pursuant to an order entered in a
26 foreclosure action filed in a court of competent jurisdiction, factual
27 information related to the owner or lessee of coal, oil, gas reserves, or any

- 1 other mineral resources assessed under KRS 132.820. The department may
2 promulgate an administrative regulation establishing a fee schedule for the
3 provision of the information described in this paragraph. Any fee imposed
4 shall not exceed the greater of the actual cost of providing the information or
5 ten dollars (\$10);
- 6 (g) Providing information to a licensing agency, the Transportation Cabinet, or
7 the Kentucky Supreme Court under KRS 131.1817;
- 8 (h) Statistics of gasoline and special fuels gallonage reported to the department
9 under KRS 138.210 to 138.448;
- 10 (i) Providing any utility gross receipts license tax return information that is
11 necessary to administer the provisions of KRS 160.613 to 160.617 to
12 applicable school districts on a confidential basis;
- 13 (j) Providing documents, data, or other information to a third party pursuant to an
14 order issued by a court of competent jurisdiction; or
- 15 (k) Providing information to the Legislative Research Commission under:
- 16 1. KRS 139.519 for purposes of the sales and use tax refund on building
17 materials used for disaster recovery;
 - 18 2. KRS 141.436 for purposes of the energy efficiency products credits;
 - 19 3. KRS 141.437 for purposes of the ENERGY STAR home and the
20 ENERGY STAR manufactured home credits;
 - 21 4. KRS 141.383 for purposes of the film industry incentives;
 - 22 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
23 tax credits and the job assessment fees;
 - 24 6. KRS 141.068 for purposes of the Kentucky investment fund;
 - 25 7. KRS 141.396 for purposes of the angel investor tax credit;
 - 26 8. KRS 141.389 for purposes of the distilled spirits credit;
 - 27 9. KRS 141.408 for purposes of the inventory credit;

- 1 10. KRS 141.390 for purposes of the recycling and composting credit;
- 2 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 3 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 4 credit;
- 5 13. KRS 141.524 for purposes of the Education Opportunity Account
- 6 Program tax credit;
- 7 14. KRS 141.398 for purposes of the development area tax credit;~~and~~
- 8 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 9 commercial mining of cryptocurrency; **and**

10 **16. Section 9 of this Act for the purposes of the rural growth fund credit.**

- 11 (3) The commissioner shall make available any information for official use only and on
- 12 a confidential basis to the proper officer, agency, board or commission of this state,
- 13 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 14 under reciprocal agreements whereby the department shall receive similar or useful
- 15 information in return.
- 16 (4) Access to and inspection of information received from the Internal Revenue Service
- 17 is for department use only, and is restricted to tax administration purposes.
- 18 Information received from the Internal Revenue Service shall not be made available
- 19 to any other agency of state government, or any county, city, or other state, and shall
- 20 not be inspected intentionally and without authorization by any present secretary or
- 21 employee of the Finance and Administration Cabinet, commissioner or employee of
- 22 the department, or any other person.
- 23 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
- 24 requirements of KRS Chapter 137 and statistics of natural gas production as
- 25 reported to the department under the natural resources severance tax requirements
- 26 of KRS Chapter 143A may be made public by the department by release to the
- 27 Energy and Environment Cabinet, Department for Natural Resources.

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

10 ➔Section 12. Sections 1 to 10 of this Act may be cited as the Kentucky Rural
11 Jobs Act of 2022.