

1 AN ACT relating to fiscal matters and declaring an emergency.

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

3 ➔Section 1. KRS 48.115 is amended to read as follows:

- 4 (1) The revenue estimates for the general fund and the road fund required by KRS
5 48.120 shall be based on a consensus revenue forecast. The~~[planning report,]~~
6 preliminary revenue estimates~~[,]~~ and official revenue estimates required by KRS
7 48.120 shall be developed by the consensus forecasting group. The members of the
8 consensus forecasting group shall be jointly selected by the state budget director
9 and the Legislative Research Commission. The members shall be knowledgeable
10 about the state and national economy and the revenue and financial conditions of
11 the Commonwealth.
- 12 (2) If the Legislative Research Commission or state budget director determines that a
13 revision to the official revenue estimates is needed, the Legislative Research
14 Commission or state budget director shall request a revision from the consensus
15 forecasting group. The revised revenue estimates shall become the official revenue
16 estimates.
- 17 (3) The enacted budget reduction plan required by KRS 48.130 shall be implemented
18 only:
- 19 (a) Upon the issuance of an official revenue estimate from the consensus
20 forecasting group reflecting a revenue shortfall of five percent (5%) or less; or
21 (b) At the end of a fiscal year, upon the existence of an actual revenue shortfall of
22 five percent (5%) or less, as determined by the Office of State Budget
23 Director.
- 24 (4) The state budget director shall coordinate with the Department of Revenue and the
25 Transportation Cabinet to ensure that the financial and revenue data required for the
26 forecasting process is made available to the consensus forecasting group.
- 27 (5) Staff for the consensus forecasting group shall be provided by the Legislative

1 Research Commission.

2 ➔Section 2. KRS 48.120 is amended to read as follows:

- 3 (1) By September 30~~[August 15]~~ of each odd-numbered year, the Office of State
4 Budget Director, in conjunction with the consensus forecasting group, shall provide
5 to each branch of government preliminary revenue estimates~~[a budget planning
6 report]~~. The preliminary revenue estimates~~[budget planning report]~~ shall include:
- 7 (a) A baseline analysis and projections of economic conditions and outlook;
 - 8 (b) Any potential consequences of the analysis and projections for the
9 Commonwealth's fiscal condition;
 - 10 (c) The revenue estimates and implications for the general fund and road fund for
11 the current fiscal year and next two (2)~~[four (4)]~~ fiscal years; and
 - 12 (d) Projections of personal income, employment, and economic indicators that
13 reflect economic conditions.
- 14 ~~(2) [By October 15 of each odd-numbered year, the Office of State Budget Director
15 shall provide to each branch of government preliminary revenue estimates made by
16 the consensus forecast group for the general fund and road fund for the current and
17 next two (2) fiscal years, including explanatory statements, and a comparative
18 record of the actual revenues of these funds for each of the last two (2) years
19 concluded.~~
- 20 ~~(3)~~ On or before the fifteenth legislative day, the Office of State Budget Director shall
21 certify and present to the Legislative Research Commission~~[General Assembly]~~ the
22 official revenue estimates made by the consensus forecasting group for the general
23 fund and road fund for the current and next two (2) fiscal years.
- 24 ~~(3)~~~~(4)~~ Appropriations made in the branch budget bills enacted for each branch of
25 government shall be based upon the official revenue estimates presented to the
26 Legislative Research Commission~~[General Assembly]~~ by the Office of State
27 Budget Director under subsection (2)~~(3)~~ of this section, as modified by the

1 General Assembly.

2 ~~(4)~~~~(5)~~ The enacted estimates shall become the official revenue estimates of the
3 Commonwealth upon the branch budget bills becoming law, and shall remain the
4 official revenue estimates of the Commonwealth until revised by the consensus
5 forecasting group as provided in KRS 48.115.

6 ➔Section 3. KRS 132.0225 is amended to read as follows:

7 (1) (a) A taxing district that does not elect to attempt to set a rate that will produce
8 more than four percent (4%) in additional revenue, exclusive of revenue from
9 new property as defined in KRS 132.010, over the amount of revenue
10 produced by the compensating tax rate as defined in KRS 132.010 shall
11 establish a final tax rate within forty-five (45) days of the department's
12 certification of the county's property tax roll.

13 *(b) For boards of education, the forty-five (45) days shall begin from the date of*
14 *the department's certification to the chief state school officer as required by*
15 *KRS 160.470(4).*

16 (c) A city that does not elect to have city ad valorem taxes collected by the sheriff
17 as provided in KRS 91A.070(1) shall be exempt from *the forty-five (45)*
18 *day*~~[this]~~ deadline.

19 (d) Any nonexempt taxing district that fails to meet *the forty-five (45) day*~~[this]~~
20 deadline shall be required to use the compensating tax rate for that year's
21 property tax bills.

22 (2) A taxing district that elects to attempt to set a rate that will produce more than four
23 percent (4%) in additional revenue, exclusive of revenue from new property as
24 defined in KRS 132.010, over the amount of revenue produced by the compensating
25 tax rate as defined in KRS 132.010 shall follow the provisions of KRS 132.017.

26 ➔Section 4. KRS 138.472 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Department" means the Kentucky Department of Revenue;
- 2 (b) "Gross receipts" means the total consideration received for the:
- 3 1. Rental of a vehicle, including the daily or hourly rental fee, fees charged
- 4 for using the services, charges for insurance protection plans, fuel
- 5 charges, pickup and delivery fees, late fees, and any charges for any
- 6 services necessary to complete the rental transaction made by a:
- 7 a. Peer-to-peer car sharing company; or
- 8 b. Motor vehicle rental company; and
- 9 2. Charges made to provide the service to a user, including any charges for
- 10 time or mileage, fees for using the services, and any charges for any
- 11 services necessary to complete the transaction made by a:
- 12 a. TNC;
- 13 b. Taxicab; or
- 14 c. Limousine service provider;
- 15 (c) The following terms have the same meaning as in KRS 281.010:
- 16 1. **"Human service transportation delivery"**;
- 17 **2.** "Limousine";
- 18 **3.**~~[2.]~~ "Peer-to-peer car sharing certificate";
- 19 **4.**~~[3.]~~ "Peer-to-peer car sharing company";
- 20 **5.**~~[4.]~~ "Peer-to-peer car sharing driver";
- 21 **6.**~~[5.]~~ "Peer-to-peer car sharing program";
- 22 **7.**~~[6.]~~ "Shared vehicle";
- 23 **8.**~~[7.]~~ "Shared vehicle driver";
- 24 **9.**~~[8.]~~ "Taxicab";
- 25 **10.**~~[9.]~~ "Transportation network company" or "TNC";
- 26 **11.**~~[10.]~~ "Transportation network company service" or "TNC service"; and
- 27 **12.**~~[11.]~~ "U-Drive-It";

1 (d) "Motor vehicle rental company" has the same meaning as in KRS 281.687;
2 and

3 (e) "Person" means the individual or the entity required to be the holder of any
4 of the following certificates in KRS 281.630:

- 5 1. Limousine;
- 6 2. Peer-to-peer car sharing;
- 7 3. Taxicab;
- 8 4. Transportation network; and
- 9 5. U-Drive-It.

10 (2) (a) An excise tax is imposed upon every person for the privilege of providing a
11 motor vehicle for sharing or for rent, with or without a driver, within the
12 Commonwealth.

13 (b) The tax is imposed at the rate of six percent (6%) of the gross receipts derived
14 from the:

- 15 ~~1.(a)~~ Rental of a shared vehicle by a peer-to-peer car sharing company;
- 16 ~~2.(b)~~ Rental of a vehicle by a motor vehicle renting company;
- 17 ~~3.(c)~~ Sales of TNC services;
- 18 ~~4.(d)~~ Sales of taxicab services; and
- 19 ~~5.(e)~~ Sales of limousine services.

20 (c) Excluded from the tax are receipts derived from the provision of human
21 service transportation delivery.

22 (3) (a) The tax imposed under subsection (2) of this section shall be administered and
23 collected by the department. Revenues generated from the tax shall be
24 deposited into the general fund.

25 (b) On or before the twentieth day of the month following each calendar month,
26 a return for the preceding month shall be filed with the department by every
27 person required to pay the tax in a form prescribed by the department.

- 1 (4) The tax imposed by subsection (2) of this section shall be the direct obligation of
2 the peer-to-peer car sharing company, the motor vehicle renting company, the TNC,
3 the taxicab service provider, and the limousine service provider, but it may be
4 charged to and collected from the user of the service. The tax shall be remitted to
5 the department each month on forms and pursuant to administrative regulations
6 promulgated by the department.
- 7 (5) (a) As soon as practicable after each return is received, the department shall
8 examine and audit the return. If the amount of taxes computed by the
9 department is greater than the amount returned by the person, the excess shall
10 be assessed by the department within four (4) years from the date the return
11 was filed, except as provided in paragraph (c) of this subsection, and except
12 that in the case of a failure to file a return or of a fraudulent return the excess
13 may be assessed at any time. A notice of such assessment shall be mailed to
14 the person.
- 15 (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed
16 before the last day prescribed by law for the filing thereof shall be considered
17 as filed on such last day.
- 18 (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this
19 subsection, in the case of a return where the amount of taxes computed by the
20 department is greater by twenty-five percent (25%) or more than the amount
21 returned by the person, the excess shall be assessed by the department within
22 six (6) years from the date the return was filed.
- 23 (6) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle
24 Regulation to void the certificate issued to a:
- 25 (a) Limousine certificate holder;
26 (b) Peer-to-peer car sharing certificate holder;
27 (c) Taxicab certificate holder;

1 (d) TNC certificate holder; or

2 (e) U-Drive-It certificate holder.

3 (7) If a person fails or refuses to file a return or furnish any information requested in
4 writing, the department may, from any information in its possession, make an
5 estimate of the certificate holder's total trip costs and issue an assessment against
6 the certificate holder based on the estimated trip cost charges and add a penalty of
7 ten percent (10%) of the amount of the assessment so determined. This penalty shall
8 be in addition to all other applicable penalties provided by law.

9 ~~(8) If any person fails to make and file a return required by subsection (4) of this~~
10 ~~section on or before the due date of the return, or if the taxes, or portion thereof, is~~
11 ~~not paid on or before the date prescribed for its payment, then, unless it is shown to~~
12 ~~the satisfaction of the department that the failure is due to a reasonable cause, five~~
13 ~~percent (5%) of the taxes found to be due shall be added to the tax for each thirty~~
14 ~~(30) days or fraction thereof elapsing between the due date of the return and the~~
15 ~~date on which filed, but the total penalty shall not exceed twenty five percent (25%)~~
16 ~~of the tax; provided, however, that in no case shall the penalty be less than ten~~
17 ~~dollars (\$10).~~

18 ~~(9)~~ If the tax imposed by subsection (2) of this section is not paid on or before the date
19 prescribed for its payment, there shall be collected, as a part of the tax, interest upon
20 the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the
21 date prescribed for its payment until payment is actually made.

22 ~~(9)~~~~(10)~~ Notwithstanding any other provisions of this chapter to the contrary, the
23 president, vice president, secretary, treasurer, or any other person holding any
24 equivalent corporate office of any corporation subject to the provisions of this
25 chapter shall be personally and individually liable, both jointly and severally, for
26 the taxes imposed under this chapter, and neither the corporate dissolution nor
27 withdrawal of the corporation from the state nor the cessation of holding any

1 corporate office shall discharge the foregoing liability of any person. The personal
2 and individual liability shall apply to each and every person holding the corporate
3 office at the time the taxes become or became due. No person will be personally
4 and individually liable pursuant to this section who had no authority in the
5 management of the business or financial affairs of the corporation at the time that
6 the taxes imposed by this chapter become or became due. "Taxes" as used in this
7 section shall include interest accrued at the rate provided by KRS 139.650 and all
8 applicable penalties imposed under this chapter and all applicable penalties and fees
9 imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

10 ~~(10)~~[(11)] Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-
11 306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a
12 limited liability company, the partners of a limited liability partnership, and the
13 general partners of a limited liability limited partnership, or any other person
14 holding any equivalent office of a limited liability company, limited liability
15 partnership, or limited liability limited partnership subject to the provisions of this
16 chapter, shall be personally and individually liable, both jointly and severally, for
17 the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability
18 company, limited liability partnership, or limited liability limited partnership from
19 the state, or the cessation of holding any office shall not discharge the liability of
20 any person. The personal and individual liability shall apply to each and every
21 manager of a limited liability company, partner of a limited liability partnership,
22 and general partner of a limited liability limited partnership at the time the taxes
23 become or became due. No person shall be personally and individually liable under
24 this subsection who had no authority to collect, truthfully account for, or pay over
25 any tax imposed by this chapter at the time that the taxes imposed by this chapter
26 become or became due. "Taxes" as used in this section shall include interest
27 accrued at the rate provided by KRS 131.183, all applicable penalties imposed

1 under this chapter, and all applicable penalties and fees imposed under KRS
2 131.180, 131.410 to 131.445, and 131.990.

3 ~~(11)~~⁽¹²⁾ Any person who violates any of the provisions of this section shall be subject
4 to the uniform civil penalties imposed pursuant to KRS 131.180.

5 ➔Section 5. KRS 138.475 (Effective January 1, 2024) is amended to read as
6 follows:

7 (1) As used in this section:

8 (a) "Electric motorcycle" means the same as "motorcycle" or "motor scooter" as
9 defined in KRS 186.010, that is powered by a:

- 10 1. Battery or equivalent energy storage device that can be charged with an
11 electric plug using an external electricity source; or
- 12 2. Combination of an internal combustion engine and electric motor;

13 (b) "Electric vehicle" means any vehicle that has plug-in charging capability,
14 regardless of whether the vehicle is powered by:

- 15 1. An electric motor only; or
- 16 2. A combination of an internal combustion engine and electric power; and

17 (c) "Hybrid vehicle" means any vehicle that does not have plug-in charging
18 capability and is powered by a combination of an internal combustion engine
19 and an electric motor.

20 (2) At the time of initial registration, and each year upon annual vehicle registration
21 renewal, the county clerk shall collect, as required under KRS 186.050, from the
22 registrants of electric motorcycles, electric vehicles, and hybrid vehicles the electric
23 vehicle ownership fees established under subsections (3) and (4) of this section.

24 (3) The electric vehicle ownership fees shall be:

- 25 (a) One hundred twenty dollars (\$120) for electric vehicles; and
- 26 (b) Sixty dollars (\$60) for electric motorcycles or hybrid vehicles.

27 (4) The Department of Revenue shall adjust the fees established in subsection (3) of

1 this section, on the same schedule and in the same manner as the adjustments to the
2 electric vehicle power taxes under KRS 138.477, except that:

- 3 (a) Adjustment to the fees shall be rounded to the nearest dollar; and
4 (b) Any adjustment of fees shall not result in a decrease below the base fees
5 established in subsection (3) of this section.

6 (5) The electric vehicle ownership fees collected under this section shall be
7 transferred[~~:-~~

8 ~~(a) Fifty percent (50%) to the general fund; and~~

9 ~~(b) Fifty percent (50%)]] to the road fund.~~

10 ➔Section 6. KRS 139.010 is amended to read as follows:

11 As used in this chapter, unless the context otherwise provides:

12 (1) (a) "Admissions" means the fees paid for:

- 13 1. The right of entrance to a display, program, sporting event, music
14 concert, performance, play, show, movie, exhibit, fair, or other
15 entertainment or amusement event or venue; and
16 2. The privilege of using facilities or participating in an event or activity,
17 including but not limited to:
18 a. Bowling centers;
19 b. Skating rinks;
20 c. Health spas;
21 d. Swimming pools;
22 e. Tennis courts;
23 f. Weight training facilities;
24 g. Fitness and recreational sports centers; and
25 h. Golf courses, both public and private;
26 regardless of whether the fee paid is per use or in any other form,
27 including but not limited to an initiation fee, monthly fee, membership

- 1 fee, or combination thereof.
- 2 (b) "Admissions" does not include:
- 3 1. Any fee paid to enter or participate in a fishing tournament; or
- 4 2. Any fee paid for the use of a boat ramp for the purpose of allowing
- 5 boats to be launched into or hauled out from the water;
- 6 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
- 7 which is to attract public attention to a product, person, business, or organization, or
- 8 to attempt to sell, popularize, or secure financial support for a product, person,
- 9 business, or organization. As used in this definition, "product" means tangible
- 10 personal property, an item transferred electronically, or a service;
- 11 (3) "Business" includes any activity engaged in by any person or caused to be engaged
- 12 in by that person with the object of gain, benefit, or advantage, either direct or
- 13 indirect;
- 14 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 15 (5) (a) "Cosmetic surgery services" means modifications to all areas of the head,
- 16 neck, and body to enhance appearance through surgical and medical
- 17 techniques.
- 18 (b) "Cosmetic surgery services" does not include surgery services that are
- 19 medically necessary to reconstruct or correct dysfunctional areas of the
- 20 face~~reconstruction of facial~~ and body~~defects~~ due to birth disorders,
- 21 trauma, burns, or disease;
- 22 (6) "Department" means the Department of Revenue;
- 23 (7) (a) "Digital audio-visual works" means a series of related images which, when
- 24 shown in succession, impart an impression of motion, with accompanying
- 25 sounds, if any.
- 26 (b) "Digital audio-visual works" includes movies, motion pictures, musical
- 27 videos, news and entertainment programs, and live events.

- 1 (c) "Digital audio-visual works" shall not include video greeting cards, video
2 games, and electronic games;
- 3 (8) (a) "Digital audio works" means works that result from the fixation of a series of
4 musical, spoken, or other sounds.
- 5 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
6 readings of books or other written materials, speeches, or other sound
7 recordings.
- 8 (c) "Digital audio works" shall not include audio greeting cards sent by electronic
9 mail;
- 10 (9) (a) "Digital books" means works that are generally recognized in the ordinary and
11 usual sense as books, including any literary work expressed in words,
12 numbers, or other verbal or numerical symbols or indicia if the literary work
13 is generally recognized in the ordinary or usual sense as a book.
- 14 (b) "Digital books" shall not include digital audio-visual works, digital audio
15 works, periodicals, magazines, newspapers, or other news or information
16 products, chat rooms, or Web logs;
- 17 (10) (a) "Digital code" means a code which provides a purchaser with a right to obtain
18 one (1) or more types of digital property. A "digital code" may be obtained by
19 any means, including electronic mail messaging or by tangible means,
20 regardless of the code's designation as a song code, video code, or book code.
- 21 (b) "Digital code" shall not include a code that represents:
- 22 1. A stored monetary value that is deducted from a total as it is used by the
23 purchaser; or
- 24 2. A redeemable card, gift card, or gift certificate that entitles the holder to
25 select specific types of digital property;
- 26 (11) (a) "Digital property" means any of the following which is transferred
27 electronically:

- 1 1. Digital audio works;
 - 2 2. Digital books;
 - 3 3. Finished artwork;
 - 4 4. Digital photographs;
 - 5 5. Periodicals;
 - 6 6. Newspapers;
 - 7 7. Magazines;
 - 8 8. Video greeting cards;
 - 9 9. Audio greeting cards;
 - 10 10. Video games;
 - 11 11. Electronic games; or
 - 12 12. Any digital code related to this property.
- 13 (b) "Digital property" shall not include digital audio-visual works or satellite
- 14 radio programming;
- 15 (12) (a) "Direct mail" means printed material delivered or distributed by United States
- 16 mail or other delivery service to a mass audience or to addressees on a mailing
- 17 list provided by the purchaser or at the direction of the purchaser when the
- 18 cost of the items are not billed directly to the recipient.
- 19 (b) "Direct mail" includes tangible personal property supplied directly or
- 20 indirectly by the purchaser to the direct mail retailer for inclusion in the
- 21 package containing the printed material.
- 22 (c) "Direct mail" does not include multiple items of printed material delivered to
- 23 a single address;
- 24 (13) "Directly used in the manufacturing or industrial processing process" means the
- 25 process that commences with the movement of raw materials from storage into a
- 26 continuous, unbroken, integrated process and ends when the finished product is
- 27 packaged and ready for sale;

1 (14) (a) "Executive employee recruitment services" means services provided by a
2 person to locate potential candidates to fill open senior-level management
3 positions.

4 (b) "Executive employee recruitment services" includes but is not limited to
5 making a detailed list of client requirements, researching and identifying
6 potential candidates, performing pre-screening interviews, and providing
7 contract and salary negotiations;

8 (15) (a) "Extended warranty services" means services provided through a service
9 contract agreement between the contract provider and the purchaser where the
10 purchaser agrees to pay compensation for the contract and the provider agrees
11 to repair, replace, support, or maintain tangible personal property, digital
12 property,~~[-or]~~ real property, or prewritten computer software access services
13 according to the terms of the contract.

14 (b) "Extended warranty services" does not include the sale of a service contract
15 agreement for tangible personal property to be used by a small telephone
16 utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in
17 KRS 65.7621 to deliver communications services as defined in KRS 136.602
18 or broadband;

19 (16)~~[(15)]~~ (a) "Finished artwork" means final art that is used for actual reproduction
20 by photomechanical or other processes or for display purposes.

21 (b) "Finished artwork" includes:

- 22 1. Assemblies;
- 23 2. Charts;
- 24 3. Designs;
- 25 4. Drawings;
- 26 5. Graphs;
- 27 6. Illustrative materials;

- 1 7. Lettering;
- 2 8. Mechanicals;
- 3 9. Paintings; and
- 4 10. Paste-ups;

5 ~~(17)~~~~(16)~~ (a) "Gross receipts" and "sales price" mean the total amount or
6 consideration, including cash, credit, property, and services, for which
7 tangible personal property, digital property, or services are sold, leased, or
8 rented, valued in money, whether received in money or otherwise, without
9 any deduction for any of the following:

- 10 1. The retailer's cost of the tangible personal property, digital property, or
11 services sold;
- 12 2. The cost of the materials used, labor or service cost, interest, losses, all
13 costs of transportation to the retailer, all taxes imposed on the retailer, or
14 any other expense of the retailer;
- 15 3. Charges by the retailer for any services necessary to complete the sale;
- 16 4. Delivery charges, which are defined as charges by the retailer for the
17 preparation and delivery to a location designated by the purchaser
18 including transportation, shipping, postage, handling, crating, and
19 packing;
- 20 5. Any amount for which credit is given to the purchaser by the retailer,
21 other than credit for tangible personal property or digital property traded
22 when the tangible personal property or digital property traded is of like
23 kind and character to the property purchased and the property traded is
24 held by the retailer for resale; and
- 25 6. The amount charged for labor or services rendered in installing or
26 applying the tangible personal property, digital property, or service sold.

27 (b) "Gross receipts" and "sales price" shall include consideration received by the

1 retailer from a third party if:

- 2 1. The retailer actually receives consideration from a third party and the
3 consideration is directly related to a price reduction or discount on the
4 sale to the purchaser;
- 5 2. The retailer has an obligation to pass the price reduction or discount
6 through to the purchaser;
- 7 3. The amount of consideration attributable to the sale is fixed and
8 determinable by the retailer at the time of the sale of the item to the
9 purchaser; and
- 10 4. One (1) of the following criteria is met:
 - 11 a. The purchaser presents a coupon, certificate, or other
12 documentation to the retailer to claim a price reduction or discount
13 where the coupon, certificate, or documentation is authorized,
14 distributed, or granted by a third party with the understanding that
15 the third party will reimburse any seller to whom the coupon,
16 certificate, or documentation is presented;
 - 17 b. The price reduction or discount is identified as a third-party price
18 reduction or discount on the invoice received by the purchaser or
19 on a coupon, certificate, or other documentation presented by the
20 purchaser; or
 - 21 c. The purchaser identifies himself or herself to the retailer as a
22 member of a group or organization entitled to a price reduction or
23 discount. A "preferred customer" card that is available to any
24 patron does not constitute membership in such a group.

25 (c) "Gross receipts" and "sales price" shall not include:

- 26 1. Discounts, including cash, term, or coupons that are not reimbursed by a
27 third party and that are allowed by a retailer and taken by a purchaser on

- 1 a sale;
- 2 2. Interest, financing, and carrying charges from credit extended on the
- 3 sale of tangible personal property, digital property, or services, if the
- 4 amount is separately stated on the invoice, bill of sale, or similar
- 5 document given to the purchaser;
- 6 3. Any taxes legally imposed directly on the purchaser that are separately
- 7 stated on the invoice, bill of sale, or similar document given to the
- 8 purchaser; or
- 9 4. Local alcohol regulatory license fees authorized under KRS 243.075 that
- 10 are separately stated on the invoice, bill of sale, or similar document
- 11 given to the purchaser.

12 (d) As used in this subsection, "third party" means a person other than the
13 purchaser;

14 ~~(18)~~~~(17)~~ "In this state" or "in the state" means within the exterior limits of the
15 Commonwealth and includes all territory within these limits owned by or ceded to
16 the United States of America;

17 ~~(19)~~~~(18)~~ "Industrial processing" includes:

- 18 (a) Refining;
- 19 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
- 20 (c) Mining, quarrying, fabricating, and industrial assembling;
- 21 (d) The processing and packaging of raw materials, in-process materials, and
- 22 finished products; and
- 23 (e) The processing and packaging of farm and dairy products for sale;

24 ~~(20)~~~~(19)~~ (a) "Lease or rental" means any transfer of possession or control of tangible
25 personal property for a fixed or indeterminate term for consideration. A lease
26 or rental shall include future options to:

- 27 1. Purchase the property; or

1 2. Extend the terms of the agreement and agreements covering trailers
2 where the amount of consideration may be increased or decreased by
3 reference to the amount realized upon sale or disposition of the property
4 as defined in 26 U.S.C. sec. 7701(h)(1).

5 (b) "Lease or rental" shall not include:

- 6 1. A transfer of possession or control of property under a security
7 agreement or deferred payment plan that requires the transfer of title
8 upon completion of the required payments;
- 9 2. A transfer of possession or control of property under an agreement that
10 requires the transfer of title upon completion of the required payments
11 and payment of an option price that does not exceed the greater of one
12 hundred dollars (\$100) or one percent (1%) of the total required
13 payments; or
- 14 3. Providing tangible personal property and an operator for the tangible
15 personal property for a fixed or indeterminate period of time. To qualify
16 for this exclusion, the operator must be necessary for the equipment to
17 perform as designed, and the operator must do more than maintain,
18 inspect, or setup the tangible personal property.

19 (c) This definition shall apply regardless of the classification of a transaction
20 under generally accepted accounting principles, the Internal Revenue Code, or
21 other provisions of federal, state, or local law;

22 **(21) (a) "Lobbying services" means the act of promoting or securing passage of**
23 **legislation or an attempt to influence or sway a public official or other**
24 **public servant toward a desired action, including but not limited to the**
25 **support of or opposition to a project or the passage, amendment, defeat,**
26 **approval, or veto of any legislation, regulation, rule, or ordinance;**

27 **(b) "Lobbying services" includes but is not limited to the performance of**

1 *activities described as executive agency lobbying activities as defined in KRS*
2 *11A.201, activities described under the definition of lobby in KRS 6.611,*
3 *and any similar activities performed at the local, state, or federal levels;*

4 ~~(22)~~~~(20)~~ (a) "Machinery for new and expanded industry" means machinery:

- 5 1. Directly used in the manufacturing or industrial processing process of:
- 6 a. Tangible personal property at a plant facility;
- 7 b. Distilled spirits or wine at a plant facility or on the premises of a
- 8 distiller, rectifier, winery, or small farm winery licensed under
- 9 KRS 243.030 that includes a retail establishment on the premises;
- 10 or
- 11 c. Malt beverages at a plant facility or on the premises of a brewer or
- 12 microbrewery licensed under KRS 243.040 that includes a retail
- 13 establishment;
- 14 2. Which is incorporated for the first time into:
- 15 a. A plant facility established in this state; or
- 16 b. Licensed premises located in this state; and
- 17 3. Which does not replace machinery in the plant facility or licensed
- 18 premises unless that machinery purchased to replace existing machinery:
- 19 a. Increases the consumption of recycled materials at the plant
- 20 facility by not less than ten percent (10%);
- 21 b. Performs different functions;
- 22 c. Is used to manufacture a different product; or
- 23 d. Has a greater productive capacity, as measured in units of
- 24 production, than the machinery being replaced.
- 25 (b) "Machinery for new and expanded industry" does not include repair,
- 26 replacement, or spare parts of any kind, regardless of whether the purchase of
- 27 repair, replacement, or spare parts is required by the manufacturer or seller as

1 a condition of sale or as a condition of warranty;

2 ~~(23)~~⁽²¹⁾ "Manufacturing" means any process through which material having little or
3 no commercial value for its intended use before processing has appreciable
4 commercial value for its intended use after processing by the machinery;{

5 ~~(22) "Marketing services" means developing marketing objectives and policies, sales
6 forecasting, new product developing and pricing, licensing, and franchise planning;}~~

7 ~~(24)~~⁽²³⁾ "Marketplace" means any physical or electronic means through which one (1)
8 or more retailers may advertise and sell tangible personal property, digital property,
9 or services, or lease tangible personal property or digital property, such as a catalog,
10 Internet Web site, or television or radio broadcast, regardless of whether the
11 tangible personal property, digital property, or retailer is physically present in this
12 state;

13 ~~(25)~~⁽²⁴⁾ (a) "Marketplace provider" means a person, including any affiliate of the
14 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of
15 this paragraph as follows:

- 16 1. The person directly or indirectly:
- 17 a. Lists, makes available, or advertises tangible personal property,
18 digital property, or services for sale by a marketplace retailer in a
19 marketplace owned, operated, or controlled by the person;
- 20 b. Facilitates the sale of a marketplace retailer's product through a
21 marketplace by transmitting or otherwise communicating an offer
22 or acceptance of a retail sale of tangible personal property, digital
23 property, or services between a marketplace retailer and a
24 purchaser in a forum including a shop, store, booth, catalog,
25 Internet site, or similar forum;
- 26 c. Owns, rents, licenses, makes available, or operates any electronic
27 or physical infrastructure or any property, process, method,

- 1 copyright, trademark, or patent that connects marketplace retailers
2 to purchasers for the purpose of making retail sales of tangible
3 personal property, digital property, or services;
- 4 d. Provides a marketplace for making retail sales of tangible personal
5 property, digital property, or services, or otherwise facilitates retail
6 sales of tangible personal property, digital property, or services,
7 regardless of ownership or control of the tangible personal
8 property, digital property, or services, that are the subject of the
9 retail sale;
- 10 e. Provides software development or research and development
11 activities related to any activity described in this subparagraph, if
12 the software development or research and development activities
13 are directly related to the physical or electronic marketplace
14 provided by a marketplace provider;
- 15 f. Provides or offers fulfillment or storage services for a marketplace
16 retailer;
- 17 g. Sets prices for a marketplace retailer's sale of tangible personal
18 property, digital property, or services;
- 19 h. Provides or offers customer service to a marketplace retailer or a
20 marketplace retailer's customers, or accepts or assists with taking
21 orders, returns, or exchanges of tangible personal property, digital
22 property, or services sold by a marketplace retailer; or
- 23 i. Brands or otherwise identifies sales as those of the marketplace
24 provider; and
- 25 2. The person directly or indirectly:
- 26 a. Collects the sales price or purchase price of a retail sale of tangible
27 personal property, digital property, or services;

- 1 b. Provides payment processing services for a retail sale of tangible
2 personal property, digital property, or services;
- 3 c. Through terms and conditions, agreements, or arrangements with a
4 third party, collects payment in connection with a retail sale of
5 tangible personal property, digital property, or services from a
6 purchaser and transmits that payment to the marketplace retailer,
7 regardless of whether the person collecting and transmitting the
8 payment receives compensation or other consideration in exchange
9 for the service; or
- 10 d. Provides a virtual currency that purchasers are allowed or required
11 to use to purchase tangible personal property, digital property, or
12 services.

13 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
14 requirements of this subsection through the ownership, operation, or control
15 of a digital distribution service, digital distribution platform, online portal, or
16 application store;

17 ~~(26)~~~~(25)~~ "Marketplace retailer" means a seller that makes retail sales through any
18 marketplace owned, operated, or controlled by a marketplace provider;

19 ~~(27)~~~~(26)~~ (a) "Occasional sale" includes:

- 20 1. A sale of tangible personal property or digital property not held or used
21 by a seller in the course of an activity for which he or she is required to
22 hold a seller's permit, provided such sale is not one (1) of a series of
23 sales sufficient in number, scope, and character to constitute an activity
24 requiring the holding of a seller's permit. In the case of the sale of the
25 entire, or a substantial portion of the nonretail assets of the seller, the
26 number of previous sales of similar assets shall be disregarded in
27 determining whether or not the current sale or sales shall qualify as an

1 occasional sale; or

2 2. Any transfer of all or substantially all the tangible personal property or
3 digital property held or used by a person in the course of such an activity
4 when after such transfer the real or ultimate ownership of such property
5 is substantially similar to that which existed before such transfer.

6 (b) For the purposes of this subsection, stockholders, bondholders, partners, or
7 other persons holding an interest in a corporation or other entity are regarded
8 as having the "real or ultimate ownership" of the tangible personal property or
9 digital property of such corporation or other entity;

10 ~~(28)~~~~(27)~~ (a) "Other direct mail" means any direct mail that is not advertising and
11 promotional direct mail, regardless of whether advertising and promotional
12 direct mail is included in the same mailing.

13 (b) "Other direct mail" includes but is not limited to:

14 1. Transactional direct mail that contains personal information specific to
15 the addressee, including but not limited to invoices, bills, statements of
16 account, and payroll advices;

17 2. Any legally required mailings, including but not limited to privacy
18 notices, tax reports, and stockholder reports; and

19 3. Other nonpromotional direct mail delivered to existing or former
20 shareholders, customers, employees, or agents, including but not limited
21 to newsletters and informational pieces.

22 (c) "Other direct mail" does not include the development of billing information or
23 the provision of any data processing service that is more than incidental to the
24 production of printed material;

25 ~~(29)~~~~(28)~~ "Person" includes any individual, firm, copartnership, joint venture,
26 association, social club, fraternal organization, corporation, estate, trust, business
27 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or

1 agency, or any other group or combination acting as a unit;

2 ~~(30)~~~~(29)~~ "Permanent," as the term applies to digital property, means perpetual or for an
3 indefinite or unspecified length of time;

4 ~~(31)~~~~(30)~~ (a) "Photography and photofinishing services" means:

- 5 1. The taking, developing, or printing of an original photograph; or
- 6 2. Image editing, including shadow removal, tone adjustments, vertical and
7 horizontal alignment and cropping, composite image creation,
8 formatting, watermarking printing, and delivery of an original
9 photograph in the form of tangible personal property, digital property, or
10 other media.

11 (b) "Photography and photofinishing services" does not include photography
12 services necessary for medical or dental health;

13 ~~(32)~~~~(31)~~ "Plant facility" means a single location that is exclusively dedicated to
14 manufacturing or industrial processing activities. A location shall be deemed to be
15 exclusively dedicated to manufacturing or industrial processing activities even if
16 retail sales are made there, provided that the retail sales are incidental to the
17 manufacturing or industrial processing activities occurring at the location. The term
18 "plant facility" shall not include any restaurant, grocery store, shopping center, or
19 other retail establishment;

20 ~~(33)~~~~(32)~~ (a) "Prewritten computer software" means:

- 21 1. Computer software, including prewritten upgrades, that are not designed
22 and developed by the author or other creator to the specifications of a
23 specific purchaser;
- 24 2. Software designed and developed by the author or other creator to the
25 specifications of a specific purchaser when it is sold to a person other
26 than the original purchaser; or
- 27 3. Any portion of prewritten computer software that is modified or

1 enhanced in any manner, where the modification or enhancement is
2 designed and developed to the specifications of a specific purchaser,
3 unless there is a reasonable, separately stated charge on an invoice or
4 other statement of the price to the purchaser for the modification or
5 enhancement.

6 (b) When a person modifies or enhances computer software of which the person
7 is not the author or creator, the person shall be deemed to be the author or
8 creator only of the modifications or enhancements the person actually made.

9 (c) The combining of two (2) or more prewritten computer software programs or
10 portions thereof does not cause the combination to be other than prewritten
11 computer software;

12 ~~(34)~~~~(33)~~ "Prewritten computer software access services" means the right of access to
13 prewritten computer software where the object of the transaction is to use the
14 prewritten computer software while possession of the prewritten computer software
15 is maintained by the seller or a third party, wherever located, regardless of whether
16 the charge for the access or use is on a per use, per user, per license, subscription, or
17 some other basis;

18 ~~(35)~~~~(34)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
19 lease, or rental, conditional or otherwise, in any manner or by any means
20 whatsoever, of:

- 21 1. Tangible personal property;
- 22 2. An extended warranty service;
- 23 3. Digital property transferred electronically; or
- 24 4. Services included in KRS 139.200;
- 25 for a consideration.

26 (b) "Purchase" includes:

- 27 1. When performed outside this state or when the customer gives a resale

1 certificate, the producing, fabricating, processing, printing, or imprinting
2 of tangible personal property for a consideration for consumers who
3 furnish either directly or indirectly the materials used in the producing,
4 fabricating, processing, printing, or imprinting;

5 2. A transaction whereby the possession of tangible personal property or
6 digital property is transferred but the seller retains the title as security
7 for the payment of the price; and

8 3. A transfer for a consideration of the title or possession of tangible
9 personal property or digital property which has been produced,
10 fabricated, or printed to the special order of the customer, or of any
11 publication;

12 ~~(36)~~~~[(35)]~~ "Recycled materials" means materials which have been recovered or diverted
13 from the solid waste stream and reused or returned to use in the form of raw
14 materials or products;

15 ~~(37)~~~~[(36)]~~ "Recycling purposes" means those activities undertaken in which materials
16 that would otherwise become solid waste are collected, separated, or processed in
17 order to be reused or returned to use in the form of raw materials or products;

18 ~~(38)~~~~[(37)]~~ "Remote retailer" means a retailer with no physical presence in this state;

19 ~~(39)~~~~[(38)]~~ (a) "Repair, replacement, or spare parts" means any tangible personal
20 property used to maintain, restore, mend, or repair machinery or equipment.

21 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
22 industrial tools;

23 ~~(40)~~~~[(39)]~~ (a) "Retailer" means:

24 1. Every person engaged in the business of making retail sales of tangible
25 personal property, digital property, or furnishing any services in a retail
26 sale included in KRS 139.200;

27 2. Every person engaged in the business of making sales at auction of

- 1 tangible personal property or digital property owned by the person or
2 others for storage, use or other consumption, except as provided in
3 paragraph (c) of this subsection;
- 4 3. Every person making more than two (2) retail sales of tangible personal
5 property, digital property, or services included in KRS 139.200 during
6 any twelve (12) month period, including sales made in the capacity of
7 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
- 8 4. Any person conducting a race meeting under the provision of KRS
9 Chapter 230, with respect to horses which are claimed during the
10 meeting.
- 11 (b) When the department determines that it is necessary for the efficient
12 administration of this chapter to regard any salesmen, representatives,
13 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
14 employers under whom they operate or from whom they obtain the tangible
15 personal property, digital property, or services sold by them, irrespective of
16 whether they are making sales on their own behalf or on behalf of the dealers,
17 distributors, supervisors or employers, the department may so regard them and
18 may regard the dealers, distributors, supervisors or employers as retailers for
19 purposes of this chapter.
- 20 (c) 1. Any person making sales at a charitable auction for a qualifying entity
21 shall not be a retailer for purposes of the sales made at the charitable
22 auction if:
- 23 a. The qualifying entity, not the person making sales at the auction, is
24 sponsoring the auction;
- 25 b. The purchaser of tangible personal property at the auction directly
26 pays the qualifying entity sponsoring the auction for the property
27 and not the person making the sales at the auction; and

- 1 c. The qualifying entity, not the person making sales at the auction, is
2 responsible for the collection, control, and disbursement of the
3 auction proceeds.
- 4 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
5 the qualifying entity sponsoring the auction shall be the retailer for
6 purposes of the sales made at the charitable auction.
- 7 3. For purposes of this paragraph, "qualifying entity" means a resident:
- 8 a. Church;
- 9 b. School;
- 10 c. Civic club; or
- 11 d. Any other nonprofit charitable, religious, or educational
12 organization;
- 13 ~~(41)~~~~(40)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
14 sublease, or subrent;
- 15 ~~(42)~~~~(41)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
16 device and that may be used to alert the customer with respect to a
17 communication.
- 18 (b) "Ringtones" shall not include ringback tones or other digital files that are not
19 stored on the purchaser's communications device;
- 20 ~~(43)~~~~(42)~~ (a) "Sale" means:
- 21 1. The furnishing of any services included in KRS 139.200;
- 22 2. Any transfer of title or possession, exchange, barter, lease, or rental,
23 conditional or otherwise, in any manner or by any means whatsoever,
24 of:
- 25 a. Tangible personal property; or
- 26 b. Digital property transferred electronically;
- 27 for a consideration.

- 1 (b) "Sale" includes but is not limited to:
- 2 1. The producing, fabricating, processing, printing, or imprinting of
- 3 tangible personal property or digital property for a consideration for
- 4 purchasers who furnish, either directly or indirectly, the materials used
- 5 in the producing, fabricating, processing, printing, or imprinting;
- 6 2. A transaction whereby the possession of tangible personal property or
- 7 digital property is transferred, but the seller retains the title as security
- 8 for the payment of the price; and
- 9 3. A transfer for a consideration of the title or possession of tangible
- 10 personal property or digital property which has been produced,
- 11 fabricated, or printed to the special order of the purchaser.
- 12 (c) This definition shall apply regardless of the classification of a transaction
- 13 under generally accepted accounting principles, the Internal Revenue Code, or
- 14 other provisions of federal, state, or local law;
- 15 ~~(44)~~~~(43)~~ "Seller" includes every person engaged in the business of selling tangible
- 16 personal property, digital property, or services of a kind, the gross receipts from the
- 17 retail sale of which are required to be included in the measure of the sales tax, and
- 18 every person engaged in making sales for resale;
- 19 ~~(45)~~~~(44)~~ (a) "Storage" includes any keeping or retention in this state for any purpose
- 20 except sale in the regular course of business or subsequent use solely outside
- 21 this state of tangible personal property, ~~or~~ digital property, or prewritten
- 22 computer software access services purchased from a retailer.
- 23 (b) "Storage" does not include the keeping, retaining, or exercising any right or
- 24 power over tangible personal property for the purpose of subsequently
- 25 transporting it outside the state for use thereafter solely outside the state, or
- 26 for the purpose of being processed, fabricated, or manufactured into, attached
- 27 to, or incorporated into, other tangible personal property to be transported

1 outside the state and thereafter used solely outside the state;

2 ~~(46)~~~~(45)~~ "Tangible personal property" means personal property which may be seen,
3 weighed, measured, felt, or touched, or which is in any other manner perceptible to
4 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
5 and prewritten computer software;

6 ~~(47)~~~~(46)~~ "Taxpayer" means any person liable for tax under this chapter;

7 ~~(48)~~~~(47)~~ "Telemarketing services" means services provided via telephone, facsimile,
8 electronic mail, *text messages*, or other modes of communications, *including but*
9 *not limited to various forms of social media*, to another person, which are
10 unsolicited by that person, for the purposes of:

- 11 (a) 1. Promoting products or services;
12 2. Taking orders; or
13 3. Providing information or assistance regarding the products or services;
14 or
15 (b) Soliciting contributions;

16 ~~(49)~~~~(48)~~ "Transferred electronically" means accessed or obtained by the purchaser by
17 means other than tangible storage media; and

18 ~~(50)~~~~(49)~~ (a) "Use" includes the exercise of:

- 19 1. Any right or power over tangible personal property or digital property
20 incident to the ownership of that property, or by any transaction in
21 which possession is given, or by any transaction involving digital
22 property or tangible personal property where the right of access is
23 granted; or
24 2. Any right or power to benefit *from* any services subject to tax under
25 KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~.

26 (b) "Use" does not include the keeping, retaining, or exercising any right or
27 power over;

- 1 **1.** Tangible personal property or digital property for the purpose of:
- 2 **a.**~~[1.]~~ Selling tangible personal property or digital property in the regular
- 3 course of business; or
- 4 **b.**~~[2.]~~ Subsequently transporting tangible personal property outside the
- 5 state for use thereafter solely outside the state, or for the purpose
- 6 of being processed, fabricated, or manufactured into, attached to,
- 7 or incorporated into, other tangible personal property to be
- 8 transported outside the state and thereafter used solely outside the
- 9 state; **or**

- 10 **2. Prewritten computer software access services purchased for use**
- 11 **outside the state and transferred electronically outside the state for use**
- 12 **thereafter solely outside the state.**

13 ➔Section 7. KRS 139.200 is amended to read as follows:

14 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross

15 receipts derived from:

16 (1) Retail sales of:

17 (a) Tangible personal property, regardless of the method of delivery, made within

18 this Commonwealth; and

19 (b) Digital property regardless of whether:

20 1. The purchaser has the right to permanently use the property;

21 2. The purchaser's right to access or retain the property is not permanent;

22 or

23 3. The purchaser's right of use is conditioned upon continued payment; and

24 (2) The furnishing of the following services:

25 (a) The rental of any room or rooms, lodgings, campsites, or accommodations

26 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,

27 recreational vehicle parks, or any other place in which rooms, lodgings,

- 1 campsites, or accommodations are regularly furnished to transients for a
2 consideration. The tax shall not apply to rooms, lodgings, campsites, or
3 accommodations supplied for a continuous period of thirty (30) days or more
4 to a person;
- 5 (b) Sewer services;
- 6 (c) The sale of admissions, except:
- 7 1. Admissions to enter the grounds or enclosure of any track licensed
8 under KRS Chapter 230 at which live horse racing or historical horse
9 racing is being conducted under the jurisdiction of the Kentucky Horse
10 Racing Commission;
- 11 2. Admissions taxed under KRS 229.031;
- 12 3. Admissions that are charged by nonprofit educational, charitable, or
13 religious institutions and for which an exemption is provided under KRS
14 139.495; and
- 15 4. Admissions that are charged by nonprofit civic, governmental, or other
16 nonprofit organizations and for which an exemption is provided under
17 KRS 139.498;
- 18 (d) Prepaid calling service and prepaid wireless calling service;
- 19 (e) Intrastate, interstate, and international communications services as defined in
20 KRS 139.195, except the furnishing of pay telephone service as defined in
21 KRS 139.195;
- 22 (f) Distribution, transmission, or transportation services for natural gas that is for
23 storage, use, or other consumption in this state, excluding those services
24 furnished:
- 25 1. For natural gas that is classified as residential use as provided in KRS
26 139.470(7); or
- 27 2. To a seller or reseller of natural gas;

- 1 (g) Landscaping services, including but not limited to:
- 2 1. Lawn care and maintenance services;
- 3 2. Tree trimming, pruning, or removal services;
- 4 3. Landscape design and installation services;
- 5 4. Landscape care and maintenance services; and
- 6 5. Snow plowing or removal services;
- 7 (h) Janitorial services, including but not limited to residential and commercial
- 8 cleaning services, and carpet, upholstery, and window cleaning services;
- 9 (i) Small animal veterinary services, excluding veterinary services for equine,
- 10 cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and
- 11 cervids;
- 12 (j) Pet care services, including but not limited to grooming and boarding
- 13 services, pet sitting services, and pet obedience training services;
- 14 (k) Industrial laundry services, including but not limited to industrial uniform
- 15 supply services, protective apparel supply services, and industrial mat and rug
- 16 supply services;
- 17 (l) Non-coin-operated laundry and dry cleaning services;
- 18 (m) Linen supply services, including but not limited to table and bed linen supply
- 19 services and nonindustrial uniform supply services;
- 20 (n) Indoor skin tanning services, including but not limited to tanning booth or
- 21 tanning bed services and spray tanning services;
- 22 (o) Non-medical diet and weight reducing services;
- 23 (p) Extended warranty services;
- 24 (q) Photography and photofinishing services;
- 25 ~~(r) Marketing services;~~
- 26 ~~(s) Telemarketing services;~~
- 27 (s)~~(t)~~ Public opinion and research polling services;

- 1 ~~(t)~~~~(u)~~ Lobbying services;
- 2 ~~(u)~~~~(v)~~ Executive employee recruitment services;
- 3 ~~(v)~~~~(w)~~ Web site design and development services;
- 4 ~~(w)~~~~(x)~~ Web site hosting services;
- 5 ~~(x)~~~~(y)~~ Facsimile transmission services;
- 6 ~~(y)~~~~(z)~~ Private mailroom services, including:
- 7 1. Presorting mail and packages by postal code;
- 8 2. Address barcoding;
- 9 3. Tracking;
- 10 4. Delivery to postal service; and
- 11 5. Private mailbox rentals;
- 12 ~~(z)~~~~(aa)~~ Bodyguard services;
- 13 ~~(aa)~~~~(ab)~~ Residential and nonresidential security system monitoring services,
- 14 **excluding separately stated onsite security guard services;**
- 15 ~~(ab)~~~~(ac)~~ Private investigation services;
- 16 ~~(ac)~~~~(ad)~~ Process server services;
- 17 ~~(ad)~~~~(ae)~~ Repossession of tangible personal property services;
- 18 ~~(ae)~~~~(af)~~ Personal background check services;
- 19 ~~(af)~~~~(ag)~~ Parking services;
- 20 1. Including:
- 21 a. Valet services; and
- 22 b. The use of parking lots and parking structures; but
- 23 2. Excluding any parking services at an educational institution;
- 24 ~~(ag)~~~~(ah)~~ Road and travel services provided by automobile clubs as defined in
- 25 KRS 281.010;
- 26 ~~(ah)~~~~(ai)~~ Condominium time-share exchange services;
- 27 ~~(ai)~~~~(aj)~~ Rental of space for meetings, conventions, short-term business uses,

1 entertainment events, weddings, banquets, parties, and other short-term social
2 events;

3 ~~(aj)~~~~(ak)~~ Social event planning and coordination services;

4 ~~(ak)~~~~(al)~~ Leisure, recreational, and athletic instructional services;

5 ~~(al)~~~~(am)~~ Recreational camp tuition and fees;

6 ~~(am)~~~~(an)~~ Personal fitness training services;

7 ~~(an)~~~~(ao)~~ Massage services, except when medically necessary;

8 ~~(ao)~~~~(ap)~~ Cosmetic surgery services;

9 ~~(ap)~~~~(aq)~~ Body modification services, including tattooing, piercing, scarification,
10 branding, tongue splitting, transdermal and subdermal implants, ear pointing,
11 teeth pointing, and any other modifications that are not necessary for medical
12 or dental health;

13 ~~(aq)~~~~(ar)~~ **Laboratory** testing services, **excluding laboratory**~~except~~ testing:

14 **1.** For medical, educational, or veterinary reasons; **or**

15 **2.** **Required by a federal, state, or local statute, regulation, court order,**
16 **or other government-related requirement;**

17 ~~(ar)~~~~(as)~~ Interior decorating and design services;

18 ~~(as)~~~~(at)~~ Household moving services;

19 ~~(at)~~~~(au)~~ Specialized design services, including the design of clothing, costumes,
20 fashion, furs, jewelry, shoes, textiles, and lighting;

21 ~~(au)~~~~(av)~~ Lapidary services, including cutting, polishing, and engraving precious
22 stones;

23 ~~(av)~~~~(aw)~~ Labor and services to repair or maintain commercial refrigeration
24 equipment and systems when no tangible personal property is sold in that
25 transaction including service calls and trip charges;

26 ~~(aw)~~~~(ax)~~ Labor to repair or alter apparel, footwear, watches, or jewelry when no
27 tangible personal property is sold in that transaction; and

1 ~~(ax)~~~~(ay)~~ Prewritten computer software access services.

2 ➔Section 8. KRS 139.202 is amended to read as follows:

3 Excluded from the additional taxable services imposed by KRS 139.200(2)(q) to
4 ~~(ax)~~~~(ay)~~ are gross receipts derived from:

5 (1) Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a fixed price
6 sales contract executed on or before February 25, 2022; and

7 (2) A lease or rental agreement entered into on or before February 25, 2022.

8 ➔Section 9. KRS 139.260 is amended to read as follows:

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

14 (1) (a) Except as provided in paragraph (b) of this subsection, tangible personal
15 property or digital property unless the person takes from the purchaser a
16 certificate to the effect that the property is either:

- 17 1. Purchased for resale according to the provisions of KRS 139.270;
- 18 2. Purchased through a fully completed certificate of exemption or fully
19 completed Streamlined Sales and Use Tax Agreement Certificate of
20 Exemption in accordance with KRS 139.270; or
- 21 3. Purchased according to administrative regulations promulgated by the
22 department governing a direct pay authorization; or

23 (b) Tangible personal property to a purchaser claiming an agriculture exemption
24 under KRS 139.480(4) to (9), (11), (13) to (15), ~~for~~ (23) to (30), or (33)
25 unless the person obtains from the purchaser an agriculture exemption license
26 number or a fully completed Streamlined Sales and Use Tax Agreement
27 Certificate of Exemption that contains an agriculture exemption license

- 1 number in accordance with KRS 139.270;
- 2 (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the
3 purchaser a certificate to the effect that the service is purchased through a fully
4 completed certificate of exemption or fully completed Streamlined Sales and Use
5 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and
- 6 (3) A service included in KRS 139.200(2)(g) to ~~(ax)~~~~(ay)~~ unless the person takes from
7 the purchaser a certificate to the effect that the service is:
- 8 (a) Purchased for resale according to KRS 139.270;
- 9 (b) Purchased through a fully completed certificate of exemption or fully
10 completed Streamlined Sales and Use Tax Agreement Certificate of
11 Exemption in accordance with KRS 139.270; or
- 12 (c) Purchased according to administrative regulations promulgated by the
13 department governing a direct pay authorization.

14 ➔Section 10. KRS 139.310 is amended to read as follows:

- 15 (1) An excise tax is hereby imposed on the storage, use, or other consumption in this
16 state of tangible personal property, digital property, and services listed under KRS
17 139.200(2)(p) to ~~(ax)~~~~(ay)~~ purchased for storage, use, or other consumption in this
18 state at the rate of six percent (6%) of the sales price.
- 19 (2) The excise tax applies to the purchase of digital property regardless of whether:
- 20 (a) The purchaser has the right to permanently use the goods;
- 21 (b) The purchaser's right to access or retain the digital property is not permanent;
22 or
- 23 (c) The purchaser's right of use is conditioned upon continued payment.

24 ➔Section 11. KRS 139.340 is amended to read as follows:

- 25 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
26 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
27 give to the purchaser a receipt therefor in the manner and form prescribed by the

1 department. The taxes collected or required to be collected by the retailer under this
2 section shall be deemed to be held in trust for and on account of the
3 Commonwealth.

4 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section
5 includes any of the following:

6 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,
7 directly or indirectly, or through a subsidiary or any other related entity,
8 representative, or agent, by whatever name called, an office, place of
9 distribution, sales or sample room or place, warehouse or storage place, or
10 other place of business. Property owned by a person who has contracted with
11 a printer for printing, which consists of the final printed product, property
12 which becomes a part of the final printed product, or copy from which the
13 printed product is produced, and which is located at the premises of the
14 printer, shall not be deemed to be an office, place of distribution, sales or
15 sample room or place, warehouse or storage place, or other place of business
16 maintained, occupied, or used by the person;

17 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
18 operating in this state under the authority of the retailer or its subsidiary for
19 the purpose of selling, delivering, or the taking of orders for any tangible
20 personal property, digital property, or any services subject to tax under KRS
21 139.200(2)(p) to ~~(ax)~~~~(ay)~~. An unrelated printer with which a person has
22 contracted for printing shall not be deemed to be a representative, agent,
23 salesman, canvasser, or solicitor for the person;

24 (c) Any retailer soliciting orders for tangible personal property, digital property,
25 or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ from
26 residents of this state on a continuous, regular, or systematic basis in which
27 the solicitation of the order, placement of the order by the customer or the

- 1 payment for the order utilizes the services of any financial institution,
2 telecommunication system, radio or television station, cable television
3 service, print media, or other facility or service located in this state;
- 4 (d) Any retailer deriving receipts from the lease or rental of tangible personal
5 property situated in this state;
- 6 (e) Any retailer soliciting orders for tangible personal property, digital property,
7 or any services subject to tax under KRS 139.200(2)(p) to (ax)~~[(ay)]~~ from
8 residents of this state on a continuous, regular, systematic basis if the retailer
9 benefits from an agent or representative operating in this state under the
10 authority of the retailer to repair or service tangible personal property or
11 digital property sold by the retailer;
- 12 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
13 either full-time or part-time, if the representative performs any activities that
14 help establish or maintain a marketplace for the retailer, including receiving or
15 exchanging returned merchandise; or
- 16 (g) 1. Any remote retailer selling tangible personal property or digital property
17 delivered or transferred electronically to a purchaser in this state,
18 including retail sales facilitated by a marketplace provider on behalf of
19 the remote retailer, if:
- 20 a. The remote retailer sold tangible personal property or digital
21 property that was delivered or transferred electronically to a
22 purchaser in this state in two hundred (200) or more separate
23 transactions in the previous calendar year or the current calendar
24 year; or
- 25 b. The remote retailer's gross receipts derived from the sale of
26 tangible personal property or digital property delivered or
27 transferred electronically to a purchaser in this state in the previous

1 calendar year or current calendar year exceeds one hundred
2 thousand dollars (\$100,000).

3 2. Any remote retailer that meets either threshold provided in subparagraph
4 1. of this paragraph shall register for a sales and use tax permit and
5 collect the tax imposed by KRS 139.310 from the purchaser no later
6 than the first day of the calendar month that is at the most sixty (60)
7 days after either threshold is reached.

8 ➔Section 12. KRS 139.470 is amended to read as follows:

9 There are excluded from the computation of the amount of taxes imposed by this chapter:

10 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
11 state of, tangible personal property or digital property which this state is prohibited
12 from taxing under the Constitution or laws of the United States, or under the
13 Constitution of this state;

14 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
15 of:

16 (a) Nonreturnable and returnable containers when sold without the contents to
17 persons who place the contents in the container and sell the contents together
18 with the container; and

19 (b) Returnable containers when sold with the contents in connection with a retail
20 sale of the contents or when resold for refilling;

21 As used in this section the term "returnable containers" means containers of a kind
22 customarily returned by the buyer of the contents for reuse. All other containers are
23 "nonreturnable containers";

24 (3) Gross receipts from occasional sales of tangible personal property or digital
25 property and the storage, use, or other consumption in this state of tangible personal
26 property or digital property, the transfer of which to the purchaser is an occasional
27 sale;

- 1 (4) Gross receipts from sales of tangible personal property to a common carrier,
2 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
3 freight is paid in advance or the shipment is made freight charges collect, to a point
4 outside this state and the property is actually transported to the out-of-state
5 destination for use by the carrier in the conduct of its business as a common carrier;
- 6 (5) Gross receipts from sales of tangible personal property sold through coin-operated
7 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
8 retailer is primarily engaged in making the sales and maintains records satisfactory
9 to the department. As used in this subsection, "bulk vending machine" means a
10 vending machine containing unsorted merchandise which, upon insertion of a coin,
11 dispenses the same in approximately equal portions, at random and without
12 selection by the customer;
- 13 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
14 other statutory or constitutional agency of the state and gross receipts from sales to
15 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
16 apply only to purchases of tangible personal property, digital property, or services
17 for use solely in the government function. A purchaser not qualifying as a
18 governmental agency or unit shall not be entitled to the exemption even though the
19 purchaser may be the recipient of public funds or grants;
- 20 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
21 residents for use in heating, water heating, cooking, lighting, and other
22 residential uses if the sewer services, water, and fuel are purchased and
23 declared by the resident as used in his or her place of domicile.
- 24 (b) As used in this subsection:
- 25 1. "Fuel" shall include but not be limited to natural gas, electricity, fuel oil,
26 bottled gas, coal, coke, and wood; and
- 27 2. "Place of domicile" means the place where an individual has his or her

1 legal, true, fixed, and permanent home and principal establishment, and
2 to which, whenever the individual is absent, the individual has the
3 intention of returning.

4 (c) Determinations of eligibility for the exemption shall be made by the
5 department.

6 (d) The exemption shall apply ~~to~~ charges for sewer service, water, and fuel
7 ~~are~~ billed to an owner or operator of a multi-unit residential rental facility or
8 mobile home and recreational vehicle park if the ***owner or operator declares***
9 ***that the*** sewer services, water, and fuel are purchased for ~~and declared by~~
10 ~~the~~ Kentucky ***residents to be*** ~~resident as~~ used in ***the resident's*** ~~his or her~~
11 place of domicile.

12 (e) The exemption shall apply also to residential property which may be held by
13 legal or equitable title, by the entirety, jointly, in common, as a
14 condominium, or indirectly by the stock ownership or membership
15 representing the owner's or member's proprietary interest in a corporation
16 owning a fee or a leasehold initially in excess of ninety-eight (98) years if the
17 sewer services, water, and fuel are purchased for and declared by the
18 Kentucky resident as used in his or her place of domicile;

19 (8) Gross receipts from sales to an out-of-state agency, organization, or institution
20 exempt from sales and use tax in its state of residence when that agency,
21 organization, or institution gives proof of its tax-exempt status to the retailer and the
22 retailer maintains a file of the proof;

23 (9) (a) Gross receipts derived from the sale of tangible personal property, as provided
24 in paragraph (b) of this subsection, to a manufacturer or industrial processor if
25 the property is to be directly used in the manufacturing or industrial
26 processing process of:

27 1. Tangible personal property at a plant facility;

- 1 2. Distilled spirits or wine at a plant facility or on the premises of a
2 distiller, rectifier, winery, or small farm winery licensed under KRS
3 243.030 that includes a retail establishment on the premises; or
4 3. Malt beverages at a plant facility or on the premises of a brewer or
5 microbrewery licensed under KRS 243.040 that includes a retail
6 establishment;

7 and which will be for sale.

8 (b) The following tangible personal property shall qualify for exemption under
9 this subsection:

- 10 1. Materials which enter into and become an ingredient or component part
11 of the manufactured product;
- 12 2. Other tangible personal property which is directly used in the
13 manufacturing or industrial processing process, if the property has a
14 useful life of less than one (1) year. Specifically these items are
15 categorized as follows:
- 16 a. Materials. This refers to the raw materials which become an
17 ingredient or component part of supplies or industrial tools exempt
18 under subdivisions b. and c. below;
- 19 b. Supplies. This category includes supplies such as lubricating and
20 compounding oils, grease, machine waste, abrasives, chemicals,
21 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
22 dyes, refrigerants, and explosives. The supplies indicated above
23 need not come in direct contact with a manufactured product to be
24 exempt. "Supplies" does not include repair, replacement, or spare
25 parts of any kind; and
- 26 c. Industrial tools. This group is limited to hand tools such as jigs,
27 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns

1 and to tools attached to a machine such as molds, grinding balls,
2 grinding wheels, dies, bits, and cutting blades. Normally, for
3 industrial tools to be considered directly used in the manufacturing
4 or industrial processing process, they shall come into direct
5 contact with the product being manufactured or processed; and

6 3. Materials and supplies that are not reusable in the same manufacturing
7 or industrial processing process at the completion of a single
8 manufacturing or processing cycle. A single manufacturing cycle shall
9 be considered to be the period elapsing from the time the raw materials
10 enter into the manufacturing process until the finished product emerges
11 at the end of the manufacturing process.

12 (c) The property described in paragraph (b) of this subsection shall be regarded as
13 having been purchased for resale.

14 (d) For purposes of this subsection, a manufacturer or industrial processor
15 includes an individual or business entity that performs only part of the
16 manufacturing or industrial processing activity, and the person or business
17 entity need not take title to tangible personal property that is incorporated
18 into, or becomes the product of, the activity.

19 (e) The exemption provided in this subsection does not include repair,
20 replacement, or spare parts;

21 (10) Any water use fee paid or passed through to the Kentucky River Authority by
22 facilities using water from the Kentucky River basin to the Kentucky River
23 Authority in accordance with KRS 151.700 to 151.730 and administrative
24 regulations promulgated by the authority;

25 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
26 use, or other consumption outside this state and delivered by the retailer's own
27 vehicle to a location outside this state, or delivered to the United States Postal

1 Service, a common carrier, or a contract carrier for delivery outside this state,
2 regardless of whether the carrier is selected by the purchaser or retailer or an agent
3 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
4 shipping point or purchaser's destination.

5 (a) As used in this subsection:

6 1. "Catalogs" means tangible personal property that is printed to the special
7 order of the purchaser and composed substantially of information
8 regarding goods and services offered for sale; and

9 2. "Newspaper inserts" means printed materials that are placed in or
10 distributed with a newspaper of general circulation.

11 (b) The retailer shall be responsible for establishing that delivery was made to a
12 non-Kentucky location through shipping documents or other credible
13 evidence as determined by the department;

14 (12) Gross receipts from the sale of water used in the raising of equine as a business;

15 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and
16 purchased for storage, use, or other consumption outside this state and delivered by
17 the retailer's own vehicle to a location outside this state, or delivered to the United
18 States Postal Service, a common carrier, or a contract carrier for delivery outside
19 this state, regardless of whether the carrier is selected by the purchaser or retailer or
20 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
21 retailer's shipping point or the purchaser's destination.

22 (a) As used in this subsection, "metal retail fixtures" means check stands and
23 belted and nonbelted checkout counters, whether made in bulk or pursuant to
24 specific purchaser specifications, that are to be used directly by the purchaser
25 or to be distributed by the purchaser.

26 (b) The retailer shall be responsible for establishing that delivery was made to a
27 non-Kentucky location through shipping documents or other credible

- 1 evidence as determined by the department;
- 2 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
3 ultimate storage, use, or other consumption outside this state and delivered to a
4 common carrier in this state for delivery outside this state, regardless of whether the
5 carrier is selected by the purchaser or retailer, or is an agent or representative of the
6 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
7 purchaser's destination;
- 8 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
9 means an agreement whereby an amount, whether paid in money, credit, or
10 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
11 the quantity and unit price of tobacco products sold at retail that requires the retailer
12 to reduce the selling price of the product to the purchaser without the use of a
13 manufacturer's or wholesaler's coupon or redemption certificate;
- 14 (16) Gross receipts from the sale of tangible personal property or digital property
15 returned by a purchaser when the full sales price is refunded either in cash or credit.
16 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
17 required to purchase other tangible personal property or digital property at a price
18 greater than the amount charged for the property that is returned;
- 19 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
20 Chapter 138;
- 21 (18) The amount of any tax imposed by the United States upon or with respect to retail
22 sales, whether imposed on the retailer or the consumer, not including any
23 manufacturer's excise or import duty;
- 24 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
25 is:
- 26 (a) Sold to a Kentucky resident, registered for use on the public highways, and
27 upon which any applicable tax levied by KRS 138.460 has been paid; or

- 1 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
2 vehicle in a state that:
- 3 1. Allows residents of Kentucky to purchase motor vehicles without
4 payment of that state's sales tax at the time of sale; or
 - 5 2. Allows residents of Kentucky to remove the vehicle from that state
6 within a specific period for subsequent registration and use in Kentucky
7 without payment of that state's sales tax;
- 8 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
9 trailer as defined in KRS 189.010(17);
- 10 (21) Gross receipts from the collection of:
- 11 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
 - 12 (b) The charge imposed by KRS 65.7629(3);
 - 13 (c) The fee imposed by KRS 65.7634; and
 - 14 (d) The service charge imposed by KRS 65.7636;
- 15 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
16 maintain tangible personal property directly used in manufacturing or industrial
17 processing process of:
- 18 (a) Tangible personal property at a plant facility;
 - 19 (b) Distilled spirits or wine at a plant facility or on the premises of a distiller,
20 rectifier, winery, or small farm winery licensed under KRS 243.030; or
 - 21 (c) Malt beverages at a plant facility or on the premises of a brewer or
22 microbrewery licensed under KRS 243.040;
- 23 that is not otherwise exempt under subsection (9) of this section or KRS
24 139.480(10), if the charges for labor or services are separately stated on the invoice,
25 bill of sale, or similar document given to purchaser;
- 26 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (p) prior to
27 January 1, 2019, gross receipts derived from the sale of those services if the

1 gross receipts were less than six thousand dollars (\$6,000) during calendar
2 year 2018. When gross receipts from these services exceed six thousand
3 dollars (\$6,000) in a calendar year:

- 4 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
5 calendar year; and
- 6 2. All gross receipts are subject to tax in subsequent calendar years.

7 (b) For persons selling services included in KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ prior
8 to January 1, 2023, gross receipts derived from the sale of those services if the
9 gross receipts were less than six thousand dollars (\$6,000) during calendar
10 year 2021. When gross receipts from these services exceed six thousand
11 dollars (\$6,000) in a calendar year:

- 12 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
13 calendar year; and
- 14 2. All gross receipts are subject to tax in subsequent calendar years.

15 (c) The exemption provided in this subsection shall not apply to a person also
16 engaged in the business of selling tangible personal property, digital property,
17 or services included in KRS 139.200(2)(a) to (f); and

18 (24) (a) For persons that first begin making sales of services included in KRS
19 139.200(2)(g) to (p) on or after January 1, 2019, gross receipts derived from
20 the sale of those services if the gross receipts are less than six thousand dollars
21 (\$6,000) within the first calendar year of operation. When gross receipts from
22 these services exceed six thousand dollars (\$6,000) in a calendar year:

- 23 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
24 calendar year; and
- 25 2. All gross receipts are subject to tax in subsequent calendar years.

26 (b) For persons that first begin making sales of services included in KRS
27 139.200(2)(q) to ~~(ax)~~~~(ay)~~ on or after January 1, 2023, gross receipts derived

1 from the sale of those services if the gross receipts are less than six thousand
2 dollars (\$6,000) within the first calendar year of operation. When gross
3 receipts from these services exceed six thousand dollars (\$6,000) in a calendar
4 year:

- 5 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
6 calendar year; and
- 7 2. All gross receipts are subject to tax in subsequent calendar years.

8 (c) The exemption provided in this subsection shall not apply to a person that is
9 also engaged in the business of selling tangible personal property, digital
10 property, or services included in KRS 139.200(2)(a) to (f).

11 ➔Section 13. KRS 139.480 is amended to read as follows:

12 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
13 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
14 include the sale, use, storage, or other consumption of:

15 (1) Locomotives or rolling stock, including materials for the construction, repair, or
16 modification thereof, or fuel or supplies for the direct operation of locomotives and
17 trains, used or to be used in interstate commerce;

18 (2) Coal for the manufacture of electricity;

19 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
20 processing, mining, or refining and any related distribution, transmission, and
21 transportation services for this energy that are billed to the user, to the extent
22 that the cost of the energy or energy-producing fuels used, and related
23 distribution, transmission, and transportation services for this energy that are
24 billed to the user exceed three percent (3%) of the cost of production.

25 (b) Cost of production shall be computed on the basis of a plant facility, which
26 shall include all operations within the continuous, unbroken, integrated
27 manufacturing or industrial processing process that ends with a product

1 packaged and ready for sale.

2 (c) A person who performs a manufacturing or industrial processing activity for a
3 fee and does not take ownership of the tangible personal property that is
4 incorporated into, or becomes the product of, the manufacturing or industrial
5 processing activity is a toller. For periods on or after July 1, 2018, the costs of
6 the tangible personal property shall be excluded from the toller's cost of
7 production at a plant facility with tolling operations in place as of July 1,
8 2018.

9 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
10 tangible personal property shall be excluded from the toller's cost of
11 production if the toller:

- 12 1. Maintains a binding contract for periods after July 1, 2018, that governs
13 the terms, conditions, and responsibilities with a separate legal entity,
14 which holds title to the tangible personal property that is incorporated
15 into, or becomes the product of, the manufacturing or industrial
16 processing activity;
- 17 2. Maintains accounting records that show the expenses it incurs to fulfill
18 the binding contract that include but are not limited to energy or energy-
19 producing fuels, materials, labor, procurement, depreciation,
20 maintenance, taxes, administration, and office expenses;
- 21 3. Maintains separate payroll, bank accounts, tax returns, and other records
22 that demonstrate its independent operations in the performance of its
23 tolling responsibilities;
- 24 4. Demonstrates one (1) or more substantial business purposes for the
25 tolling operations germane to the overall manufacturing, industrial
26 processing activities, or corporate structure at the plant facility. A
27 business purpose is a purpose other than the reduction of sales tax

- 1 liability for the purchases of energy and energy-producing fuels; and
- 2 5. Provides information to the department upon request that documents
- 3 fulfillment of the requirements in subparagraphs 1. to 4. of this
- 4 paragraph and gives an overview of its tolling operations with an
- 5 explanation of how the tolling operations relate and connect with all
- 6 other manufacturing or industrial processing activities occurring at the
- 7 plant facility;
- 8 (4) Livestock of a kind the products of which ordinarily constitute food for human
- 9 consumption, provided the sales are made for breeding or dairy purposes and by or
- 10 to a person regularly engaged in the business of farming;
- 11 (5) Poultry for use in breeding or egg production;
- 12 (6) Farm work stock for use in farming operations;
- 13 (7) Seeds, the products of which ordinarily constitute food for human consumption or
- 14 are to be sold in the regular course of business, and commercial fertilizer to be
- 15 applied on land, the products from which are to be used for food for human
- 16 consumption or are to be sold in the regular course of business; provided such sales
- 17 are made to farmers who are regularly engaged in the occupation of tilling and
- 18 cultivating the soil for the production of crops as a business, or who are regularly
- 19 engaged in the occupation of raising and feeding livestock or poultry or producing
- 20 milk for sale; and provided further that tangible personal property so sold is to be
- 21 used only by those persons designated above who are so purchasing;
- 22 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
- 23 used in the production of crops as a business, or in the raising and feeding of
- 24 livestock or poultry, the products of which ordinarily constitute food for human
- 25 consumption;
- 26 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
- 27 products of which ordinarily constitute food for human consumption;

- 1 (10) Machinery for new and expanded industry;
- 2 (11) Farm machinery. As used in this section, the term "farm machinery":
- 3 (a) Means machinery used exclusively and directly in the occupation of:
- 4 1. Tilling the soil for the production of crops as a business;
- 5 2. Raising and feeding livestock or poultry for sale; or
- 6 3. Producing milk for sale;
- 7 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
- 8 replacement parts which are used or manufactured for use on, or in the
- 9 operation of farm machinery and which are necessary to the operation of the
- 10 machinery, and are customarily so used, including but not limited to combine
- 11 header wagons, combine header trailers, or any other implements specifically
- 12 designed and used to move or transport a combine head; and
- 13 (c) Does not include:
- 14 1. Automobiles;
- 15 2. Trucks;
- 16 3. Trailers, except combine header trailers; or
- 17 4. Truck-trailer combinations;
- 18 (12) Tombstones and other memorial grave markers;
- 19 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
- 20 or handling. The exemption applies to the equipment, machinery, attachments,
- 21 repair and replacement parts, and any materials incorporated into the construction,
- 22 renovation, or repair of the facilities;
- 23 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
- 24 shall apply to the equipment, machinery, attachments, repair and replacement parts,
- 25 and any materials incorporated into the construction, renovation, or repair of the
- 26 facilities. The exemption shall apply but not be limited to vent board equipment,
- 27 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,

- 1 and curtain systems. In addition, the exemption shall apply whether or not the seller
2 is under contract to deliver, assemble, and incorporate into real estate the
3 equipment, machinery, attachments, repair and replacement parts, and any materials
4 incorporated into the construction, renovation, or repair of the facilities;
- 5 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
6 and directly to:
- 7 (a) Operate farm machinery as defined in subsection (11) of this section;
 - 8 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
9 (13) of this section;
 - 10 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
11 this section;
 - 12 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
 - 13 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
14 section; or
 - 15 (f) Operate on-farm dairy facilities;
- 16 (16) Textbooks, including related workbooks and other course materials, purchased for
17 use in a course of study conducted by an institution which qualifies as a nonprofit
18 educational institution under KRS 139.495. The term "course materials" means only
19 those items specifically required of all students for a particular course but shall not
20 include notebooks, paper, pencils, calculators, tape recorders, or similar student
21 aids;
- 22 (17) Any property which has been certified as an alcohol production facility as defined
23 in KRS 247.910;
- 24 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
25 direct operation of aircraft in interstate commerce and used exclusively for the
26 conveyance of property or passengers for hire. Nominal intrastate use shall not
27 subject the property to the taxes imposed by this chapter;

- 1 (19) Any property which has been certified as a fluidized bed energy production facility
2 as defined in KRS 211.390;
- 3 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
4 modification, or expansion of a blast furnace or any of its components or
5 appurtenant equipment or structures as part of an approved supplemental
6 project, as defined by KRS 154.26-010; and
7 2. Materials, supplies, and repair or replacement parts purchased for use in
8 the operation and maintenance of a blast furnace and related carbon
9 steel-making operations as part of an approved supplemental project, as
10 defined by KRS 154.26-010.
- 11 (b) The exemptions provided in this subsection shall be effective for sales made:
12 1. On and after July 1, 2018; and
13 2. During the term of a supplemental project agreement entered into
14 pursuant to KRS 154.26-090;
- 15 (21) Beginning on October 1, 1986, food or food products purchased for human
16 consumption with food coupons issued by the United States Department of
17 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
18 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
19 continue participation in the federal food stamp program;
- 20 (22) Machinery or equipment purchased or leased by a business, industry, or
21 organization in order to collect, source separate, compress, bale, shred, or otherwise
22 handle waste materials if the machinery or equipment is primarily used for
23 recycling purposes;
- 24 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
25 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
26 products, and the following items used in this agricultural pursuit:
27 (a) Feed and feed additives;

- 1 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 2 (c) On-farm facilities, including equipment, machinery, attachments, repair and
3 replacement parts, and any materials incorporated into the construction,
4 renovation, or repair of the facilities. The exemption shall apply to incubation
5 systems, egg processing equipment, waterer and feeding systems, brooding
6 systems, ventilation systems, alarm systems, and curtain systems. In addition,
7 the exemption shall apply whether or not the seller is under contract to
8 deliver, assemble, and incorporate into real estate the equipment, machinery,
9 attachments, repair and replacement parts, and any materials incorporated into
10 the construction, renovation, or repair of the facilities;
- 11 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
12 these embryos and semen ordinarily constitute food for human consumption, and if
13 the sale is made to a person engaged in the business of farming;
- 14 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
15 the breeding and production of hides, breeding stock, fiber and wool products,
16 meat, and llama and alpaca by-products, and the following items used in this
17 pursuit:
- 18 (a) Feed and feed additives;
- 19 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
20 and
- 21 (c) On-farm facilities, including equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities. The exemption shall apply to waterer
24 and feeding systems, ventilation systems, and alarm systems. In addition, the
25 exemption shall apply whether or not the seller is under contract to deliver,
26 assemble, and incorporate into real estate the equipment, machinery,
27 attachments, repair and replacement parts, and any materials incorporated into

- 1 the construction, renovation, or repair of the facilities;
- 2 (26) Baling twine and baling wire for the baling of hay and straw;
- 3 (27) Water sold to a person regularly engaged in the business of farming and used in the:
- 4 (a) Production of crops;
- 5 (b) Production of milk for sale; or
- 6 (c) Raising and feeding of:
- 7 1. Livestock or poultry, the products of which ordinarily constitute food
- 8 for human consumption; or
- 9 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- 10 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
- 11 production of hides, breeding stock, meat, and buffalo by-products, and the
- 12 following items used in this pursuit:
- 13 (a) Feed and feed additives;
- 14 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 15 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 16 replacement parts, and any materials incorporated into the construction,
- 17 renovation, or repair of the facilities. The exemption shall apply to waterer
- 18 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 19 exemption shall apply whether or not the seller is under contract to deliver,
- 20 assemble, and incorporate into real estate the equipment, machinery,
- 21 attachments, repair and replacement parts, and any materials incorporated into
- 22 the construction, renovation, or repair of the facilities;
- 23 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
- 24 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
- 25 and the following items used in this pursuit:
- 26 (a) Feed and feed additives;
- 27 (b) Water;

- 1 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
2 and
- 3 (d) On-farm facilities, including equipment, machinery, attachments, repair and
4 replacement parts, and any materials incorporated into the construction,
5 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
6 petroleum gas, or natural gas used to operate the facilities. The exemption
7 shall apply, but not be limited to: waterer and feeding systems; ventilation,
8 aeration, and heating systems; processing and storage systems; production
9 systems such as ponds, tanks, and raceways; harvest and transport equipment
10 and systems; and alarm systems. In addition, the exemption shall apply
11 whether or not the seller is under contract to deliver, assemble, and
12 incorporate into real estate the equipment, machinery, attachments, repair and
13 replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities;
- 15 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
16 production of hides, breeding stock, meat, and cervid by-products, and the
17 following items used in this pursuit:
- 18 (a) Feed and feed additives;
- 19 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 20 (c) On-site facilities, including equipment, machinery, attachments, repair and
21 replacement parts, and any materials incorporated into the construction,
22 renovation, or repair of the facilities. In addition, the exemption shall apply
23 whether or not the seller is under contract to deliver, assemble, and
24 incorporate into real estate the equipment, machinery, attachments, repair and
25 replacement parts, and any materials incorporated into the construction,
26 renovation, or repair of the facilities;
- 27 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor

1 vehicle, including any towed unit, used exclusively in interstate commerce for
2 the conveyance of property or passengers for hire, provided the motor vehicle
3 is licensed for use on the highway and its declared gross vehicle weight with
4 any towed unit is forty-four thousand and one (44,001) pounds or greater.
5 Nominal intrastate use shall not subject the property to the taxes imposed by
6 this chapter;

7 (b) Repair or replacement parts for the direct operation and maintenance of a
8 motor vehicle operating under a charter bus certificate issued by the
9 Transportation Cabinet under KRS Chapter 281, or under similar authority
10 granted by the United States Department of Transportation; and

11 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
12 brakes, engines, transmissions, drive trains, chassis, body parts, and their
13 components. "Repair or replacement parts" shall not include fuel, machine
14 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
15 to the operation of the motor vehicle itself, except when sold as part of the
16 assembled unit, such as cigarette lighters, radios, lighting fixtures not
17 otherwise required by the manufacturer for operation of the vehicle, or tool or
18 utility boxes;

19 (32) Food donated by a retail food establishment or any other entity regulated under
20 KRS 217.127 to a nonprofit organization for distribution to the needy;~~and~~

21 (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased
22 by a person regularly engaged in the business of farming and used in the treatment
23 of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic
24 organisms, or cervids;

25 **(34) (a) Building materials, fixtures, or supplies purchased by a construction**
26 **contractor if:**

27 **1. Fulfilled by a construction contract for a sewer or water project with:**

- 1 a. A municipally owned water utility organized under KRS Chapter
2 96;
- 3 b. A water district or water commission formed or organized under
4 KRS Chapter 74;
- 5 c. A sanitation district established under KRS Chapter 220 or
6 formed pursuant to KRS Chapter 65;
- 7 d. A nonprofit corporation created under KRS 58.180 to act on
8 behalf of a governmental agency in the acquisition and
9 financing of public projects;
- 10 e. Regional wastewater commissions formed under KRS Chapter
11 278;
- 12 f. A municipally owned joint sewer agency formed under KRS
13 Chapter 76; or
- 14 g. Any other governmental agency; and
- 15 2. The building materials, fixtures, or supplies:
- 16 a. Will be permanently incorporated into a structure or
17 improvement to real property, or will be completely consumed, in
18 fulfilling a construction contract for the purpose of furnishing
19 water or sewer services to the general public; and
- 20 b. Would be exempt if purchased directly by the entities listed in
21 subparagraph 1. of this paragraph.
- 22 (b) As used in this subsection, "construction contract" means a:
- 23 1. Lump sum contract;
- 24 2. Cost plus contract;
- 25 3. Materials only contract;
- 26 4. Labor and materials contract; or
- 27 5. Any other type of contract.

1 (c) The exemption provided in this subsection shall apply without regard to the
 2 payment arrangement between the construction contractor, the retailer, and
 3 the entities listed in paragraph (a)1. of this subsection or to the place of
 4 delivery for the building materials, fixtures, or supplies;

5 (35) (a) On or after February 25, 2022, the rental of space for meetings,
 6 conventions, short-term business uses, entertainment events, weddings,
 7 banquets, parties, and other short-term social events, as referenced in
 8 Section 7 of this Act, if the tax established in Section 7 of this Act, is paid by
 9 the primary lessee to the lessor.

10 (b) For the purpose of this subsection, "primary lessee" means the person who
 11 leases the space and who has a contract with the lessor of the space only if:

12 1. The contract between the lessor and the lessee specifies that the lessee
 13 may sublease, subrent, or otherwise sell the space; and

14 2. The space is then sublet, subrented, or otherwise sold to exhibitors,
 15 vendors, sponsors, or other entities and persons who will use the space
 16 associated with the event to be conducted under the primary lease; and

17 (36) Prewritten computer software access services sold to or purchased by a retailer
 18 that develops prewritten computer software for print technology and uses and
 19 sells prewritten computer software access services for print technology.

20 ➔Section 14. KRS 139.481 is amended to read as follows:

21 (1) On and after January 1, 2023, every person claiming an exemption provided under
 22 KRS 139.480(4) to (9), ~~[KRS 139.480](11)~~, ~~[KRS 139.480](13) to (15)~~, ~~and KRS~~
 23 ~~139.480](23) to (30)~~, and (33) shall provide to the seller or retailer a valid
 24 agriculture exemption license number issued by the department.

25 (2) A person is eligible to apply for an agriculture exemption license number if the
 26 person is:

27 (a) Regularly engaged in the occupation of tilling and cultivating the soil for the

- 1 production of crops as a business;
- 2 (b) Regularly engaged in the occupation of raising and feeding livestock of a kind
3 the products of which ordinarily constitute food for human consumption;
- 4 (c) Raising and feeding poultry;
- 5 (d) Producing milk for sale; or
- 6 (e) Regularly engaged in raising ratite birds, llamas, alpacas, buffalos, cervids, or
7 aquatic organisms as an agricultural pursuit.
- 8 (3) (a) On and after January 1, 2023, persons that receive an agriculture exemption
9 license number and choose to claim the exemptions outlined in subsection (1)
10 of this section shall, at least one (1) time, provide the seller or retailer from
11 whom they purchase exempt tangible personal property with one (1) of the
12 following:
- 13 1. The agriculture exemption license number issued by the department; or
14 2. A fully completed Streamlined Sales Tax Certificate of Exemption
15 which shall include the agriculture exemption license number.
- 16 (b) A purchaser that has met the requirements of paragraph (a) of this subsection
17 may issue the agriculture exemption license number to the seller or retailer for
18 subsequent purchases as evidence of an exempt purchase for as long as the
19 agriculture exemption license number is valid.
- 20 (c) Persons that meet the requirements of subsection (2) of this section but have
21 not yet received an agriculture exemption license number from the department
22 prior to January 1, 2023, may issue a fully completed exemption certificate or
23 a fully completed Streamlined Sales Tax Certificate of Exemption without the
24 agriculture exemption license number prior to January 1, 2023.
- 25 (4) (a) The department, by administrative regulation, shall develop an application
26 form for the agriculture exemption license number and procedures by which
27 the application form may also be submitted either electronically or by paper

1 filing.

2 (b) The application shall include:

- 3 1. The person's name and mailing address;
- 4 2. The farm address, if different from the person's mailing address;
- 5 3. An affirmation that the person meets at least one (1) of the criteria
6 outlined in subsection (2) of this section;
- 7 4. The person's driver's license number; and
- 8 5. One (1) of the following forms of documentation:
 - 9 a. IRS Schedule F, Profit or Loss from Farming;
 - 10 b. IRS Form 4835, Farm Rental Income and Expenses;
 - 11 c. The farm service agency number or numbers assigned by the
12 United States Department of Agriculture pertaining to the parcels
13 of land on which agriculture activity will take place; or
 - 14 d. Any other type of information that may establish to the satisfaction
15 of the Commissioner that the applicant qualifies for the agriculture
16 exemption license number.

17 (5) (a) The agriculture exemption license number shall expire on December 31, 2026,
18 and every four (4) years thereafter, or when the person ceases to engage in the
19 agriculture activity for which the agriculture exemption license number was
20 granted, whichever comes first.

21 (b) When a person ceases to engage in the agriculture activity for which the
22 license number was granted, the person shall notify the department within
23 sixty (60) days.

24 (c) The person may apply for a renewal of the agriculture exemption license
25 number prior to the expiration date if the person continues to meet the
26 requirements of subsection (2) of this section and provides documentation
27 required by subsection (4)(b)5. of this section. The department shall, by

1 administrative regulation, prescribe the electronic process for renewing an
2 agriculture exemption license number.

3 (6) (a) On or before January 1, 2023, the department shall develop and provide an
4 online searchable database on the department's Web site that the seller or
5 retailer may use to confirm the agriculture exemption license number if the
6 purchaser cannot produce documentation of the agriculture exemption license
7 number at the time of sale.

8 (b) To search the database, the seller or retailer shall provide the name of the
9 person assigned the agriculture exemption license number and one (1) of the
10 following:

- 11 1. The agriculture exemption license number;
- 12 2. The agriculture exemption license number expiration date;
- 13 3. The person's driver's license number;
- 14 4. The farm service agency parcel number; or
- 15 5. Any other unique identifier that may be accepted by the department.

16 (c) The seller or retailer shall be relieved of the liability for collecting and
17 remitting the sales and use tax if the seller or retailer meets the requirements
18 of KRS 139.260 and 139.270.

19 ➔Section 15. KRS 139.498 is amended to read as follows:

20 (1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as
21 described in KRS 139.495 and 139.497, the taxes imposed by this chapter do
22 not apply to:

- 23 1. The sale of admissions, including the sales of admissions to a golf
24 course when the admission is the result of a fundraising event. All other
25 sales of admissions to a golf course by these organizations are not
26 exempt from tax under this section; or
- 27 2. a. Fundraising event sales.

1 b. For the purposes of this paragraph, "fundraising event sales" does
 2 not include sales related to the operation of a retail business,
 3 including but not limited to thrift stores, bookstores, surplus
 4 property auctions, recycle and reuse stores, or any ongoing
 5 operations in competition with for-profit retailers.

6 **(b) For nonprofit civic or other nonprofit organizations, except as described in**
 7 **KRS 139.495 and 139.497, that operate fundraising events solely with**
 8 **volunteers, the taxes imposed by this chapter also do not apply to sales of:**

9 **1. Concessions for leisure, recreational, or athletic fundraising purposes;**

10 **or**

11 **2. Leisure, recreational, or athletic services.**

12 **(c)** The exemption provided in subparagraph 1. of paragraph (a) of this subsection
 13 shall not apply to the sale of admissions to a public facility that qualifies for a
 14 sales tax rebate under KRS 139.533.

15 (2) All other sales made by organizations referred to in subsection (1) of this section
 16 are taxable.

17 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 18 READ AS FOLLOWS:

19 **(1) For taxable years beginning on or after January 1, 2022, a pass-through entity**
 20 **may elect to pay the tax liability at the entity level, utilizing the tax rate**
 21 **computation under Section 21 of this Act, on behalf of the individual partner,**
 22 **member, or shareholder of the pass-through entity.**

23 **(2) The election shall be:**

24 **(a) Made on a form prescribed by the department;**

25 **(b) Made by the:**

26 **1. Fifteenth day of the fourth month upon the close of the taxable year;**

27 **or**

- 1 2. Fifteenth day of the tenth month upon the close of the taxable year, if
2 the return is filed under KRS 141.170;
- 3 (c) Made only upon the consent of all partners, members, or shareholders
4 holding more than fifty percent (50%) ownership in the pass-through entity;
5 and
- 6 (d) Binding upon all individual partners, members, or shareholders of the pass-
7 through entity.
- 8 (3) For taxable years beginning on or after January 1, 2022, there shall be allowed a
9 pass-through entity tax credit which shall be:
- 10 (a) Equal to one hundred percent (100%) of the tax paid by the pass-through
11 entity on behalf of the individual partner, member, or shareholder of the
12 pass-through entity;
- 13 (b) Claimed against the tax imposed under Section 21 of this Act on a return
14 filed by the individual partner, member, or shareholder of the pass-through
15 entity, with the ordering of credits as provided in Section 22 of this Act;
- 16 (c) Nonrefundable; and
- 17 (d) Based on the pro rata share of the individual partner's, member's, or
18 shareholder's income from the pass-through entity.
- 19 (4) The pass-through entity shall report to each individual partner, member, or
20 shareholder the individual's proportionate share of the tax paid by the pass-
21 through entity for the taxable year and for purposes of the pass-through entity tax
22 credit created in subsection (3) of this section.
- 23 (5) The department shall prescribe forms and may promulgate administrative
24 regulations as needed to administer this section.

25 ➔Section 17. KRS 141.010 is amended to read as follows:

26 As used in this chapter, for taxable years beginning on or after January 1, 2018:

- 27 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means

1 the amount calculated in KRS 141.019;

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

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

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

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

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

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

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

20 2. For the purposes of this paragraph:

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

25 b. "Owned or constructively owned" means owning shares or having
26 an ownership interest in the real estate investment trust, or owning
27 an interest in an entity that owns shares or has an ownership

- 1 interest in the real estate investment trust. Constructive ownership
2 shall be determined by looking across multiple layers of a
3 multilayer pass-through structure; and
- 4 (c) The real estate investment trust is not owned by another real estate investment
5 trust;
- 6 (3) "Commissioner" means the commissioner of the department;
- 7 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal
8 Revenue Code;
- 9 (5) "Critical infrastructure" means property and equipment owned or used by
10 communications networks, electric generation, transmission or distribution systems,
11 gas distribution systems, or water or wastewater pipelines that service multiple
12 customers or citizens, including but not limited to real and personal property such
13 as buildings, offices, lines, poles, pipes, structures, or equipment;
- 14 (6) "Declared state disaster or emergency" means a disaster or emergency event for
15 which:
- 16 (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or
17 (b) A presidential declaration of a federal major disaster or emergency has been
18 issued;
- 19 (7) "Department" means the Department of Revenue;
- 20 (8) "Dependent" means those persons defined as dependents in the Internal Revenue
21 Code;
- 22 (9) "Disaster or emergency-related work" means repairing, renovating, installing,
23 building, or rendering services that are essential to the restoration of critical
24 infrastructure that has been damaged, impaired, or destroyed by a declared state
25 disaster or emergency;
- 26 (10) "Disaster response business" means any entity:
- 27 (a) That has no presence in the state and conducts no business in the state, except

- 1 for disaster or emergency-related work during a disaster response period;
- 2 (b) Whose services are requested by a registered business or by a state or local
3 government for purposes of performing disaster or emergency-related work in
4 the state during a disaster response period; and
- 5 (c) That has no registrations, tax filings, or nexus in this state other than disaster
6 or emergency-related work during the calendar year immediately preceding
7 the declared state disaster or emergency;
- 8 (11) "Disaster response employee" means an employee who does not work or reside in
9 the state, except for disaster or emergency-related work during the disaster response
10 period;
- 11 (12) "Disaster response period" means a period that begins ten (10) days prior to the first
12 day of the Governor's declaration under KRS 39A.100, or the President's
13 declaration of a federal major disaster or emergency, whichever occurs first, and
14 that extends thirty (30) calendar days after the declared state disaster or emergency;
- 15 (13) "Doing business in this state" includes but is not limited to:
- 16 (a) Being organized under the laws of this state;
- 17 (b) Having a commercial domicile in this state;
- 18 (c) Owning or leasing property in this state;
- 19 (d) Having one (1) or more individuals performing services in this state;
- 20 (e) Maintaining an interest in a pass-through entity doing business in this state;
- 21 (f) Deriving income from or attributable to sources within this state, including
22 deriving income directly or indirectly from a trust doing business in this state,
23 or deriving income directly or indirectly from a single-member limited
24 liability company that is doing business in this state and is disregarded as an
25 entity separate from its single member for federal income tax purposes; or
- 26 (g) Directing activities at Kentucky customers for the purpose of selling them
27 goods or services.

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

4 (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue
5 Code;

6 (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue
7 Code;

8 (16) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue
9 Code;

10 (17) "Financial institution" means:

11 (a) A national bank organized as a body corporate and existing or in the process
12 of organizing as a national bank association pursuant to the provisions of the
13 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,
14 1997, exclusive of any amendments made subsequent to that date;

15 (b) Any bank or trust company incorporated or organized under the laws of any
16 state, except a banker's bank organized under KRS 286.3-135;

17 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,
18 in effect on December 31, 1997, exclusive of any amendments made
19 subsequent to that date, or any corporation organized after December 31,
20 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
21 December 31, 1997; or

22 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
23 3101, in effect on December 31, 1997, exclusive of any amendments made
24 subsequent to that date, or any agency or branch of a foreign depository
25 established after December 31, 1997, that meets the requirements of 12 U.S.C.
26 sec. 3101 in effect on December 31, 1997;

27 (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal

- 1 Revenue Code;
- 2 (19) "Gross income":
- 3 (a) In the case of taxpayers other than corporations, has the same meaning as in
- 4 Section 61 of the Internal Revenue Code; and
- 5 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 6 (20) "Individual" means a natural person;
- 7 (21) "Internal Revenue Code" means for taxable years beginning on or after January 1,
- 8 2023~~[2022]~~, the Internal Revenue Code in effect on December 31, 2022~~[2021]~~,
- 9 exclusive of any amendments made subsequent to that date, other than amendments
- 10 that extend provisions in effect on December 31, 2022~~[2021]~~, that would otherwise
- 11 terminate;
- 12 (22) "Limited liability pass-through entity" means any pass-through entity that affords
- 13 any of its partners, members, shareholders, or owners, through function of the laws
- 14 of this state or laws recognized by this state, protection from general liability for
- 15 actions of the entity;
- 16 (23) "Modified gross income" means the greater of:
- 17 (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any
- 18 amendments in effect on December 31 of the taxable year, and adjusted as
- 19 follows:
- 20 1. Include interest income derived from obligations of sister states and
- 21 political subdivisions thereof; and
- 22 2. Include lump-sum pension distributions taxed under the special
- 23 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
- 24 (b) Adjusted gross income as defined in subsection (1) of this section and
- 25 adjusted to include lump-sum pension distributions taxed under the special
- 26 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 27 (24) "Net income":

- 1 (a) In the case of taxpayers other than corporations, means the amount calculated
2 in KRS 141.019; and
- 3 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 4 (25) "Nonresident" means any individual not a resident of this state;
- 5 (26) "Number of withholding exemptions claimed" means the number of withholding
6 exemptions claimed in a withholding exemption certificate in effect under KRS
7 141.325, except that if no such certificate is in effect, the number of withholding
8 exemptions claimed shall be considered to be zero;
- 9 (27) "Part-year resident" means any individual that has established or abandoned
10 Kentucky residency during the calendar year;
- 11 (28) "Pass-through entity" means any partnership, S corporation, limited liability
12 company, limited liability partnership, limited partnership, or similar entity
13 recognized by the laws of this state that is not taxed for federal purposes at the
14 entity level, but instead passes to each partner, member, shareholder, or owner their
15 proportionate share of income, deductions, gains, losses, credits, and any other
16 similar attributes;
- 17 (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal
18 Revenue Code;
- 19 (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue
20 Code;
- 21 (31) "Registered business" means a business entity that owns or otherwise possesses
22 critical infrastructure and that is registered to do business in the state prior to the
23 declared state disaster or emergency;
- 24 (32) "Resident" means an individual domiciled within this state or an individual who is
25 not domiciled in this state, but maintains a place of abode in this state and spends in
26 the aggregate more than one hundred eighty-three (183) days of the taxable year in
27 this state;

- 1 (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue
2 Code;
- 3 (34) "State" means a state of the United States, the District of Columbia, the
4 Commonwealth of Puerto Rico, or any territory or possession of the United States;
- 5 (35) "Taxable net income":
- 6 (a) In the case of corporations that are taxable in this state, means "net income" as
7 defined in subsection (24) of this section;
- 8 (b) In the case of corporations that are taxable in this state and taxable in another
9 state, means "net income" as defined in subsection (24) of this section and as
10 allocated and apportioned under KRS 141.120;
- 11 (c) For homeowners' associations as defined in Section 528(c) of the Internal
12 Revenue Code, means "taxable income" as defined in Section 528(d) of the
13 Internal Revenue Code. Notwithstanding the provisions of subsection (21) of
14 this section, the Internal Revenue Code sections referred to in this paragraph
15 shall be those code sections in effect for the applicable tax year; and
- 16 (d) For a corporation that meets the requirements established under Section 856
17 of the Internal Revenue Code to be a real estate investment trust, means "real
18 estate investment trust taxable income" as defined in Section 857(b)(2) of the
19 Internal Revenue Code, except that a captive real estate investment trust shall
20 not be allowed any deduction for dividends paid;
- 21 (36) "Taxable year" means the calendar year or fiscal year ending during such calendar
22 year, upon the basis of which net income is computed, and in the case of a return
23 made for a fractional part of a year under the provisions of this chapter or under
24 administrative regulations prescribed by the commissioner, "taxable year" means
25 the period for which the return is made; and
- 26 (37) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code
27 and includes other income subject to withholding as provided in Section 3401(f)

1 and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

2 ➔Section 18. KRS 141.017 is amended to read as follows:

3 (1) (a) All deductions allowed by this chapter shall be limited to amounts directly or
4 indirectly allocable to income subject to taxation under the provisions of this
5 chapter.

6 (b) Any deduction directly or indirectly allocable to income which is either
7 exempt from taxation or otherwise not taxed under this chapter shall not be
8 allowed.

9 (c) This subsection does not apply to deductions allowed under Pub. L. No. 116-
10 260, secs. 276 and 278, related to the tax treatment of forgiven covered loans
11 and deductions attributable to those loans for taxable years ending on or after
12 March 27, 2020, but before taxable years beginning January 1, 2022.

13 *(d) This subsection shall not apply to deductions allowed under Pub. L. No.*
14 *117-2, sec. 9673, relating to amounts allocable to income from grants to*
15 *restaurants and other food service eligible entities under the restaurant*
16 *revitalization grants program for taxable years beginning on or after*
17 *January 1, 2020, but before March 11, 2023.*

18 (2) Nothing in this chapter shall be construed to permit the same item to be deducted
19 more than once.

20 ➔Section 19. KRS 141.019 is amended to read as follows:

21 In the case of taxpayers other than corporations:

22 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
23 those taxpayers the deductions allowed individuals by Section 62 of the Internal
24 Revenue Code and adjusting as follows:

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

27 (b) Exclude income from supplemental annuities provided by the Railroad

- 1 Retirement Act of 1937 as amended and which are subject to federal income
2 tax by Pub. L. No. 89-699;
- 3 (c) Include interest income derived from obligations of sister states and political
4 subdivisions thereof;
- 5 (d) Exclude employee pension contributions picked up as provided for in KRS
6 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
7 and 161.540 upon a ruling by the Internal Revenue Service or the federal
8 courts that these contributions shall not be included as gross income until such
9 time as the contributions are distributed or made available to the employee;
- 10 (e) Exclude Social Security and railroad retirement benefits subject to federal
11 income tax;
- 12 (f) Exclude any money received because of a settlement or judgment in a lawsuit
13 brought against a manufacturer or distributor of "Agent Orange" for damages
14 resulting from exposure to Agent Orange by a member or veteran of the
15 Armed Forces of the United States or any dependent of such person who
16 served in Vietnam;
- 17 (g) 1. a. For taxable years beginning after December 31, 2005, but before
18 January 1, 2018, exclude up to forty-one thousand one hundred ten
19 dollars (\$41,110) of total distributions from pension plans, annuity
20 contracts, profit-sharing plans, retirement plans, or employee
21 savings plans; and
- 22 b. For taxable years beginning on or after January 1, 2018, exclude
23 up to thirty-one thousand one hundred ten dollars (\$31,110) of
24 total distributions from pension plans, annuity contracts, profit-
25 sharing plans, retirement plans, or employee savings plans.
- 26 2. As used in this paragraph:
- 27 a. "Annuity contract" has the same meaning as set forth in Section

- 1 1035 of the Internal Revenue Code;
- 2 b. "Distributions" includes but is not limited to any lump-sum
3 distribution from pension or profit-sharing plans qualifying for the
4 income tax averaging provisions of Section 402 of the Internal
5 Revenue Code; any distribution from an individual retirement
6 account as defined in Section 408 of the Internal Revenue Code;
7 and any disability pension distribution; and
- 8 c. "Pension plans, profit-sharing plans, retirement plans, or employee
9 savings plans" means any trust or other entity created or organized
10 under a written retirement plan and forming part of a stock bonus,
11 pension, or profit-sharing plan of a public or private employer for
12 the exclusive benefit of employees or their beneficiaries and
13 includes plans qualified or unqualified under Section 401 of the
14 Internal Revenue Code and individual retirement accounts as
15 defined in Section 408 of the Internal Revenue Code;
- 16 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
17 income from an S corporation subject to the franchise tax imposed
18 under KRS 136.505 or the capital stock tax imposed under KRS
19 136.300; and
- 20 b. Exclude the portion of the distributive share of a shareholder's net
21 income from an S corporation related to a qualified subchapter S
22 subsidiary subject to the franchise tax imposed under KRS
23 136.505 or the capital stock tax imposed under KRS 136.300.
- 24 2. The shareholder's basis of stock held in an S corporation where the S
25 corporation or its qualified subchapter S subsidiary is subject to the
26 franchise tax imposed under KRS 136.505 or the capital stock tax
27 imposed under KRS 136.300 shall be the same as the basis for federal

- 1 income tax purposes;
- 2 (i) Exclude income received for services performed as a precinct worker for
3 election training or for working at election booths in state, county, and local
4 primaries or regular or special elections;
- 5 (j) Exclude any capital gains income attributable to property taken by eminent
6 domain;
- 7 (k) 1. Exclude all income from all sources for members of the Armed Forces
8 who are on active duty and who are killed in the line of duty, for the
9 year during which the death occurred and the year prior to the year
10 during which the death occurred.
- 11 2. For the purposes of this paragraph, "all income from all sources" shall
12 include all federal and state death benefits payable to the estate or any
13 beneficiaries;
- 14 (l) Exclude all military pay received by members of the Armed Forces while on
15 active duty;
- 16 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
17 or 168; and
- 18 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 19 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 20 (o) Ignore any change in the cost basis of the surviving spouse's share of property
21 owned by a Kentucky community property trust occurring for federal income
22 tax purposes as a result of the death of the predeceasing spouse;~~and~~
- 23 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
24 278, related to the tax treatment of forgiven covered loans, deductions
25 attributable to those loans, and tax attributes associated with those loans for
26 taxable years ending on or after March 27, 2020, but before January 1, 2022;
27 and

1 (g) For taxable years beginning on or after January 1, 2020, but before March
2 11, 2023, allow the same treatment of restaurant revitalization grants in
3 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
4 related to the tax treatment of the grants, deductions attributable to those
5 grants, and tax attributes associated with those grants; and

- 6 (2) Net income shall be calculated by subtracting from adjusted gross income all the
7 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
8 modified by KRS 141.0101, except:
- 9 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
 - 10 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
11 losses allowed under Section 165(d) of the Internal Revenue Code;
 - 12 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
 - 13 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
 - 14 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
15 deduction;
 - 16 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
17 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
18 the estate of a decedent, unless there is filed with the income return a
19 statement that the deduction has not been claimed under KRS 140.090(1)(h);
 - 20 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
21 any other deductions in lieu thereof;
 - 22 (h) Any deduction allowed for amounts paid to any club, organization, or
23 establishment which has been determined by the courts or an agency
24 established by the General Assembly and charged with enforcing the civil
25 rights laws of the Commonwealth, not to afford full and equal membership
26 and full and equal enjoyment of its goods, services, facilities, privileges,
27 advantages, or accommodations to any person because of race, color, religion,

1 national origin, or sex, except nothing shall be construed to deny a deduction
2 for amounts paid to any religious or denominational club, group, or
3 establishment or any organization operated solely for charitable or educational
4 purposes which restricts membership to persons of the same religion or
5 denomination in order to promote the religious principles for which it is
6 established and maintained; and

7 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
8 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
9 and as modified by this section.

10 ➔Section 20. KRS 141.039 is amended to read as follows:

11 In the case of corporations:

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

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

16 (b) Exclude all dividend income;

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

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

25 (e) Include the amount calculated under KRS 141.205;

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

- 1 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
2 167 or 168;~~and~~
- 3 (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
4 278, related to the tax treatment of forgiven covered loans, deductions
5 attributable to those loans, and tax attributes associated with those loans for
6 taxable years ending on or after March 27, 2020, but before January 1, 2022;
7 and
- 8 **(i) For taxable years beginning on or after January 1, 2020, but before March**
9 **11, 2023, allow the same treatment of restaurant revitalization grants in**
10 **accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,**
11 **related to the tax treatment of the grants, deductions attributable to those**
12 **grants, and tax attributes associated with those grants; and**
- 13 (2) Net income shall be calculated by subtracting from gross income:
- 14 (a) The deduction for depreciation allowed by KRS 141.0101;
- 15 (b) Any amount paid for vouchers or similar instruments that provide health
16 insurance coverage to employees or their families;
- 17 (c) All the deductions from gross income allowed corporations by Chapter 1 of
18 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 19 1. Any deduction for a state tax which is computed, in whole or in part, by
20 reference to gross or net income and which is paid or accrued to any
21 state of the United States, the District of Columbia, the Commonwealth
22 of Puerto Rico, any territory or possession of the United States, or to any
23 foreign country or political subdivision thereof;
- 24 2. The deductions contained in Sections 243, 245, and 247 of the Internal
25 Revenue Code;
- 26 3. The provisions of Section 281 of the Internal Revenue Code shall be
27 ignored in computing net income;

- 1 4. Any deduction directly or indirectly allocable to income which is either
2 exempt from taxation or otherwise not taxed under the provisions of this
3 chapter, except for deductions allowed under Pub. L. No. 116-260, secs.
4 276 and 278, related to the tax treatment of forgiven covered loans and
5 deductions attributable to those loans for taxable years ending on or
6 after March 27, 2020, but before January 1, 2022; and deductions
7 allowed under Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
8 related to the tax treatment of restaurant revitalization grants and
9 deductions attributable to those grants for taxable years beginning on
10 or after January 1, 2020, but before March 11, 2023. Nothing~~[-, and~~
11 ~~nothing]~~ in this chapter shall be construed to permit the same item to be
12 deducted more than once;
- 13 5. Any deduction for amounts paid to any club, organization, or
14 establishment which has been determined by the courts or an agency
15 established by the General Assembly and charged with enforcing the
16 civil rights laws of the Commonwealth, not to afford full and equal
17 membership and full and equal enjoyment of its goods, services,
18 facilities, privileges, advantages, or accommodations to any person
19 because of race, color, religion, national origin, or sex, except nothing
20 shall be construed to deny a deduction for amounts paid to any religious
21 or denominational club, group, or establishment or any organization
22 operated solely for charitable or educational purposes which restricts
23 membership to persons of the same religion or denomination in order to
24 promote the religious principles for which it is established and
25 maintained;
- 26 6. Any deduction prohibited by KRS 141.205; and
- 27 7. Any dividends-paid deduction of any captive real estate investment

1 trust; and

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

4 2. For purposes of this paragraph:

5 a. "Net deferred tax asset" means that deferred tax assets exceed the
6 deferred tax liabilities of the combined group, as computed in
7 accordance with accounting principles generally accepted in the
8 United States of America; and

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

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

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

23 5. For ten (10) years beginning with the combined group's first taxable
24 year beginning on or after January 1, 2024, a combined group shall be
25 entitled to a deduction from the combined group's entire net income
26 equal to one-tenth (1/10) of the amount necessary to offset the increase
27 in the net deferred tax liability, decrease in the net deferred tax asset, or

1 aggregate change from a net deferred tax asset to a net deferred tax
2 liability. The increase in the net deferred tax liability, decrease in the net
3 deferred tax asset, or the aggregate change from a net deferred tax asset
4 to a net deferred tax liability shall be computed based on the change that
5 would result from the imposition of the combined reporting requirement
6 under KRS 141.202, but for the deduction provided under this paragraph
7 as of June 27, 2019.

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

11 a. The deferred tax impact determined in subparagraph 5. of this
12 paragraph shall be divided by the tax rate determined under KRS
13 141.040;

14 b. The resulting amount shall be further divided by the
15 apportionment factor determined by KRS 141.120 or 141.121 that
16 was used by the combined group in the calculation of the deferred
17 tax assets and deferred tax liabilities as described in subparagraph
18 5. of this paragraph; and

19 c. The resulting amount represents the total net deferred tax
20 deduction available over the ten (10) year period as described in
21 subparagraph 5. of this paragraph.

22 7. The deduction calculated under this paragraph shall not be adjusted as a
23 result of any events happening subsequent to the calculation, including
24 but not limited to any disposition or abandonment of assets. The
25 deduction shall be calculated without regard to the federal tax effect and
26 shall not alter the tax basis of any asset. If the deduction under this
27 section is greater than the combined group's entire Kentucky net income,

1 any excess deduction shall be carried forward and applied as a deduction
2 to the combined group's entire net income in future taxable years until
3 fully utilized.

4 8. Any combined group intending to claim a deduction under this
5 paragraph shall file a statement with the department on or before July 1,
6 2019. The statement shall specify the total amount of the deduction
7 which the combined group claims on the form, including calculations
8 and other information supporting the total amounts of the deduction as
9 required by the department. No deduction shall be allowed under this
10 paragraph for any taxable year, except to the extent claimed on the
11 timely filed statement in accordance with this paragraph.

12 ➔Section 21. KRS 141.020 is amended to read as follows:

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

17 (2) (a) As used in this subsection:

18 1. "Balance in the BRTF at the end of a fiscal year" means the budget
19 reserve trust fund account established in KRS 48.705 and includes the
20 following amounts and actions resulting from the final close of the fiscal
21 year:

22 a. The amount of moneys in the fund at the end of a fiscal year;
23 b. All close-out actions related to a budget reduction plan under KRS
24 48.130 or as modified in a branch budget bill; and
25 c. All close-out actions related to the surplus expenditure plan under
26 KRS 48.140 or as modified in a branch budget bill;

27 2. "GF appropriations" means the authorization by the General Assembly

- 1 to expend GF moneys, excluding:
- 2 a. **Continuing appropriations;**
- 3 **b.** Any appropriation to the budget reserve trust fund; and
- 4 **c.**~~b.~~ Any lump-sum appropriation to a state-administered retirement
- 5 system, as defined in KRS 7A.210, that is in excess of the
- 6 appropriations specifically budgeted to meet the recurring
- 7 statutorily required contributions or recurring actuarially
- 8 determined contributions for a state-administered retirement
- 9 system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or
- 10 161.550, as applicable;
- 11 3. "GF moneys" means receipts deposited in the general fund defined in
- 12 KRS 48.010, excluding tobacco moneys deposited in the fund
- 13 established in KRS 248.654;
- 14 4. "IIT equivalent" means the amount of reduction in GF moneys resulting
- 15 from a one (1) percentage point reduction to the individual income tax
- 16 rate **and shall be calculated by dividing the actual individual income**
- 17 **tax receipts for the fiscal year under consideration by:**
- 18 **a. The sum of:**
- 19 **i. The individual income tax rate, expressed as a percentage,**
- 20 **for the first six (6) months of the fiscal year; and**
- 21 **ii. The individual income tax rate, expressed as a percentage,**
- 22 **for the second six (6) months of the fiscal year; and**
- 23 **b. Dividing the sum determined in subdivision a. of this**
- 24 **subparagraph by two (2);**
- 25 5. "Reduction conditions" means:
- 26 a. The balance in the BRTF at the end of a fiscal year shall be equal
- 27 to or greater than ten percent (10%) of the GF moneys for that

1 fiscal year; and

2 b. GF moneys at the end of a fiscal year shall be equal to or greater
3 than GF appropriations for that fiscal year plus the IIT equivalent
4 for that fiscal year; and

5 6. "Tax rate reduction" means the current tax rate minus five-tenths of one
6 percent (0.5%).

7 (b) For taxable years beginning on or after January 1, 2023, but prior to
8 January 1, 2024, the tax shall be four and one-half percent (4.5%) of net
9 income.

10 (c) For taxable years beginning on or after January 1, 2024, the tax shall be
11 four percent (4%) of net income.

12 (d) 1. For taxable years beginning on or after January 1, 2025, the income
13 tax rate may be reduced according to the annual process established in
14 subparagraphs 2. to 5. of this paragraph.

15 ~~2.[1.] Beginning no later than September 1, 2022, the department, with~~
16 ~~assistance from~~ The Office of State Budget Director~~],~~ shall review the
17 reduction conditions for the fiscal year 2022-2023 no later than
18 September 1, 2023~~as they apply to fiscal year 2020-2021 and fiscal~~
19 ~~year 2021-2022 and make a determination if the reduction conditions~~
20 ~~have been met for each fiscal year].~~

21 ~~3.[2.]~~ After reviewing the reduction conditions under subparagraph ~~2.[1.]~~ of
22 this paragraph, the Office of State Budget Director~~department]~~ shall, ~~[-~~

23 ~~a.—~~ no later than September 5, ~~2023~~~~2022~~, report to the Interim Joint
24 Committee on Appropriations and Revenue:

25 ~~a.[i.]~~ Whether the reduction conditions for the fiscal year 2022-2023
26 have been met~~a tax rate reduction will occur for the taxable year~~
27 ~~beginning on January 1, 2023]; and~~

1 ~~b. [ii.]~~ The amounts associated with each item within the reduction
 2 conditions used for making that determination~~[-; and~~

3 ~~b. i.~~ Implement the tax rate reduction for the taxable year
 4 beginning on January 1, 2023, if the reduction conditions are
 5 met; or

6 ~~ii.~~ Maintain the current tax rate, if the reduction conditions are
 7 not met].

8 4. a. If the reduction conditions have been met for fiscal year 2022-
 9 2023, the General Assembly may take action to reduce the rate in
 10 paragraph (c) of this subsection for the taxable year beginning
 11 January 1, 2025.

12 b. If the reduction conditions have not been met for fiscal year
 13 2022-2023 or the General Assembly does not take action to
 14 reduce the rate in paragraph (c) of this subsection, the
 15 department shall maintain the rate in paragraph (c) of this
 16 subsection for the taxable year beginning January 1, 2025.

17 5. a. [c]1. The Office of State Budget Director~~[department]~~ shall
 18 implement an annual process to review and report future reduction
 19 conditions at the same time and in the same manner for each fiscal
 20 year subsequent to the fiscal year 2022-2023 and each taxable
 21 year subsequent to the taxable year beginning January 1, 2025.

22 b. The department shall not implement an income tax rate
 23 reduction without an action by the General Assembly.

24 c. The annual process shall continue until the income tax rate is
 25 zero~~[as under paragraph (b) of this subsection, except that the~~
 26 ~~department shall use the next succeeding year related to the dates~~
 27 ~~for review and reporting and the next succeeding fiscal year data~~

1 to evaluate the reduction conditions].

2 ~~[2. Notwithstanding subparagraph 1. of this paragraph, the department shall~~
3 ~~not implement an income tax rate reduction without a future action by~~
4 ~~the General Assembly.]~~

5 ~~(e)~~~~(d)~~ For taxable years beginning on or after January 1, 2018, but before
6 January 1, 2023, the tax shall be five percent (5%) of net income.

7 ~~(f)~~~~(e)~~ For taxable years beginning after December 31, 2004, and before
8 January 1, 2018, the tax shall be determined by applying the following rates to
9 net income:

- 10 1. Two percent (2%) of the amount of net income up to three thousand
11 dollars (\$3,000);
- 12 2. Three percent (3%) of the amount of net income over three thousand
13 dollars (\$3,000) and up to four thousand dollars (\$4,000);
- 14 3. Four percent (4%) of the amount of net income over four thousand
15 dollars (\$4,000) and up to five thousand dollars (\$5,000);
- 16 4. Five percent (5%) of the amount of net income over five thousand
17 dollars (\$5,000) and up to eight thousand dollars (\$8,000);
- 18 5. Five and eight-tenths percent (5.8%) of the amount of net income over
19 eight thousand dollars (\$8,000) and up to seventy-five thousand dollars
20 (\$75,000); and
- 21 6. Six percent (6%) of the amount of net income over seventy-five
22 thousand dollars (\$75,000).

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

- 25 1. a. For taxable years beginning before January 1, 2014, twenty dollars
26 (\$20) for an unmarried individual; and
- 27 b. For taxable years beginning on or after January 1, 2014, and

- 1 before January 1, 2018, ten dollars (\$10) for an unmarried
2 individual;
- 3 2. a. For taxable years beginning before January 1, 2014, twenty dollars
4 (\$20) for a married individual filing a separate return and an
5 additional twenty dollars (\$20) for the spouse of taxpayer if a
6 separate return is made by the taxpayer and if the spouse, for the
7 calendar year in which the taxable year of the taxpayer begins, had
8 no Kentucky gross income and is not the dependent of another
9 taxpayer; or forty dollars (\$40) for married persons filing a joint
10 return, provided neither spouse is the dependent of another
11 taxpayer. The determination of marital status for the purpose of
12 this section shall be made in the manner prescribed in Section 153
13 of the Internal Revenue Code; and
- 14 b. For taxable years beginning on or after January 1, 2014, and
15 before January 1, 2018, ten dollars (\$10) for a married individual
16 filing a separate return and an additional ten dollars (\$10) for the
17 spouse of a taxpayer if a separate return is made by the taxpayer
18 and if the spouse, for the calendar year in which the taxable year of
19 the taxpayer begins, had no Kentucky gross income and is not the
20 dependent of another taxpayer; or twenty dollars (\$20) for married
21 persons filing a joint return, provided neither spouse is the
22 dependent of another taxpayer. The determination of marital status
23 for the purpose of this section shall be made in the manner
24 prescribed in Section 153 of the Internal Revenue Code;
- 25 3. a. For taxable years beginning before January 1, 2014, twenty dollars
26 (\$20) credit for each dependent. No credit shall be allowed for any
27 dependent who has made a joint return with his or her spouse; and

- 1 b. For taxable years beginning on or after January 1, 2014, and
2 before January 1, 2018, ten dollars (\$10) credit for each
3 dependent. No credit shall be allowed for any dependent who has
4 made a joint return with his or her spouse;
- 5 4. An additional forty dollars (\$40) credit if the taxpayer has attained the
6 age of sixty-five (65) before the close of the taxable year;
- 7 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a
8 separate return is made by the taxpayer and if the taxpayer's spouse has
9 attained the age of sixty-five (65) before the close of the taxable year,
10 and, for the calendar year in which the taxable year of the taxpayer
11 begins, has no Kentucky gross income and is not the dependent of
12 another taxpayer;
- 13 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the
14 close of the taxable year;
- 15 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a
16 separate return is made by the taxpayer and if the taxpayer's spouse is
17 blind, and, for the calendar year in which the taxable year of the
18 taxpayer begins, has no Kentucky gross income and is not the dependent
19 of another taxpayer; and
- 20 8. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer
21 is a member of the Kentucky National Guard at the close of the taxable
22 year.
- 23 (b) In the case of nonresidents, the tax credits allowable under this subsection
24 shall be the portion of the credits that are represented by the ratio of the
25 taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
26 the taxpayer's adjusted gross income as defined in Section 62 of the Internal
27 Revenue Code. However, in the case of a married nonresident taxpayer with

1 income from Kentucky sources, whose spouse has no income from Kentucky
2 sources, the taxpayer shall determine allowable tax credit(s) by either:

- 3 1. The method contained above applied to the taxpayer's tax credit(s),
4 excluding credits for a spouse and dependents; or
- 5 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the
6 taxpayer's spouse and dependents by the ratio of the taxpayer's
7 Kentucky adjusted gross income as determined by KRS 141.019 to the
8 total joint federal adjusted gross income of the taxpayer and the
9 taxpayer's spouse.

10 (c) In the case of a part-year resident, the tax credits allowable under this
11 subsection shall be the portion of the credits represented by the ratio of the
12 taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
13 the taxpayer's adjusted gross income as defined in Section 62 of the Internal
14 Revenue Code.

15 (4) An annual tax shall be paid for each taxable year as specified in this section upon
16 the entire net income except as herein provided, from all tangible property located
17 in this state, from all intangible property that has acquired a business situs in this
18 state, and from business, trade, profession, occupation, or other activities carried on
19 in this state, by natural persons not residents of this state. A nonresident individual
20 shall be taxable only upon the amount of income received by the individual from
21 labor performed, business done, or from other activities in this state, from tangible
22 property located in this state, and from intangible property which has acquired a
23 business situs in this state; provided, however, that the situs of intangible personal
24 property shall be at the residence of the real or beneficial owner and not at the
25 residence of a trustee having custody or possession thereof. For taxable years
26 beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed
27 by this section shall not apply to a disaster response employee or to a disaster

1 response business. The remainder of the income received by such nonresident shall
2 be deemed nontaxable by this state.

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

5 (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this
6 section, during that portion of the taxable year that the individual is a resident and,
7 as prescribed in subsection (4) of this section, during that portion of the taxable year
8 when the individual is a nonresident.

9 ➔Section 22. KRS 141.0205 is amended to read as follows:

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

13 (1) The nonrefundable business incentive credits against the tax imposed by KRS
14 141.020 shall be taken in the following order:

15 (a) The limited liability entity tax credit permitted by KRS 141.0401;

16 (b) The economic development credits computed under KRS 141.347, 141.381,
17 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
18 207, and 154.12-2088;

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

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

21 (e) The health insurance credit permitted by KRS 141.062;

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

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

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

25 (i) The tax credit for cash contributions in investment funds permitted by KRS
26 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
27 154.20-258;

- 1 (j) The research facilities credit permitted by KRS 141.395;
- 2 (k) The employer High School Equivalency Diploma program incentive credit
3 permitted under KRS 151B.402;
- 4 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 5 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 6 (n) The clean coal incentive credit permitted by KRS 141.428;
- 7 (o) The ethanol credit permitted by KRS 141.4242;
- 8 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 9 (q) The energy efficiency credits permitted by KRS 141.436;
- 10 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 11 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 12 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 13 (u) The distilled spirits credit permitted by KRS 141.389;
- 14 (v) The angel investor credit permitted by KRS 141.396;
- 15 (w) The film industry credit permitted by KRS 141.383 for applications approved
16 on or after April 27, 2018, but before January 1, 2022;
- 17 (x) The inventory credit permitted by KRS 141.408; and
- 18 (y) The renewable chemical production credit permitted by KRS 141.4231.
- 19 (2) After the application of the nonrefundable credits in subsection (1) of this section,
20 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
21 shall be taken in the following order:
- 22 (a) The individual credits permitted by KRS 141.020(3);
- 23 (b) The credit permitted by KRS 141.066;
- 24 (c) The tuition credit permitted by KRS 141.069;
- 25 (d) The household and dependent care credit permitted by KRS 141.067;
- 26 (e) The income gap credit permitted by KRS 141.066;~~and~~
- 27 (f) The Education Opportunity Account Program tax credit permitted by KRS

1 141.522; and

2 (g) The pass-through entity tax credit permitted by Section 16 of this Act.

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

- 6 (a) The individual withholding tax credit permitted by KRS 141.350;
- 7 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 8 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
9 171.397(1)(b);
- 10 (d) The film industry tax credit permitted by KRS 141.383 for applications
11 approved prior to April 27, 2018, or on or after January 1, 2022;
- 12 (e) The development area tax credit permitted by KRS 141.398; and
- 13 (f) The decontamination tax credit permitted by KRS 141.419.

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

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

- 19 (a) The economic development credits computed under KRS 141.347, 141.381,
20 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
21 207, and 154.12-2088;
- 22 (b) The qualified farming operation credit permitted by KRS 141.412;
- 23 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 24 (d) The health insurance credit permitted by KRS 141.062;
- 25 (e) The unemployment credit permitted by KRS 141.065;
- 26 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 27 (g) The coal conversion credit permitted by KRS 141.041;

- 1 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
2 ending prior to January 1, 2008;
- 3 (i) The tax credit for cash contributions to investment funds permitted by KRS
4 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
5 154.20-258;
- 6 (j) The research facilities credit permitted by KRS 141.395;
- 7 (k) The employer High School Equivalency Diploma program incentive credit
8 permitted by KRS 151B.402;
- 9 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 10 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 11 (n) The clean coal incentive credit permitted by KRS 141.428;
- 12 (o) The ethanol credit permitted by KRS 141.4242;
- 13 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 14 (q) The energy efficiency credits permitted by KRS 141.436;
- 15 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
16 permitted by KRS 141.437;
- 17 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 18 (t) The railroad expansion credit permitted by KRS 141.386;
- 19 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 20 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 21 (w) The distilled spirits credit permitted by KRS 141.389;
- 22 (x) The film industry credit permitted by KRS 141.383 for applications approved
23 on or after April 27, 2018, but before January 1, 2022;
- 24 (y) The inventory credit permitted by KRS 141.408;
- 25 (z) The renewable chemical production tax credit permitted by KRS 141.4231;
- 26 and
- 27 (aa) The Education Opportunity Account Program tax credit permitted by KRS

1 141.522.

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

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

5 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
6 171.397(1)(b);

7 (c) The film industry tax credit permitted by KRS 141.383 for applications
8 approved prior to April 27, 2018, or on or after January 1, 2022; and

9 (d) The decontamination tax credit permitted by KRS 141.419.

10 ➔Section 23. KRS 141.070 is amended to read as follows:

11 (1) Whenever an individual who is a resident of this state has become liable for income
12 tax to another state upon all or any part of the individual's~~his~~ net income for the
13 taxable year, derived from sources without this state and subject to taxation under
14 this chapter, the amount of income tax payable~~by him~~ under this chapter shall be
15 credited on the~~his~~ return with the income tax~~so~~ paid by ~~him~~ to the other state,
16 upon ~~his~~ producing to the proper assessing officer satisfactory evidence of the fact
17 of the~~such~~ payment, except that application of any~~such~~ credits shall not operate
18 to reduce the tax payable under this chapter to an amount less than would have been
19 payable were the income from the other state ignored.

20 (2) An individual who is not a resident of this state shall not be liable for any income
21 tax under KRS 141.020(4) if the laws of the state of which the~~such~~ individual was
22 a resident at the time the~~such~~ income was earned in this state contained a
23 reciprocal provision under which nonresidents were exempted from gross or net
24 income taxes to the other~~such~~ state, if the state of residence of the~~such~~
25 nonresident individual allowed a similar exemption to resident individuals of this
26 state. The exemption authorized by this subsection shall in no manner preclude the
27 department~~of Revenue~~ from requiring any information reports under~~pursuant to~~

1 KRS 141.150(2).

2 (3) As used in this section, "state" means a state of the United States, the District of
3 Columbia, the commonwealth of Puerto Rico, or any territory or possession of the
4 United States.

5 **(4) Any resident individual that is a partner, member, or shareholder of a pass-**
6 **through entity doing business in another state in which the tax is assessed and**
7 **paid at the entity level shall be allowed a credit in accordance with subsection (1)**
8 **of this section. The credit shall be based on the individual's distributive share of**
9 **the pass-through entity's items of income, loss, deduction, and credit.**

10 ➔Section 24. KRS 141.206 is amended to read as follows:

11 (1) Every pass-through entity doing business in this state shall, on or before the
12 fifteenth day of the fourth month following the close of its annual accounting
13 period, file a copy of its federal tax return with the form prescribed and furnished
14 by the department.

15 (2) (a) Pass-through entities shall calculate net income in the same manner as in the
16 case of an individual under KRS 141.019 and the adjustment required under
17 Sections 703(a) and 1363(b) of the Internal Revenue Code.

18 (b) Computation of net income under this section and the computation of the
19 partner's, member's, or shareholder's distributive share shall be computed as
20 nearly as practicable identical with those required for federal income tax
21 purposes except to the extent required by differences between this chapter and
22 the federal income tax law and regulations.

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

27 (a) For S corporations under KRS 141.040;~~and~~

- 1 (b) For a partnership level audit under KRS 141.211; and
2 (c) For a pass-through entity making an election under Section 16 of this Act.
- 3 (4) (a) Every pass-through entity required to file a return under subsection (1) of this
4 section, except publicly traded partnerships as described in KRS
5 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the
6 distributive share, whether distributed or undistributed, of each nonresident
7 individual partner, member, or shareholder.
- 8 (b) Withholding shall be at the maximum rate provided in KRS 141.020.
- 9 (5) (a) Every pass-through entity required to withhold Kentucky income tax as
10 provided by subsection (4) of this section shall pay estimated tax for the
11 taxable year, if for a nonresident individual partner, member, or shareholder,
12 the estimated tax liability can reasonably be expected to exceed five hundred
13 dollars (\$500).
- 14 (b) The payment of estimated tax shall contain the information and shall be filed
15 as provided in KRS 141.207.
- 16 (6) (a) If a pass-through entity demonstrates to the department that a partner,
17 member, or shareholder has filed an appropriate tax return for the prior year
18 with the department, then the pass-through entity shall not be required to
19 withhold on that partner, member, or shareholder for the current year unless
20 the exemption from withholding has been revoked pursuant to paragraph (b)
21 of this subsection.
- 22 (b) 1. An exemption from withholding shall be considered revoked if the
23 partner, member, or shareholder does not file and pay all taxes due in a
24 timely manner.
- 25 2. An exemption so revoked shall be reinstated only with permission of the
26 department.
- 27 3. If a partner, member, or shareholder who has been exempted from

1 withholding does not file a return or pay the tax due, the department
2 may require the pass-through entity to pay to the department the amount
3 that should have been withheld, up to the amount of the partner's,
4 member's, or shareholder's ownership interest in the entity.

5 4. The pass-through entity shall be entitled to recover a payment made
6 pursuant to this paragraph from the partner, member, or shareholder on
7 whose behalf the payment was made.

8 (7) In determining the tax under this chapter, a resident individual, estate, or trust that
9 is a partner, member, or shareholder in a pass-through entity shall take into account
10 the partner's, member's, or shareholder's total distributive share of the pass-through
11 entity's items of income, loss, deduction, and credit.

12 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust
13 that is a partner, member, or shareholder in a pass-through entity required to file a
14 return under subsection (1) of this section shall take into account:

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

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

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

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

- 1 (a) 1. For taxable years beginning on or after January 1, 2007, but prior to
2 January 1, 2018, shall include the proportionate share of the sales,
3 property, and payroll of the limited liability pass-through entity or
4 general partnership in computing its own apportionment factor; and
5 2. For taxable years beginning on or after January 1, 2018, shall include
6 the proportionate share of the sales of the limited liability pass-through
7 entity or general partnership in computing its own apportionment factor;
8 and
9 (b) Credits from the partnership.
- 10 (10) (a) If a pass-through entity is doing business both within and without this state,
11 the pass-through entity shall compute and furnish to each partner, member, or
12 shareholder the numerator and denominator of each factor of the
13 apportionment fraction determined in accordance with subsection (11) of this
14 section.
- 15 (b) For purposes of determining an apportionment fraction under paragraph (a) of
16 this subsection, if the pass-through entity is:
17 1. Doing business both within and without this state; and
18 2. A partner or member in another pass-through entity;
19 then the pass-through entity shall be deemed to own the pro rata share of the
20 property owned or leased by the other pass-through entity, and shall also
21 include its pro rata share of the other pass-through entity's payroll and sales.
- 22 (c) The phrases "a partner or member in another pass-through entity" and "doing
23 business both within and without this state" shall extend to each level of
24 multiple-tiered pass-through entities.
- 25 (d) The attribution to the pass-through entity of the pro rata share of property,
26 payroll and sales from its role as a partner or member in another pass-through
27 entity will also apply when determining the pass-through entity's ultimate

1 apportionment factor for property, payroll and sales as required under
2 subsection (11) of this section.

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

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

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

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

25 (14) (a) Nonresident individuals shall not be taxable on investment income distributed
26 by a qualified investment partnership. For purposes of this subsection, a
27 "qualified investment partnership" means a pass-through entity that, during

1 the taxable year, holds only investments that produce income that would not
2 be taxable to a nonresident individual if held or owned individually.

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

6 (15) (a) A pass-through entity shall deliver to the department a return upon a form
7 prescribed by the department showing the total amounts paid or credited to its
8 nonresident individual partners, members, or shareholders, the amount paid in
9 accordance with this subsection, and any other information the department
10 may require.

11 (b) A pass-through entity shall furnish to its nonresident partner, member, or
12 shareholder annually, but not later than the fifteenth day of the fourth month
13 after the end of its taxable year, a record of the amount of tax paid on behalf
14 of the partner, member, or shareholder on a form prescribed by the
15 department.

16 ➔Section 25. KRS 148.853 is amended to read as follows:

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

18 (a) The general welfare and material well-being of the citizens of the
19 Commonwealth depend in large measure upon the development of tourism in
20 the Commonwealth;

21 (b) It is in the best interest of the Commonwealth to provide incentives for the
22 creation of new tourism attractions and the expansion of existing tourism
23 attractions within the Commonwealth in order to advance the public purposes
24 of relieving unemployment by preserving and creating jobs that would not
25 exist if not for the incentives offered by the authority to approved companies,
26 and by preserving and creating sources of tax revenues for the support of
27 public services provided by the Commonwealth;

- 1 (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental
2 and public purposes for which public moneys may be expended; and
- 3 (d) That the creation or expansion of tourism development projects is of
4 paramount importance mandating that the provisions of KRS 139.536 and
5 KRS 148.851 to 148.860 be liberally construed and applied in order to
6 advance public purposes.
- 7 (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the
8 following requirements shall be met:
- 9 (a) For a tourism attraction project:
- 10 1. The total eligible costs shall exceed one million dollars (\$1,000,000),
11 except for a tourism attraction project located in a county designated as
12 an enhanced incentive county at the time the eligible company becomes
13 an approved company as provided in KRS 148.857(6), the total eligible
14 costs shall exceed five hundred thousand dollars (\$500,000);
- 15 2. In any year, including the first year of operation, the tourism attraction
16 project shall be open to the public at least one hundred (100) days; and
- 17 3. In any year following the third year of operation, the tourism attraction
18 project shall attract at least twenty-five percent (25%) of its visitors
19 from among persons who are not residents of the Commonwealth;
- 20 (b) For an entertainment destination center project:
- 21 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 22 2. The facility shall contain a minimum of two hundred thousand
23 (200,000) square feet of building space adjacent or complementary to an
24 existing tourism attraction project or a major convention facility;
- 25 3. The incentives shall be dedicated to a public infrastructure purpose that
26 shall relate to the entertainment destination center project;
- 27 4. In any year, including the first year of operation, the entertainment

- 1 destination center project shall:
- 2 a. Be open to the public at least one hundred (100) days per year;
- 3 b. Maintain at least one (1) major theme restaurant and at least three
- 4 (3) additional entertainment venues, including but not limited to
- 5 live entertainment, multiplex theaters, large-format theater, motion
- 6 simulators, family entertainment centers, concert halls, virtual
- 7 reality or other interactive games, museums, exhibitions, or other
- 8 cultural and leisure-time activities; and
- 9 c. Maintain a minimum occupancy of sixty percent (60%) of the total
- 10 gross area available for lease with entertainment and food and
- 11 drink options not including the retail sale of tangible personal
- 12 property; and
- 13 5. In any year following the third year of operation, the entertainment
- 14 destination center project shall attract at least twenty-five percent (25%)
- 15 of its visitors from among persons who are not residents of the
- 16 Commonwealth;
- 17 (c) For a theme restaurant destination attraction project:
- 18 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 19 2. In any year, including the first year of operation, the attraction shall:
- 20 a. Be open to the public at least three hundred (300) days per year
- 21 and for at least eight (8) hours per day; and
- 22 b. Generate no more than fifty percent (50%) of its revenue through
- 23 the sale of alcoholic beverages;
- 24 3. In any year following the third year of operation, the theme restaurant
- 25 destination attraction project shall attract a minimum of fifty percent
- 26 (50%) of its visitors from among persons who are not residents of the
- 27 Commonwealth; and

- 1 4. The theme restaurant destination attraction project shall:
- 2 a. At the time of final approval, offer a unique dining experience that
- 3 is not available in the Commonwealth within a one hundred (100)
- 4 mile radius of the attraction;
- 5 b. In any year, including the first year of operation, maintain seating
- 6 capacity of four hundred fifty (450) guests and offer live music or
- 7 live musical and theatrical entertainment during the peak business
- 8 hours that the facility is in operation and open to the public; or
- 9 c. Within three (3) years of the completion date, the attraction shall
- 10 obtain a top two (2) tier rating by a nationally accredited service
- 11 and shall maintain a top two (2) tier rating through the term of the
- 12 agreement;
- 13 (d) For a lodging facility project:
- 14 1. a. The eligible costs shall exceed five million dollars (\$5,000,000)
- 15 unless the provisions of subdivision b. of this subparagraph apply.
- 16 b. i. If the lodging facility is an integral part of a major
- 17 convention or sports facility, the eligible costs shall exceed six
- 18 million dollars (\$6,000,000); and
- 19 ii. If the lodging facility includes five hundred (500) or more
- 20 guest rooms, the eligible costs shall exceed ten million
- 21 dollars (\$10,000,000); and
- 22 2. In any year, including the first year of operation, the lodging facility
- 23 shall:
- 24 a. Be open to the public at least one hundred (100) days; and
- 25 b. Attract at least twenty-five percent (25%) of its visitors from
- 26 among persons who are not residents of the Commonwealth;
- 27 (e) Any tourism development project shall not be eligible for incentives if it

1 includes material determined to be lewd, offensive, or deemed to have a
2 negative impact on the tourism industry in the Commonwealth; and

3 (f) An expansion of any tourism development project shall in all cases be treated
4 as a new stand-alone project.

5 (3) The incentives offered under the Kentucky Tourism Development Act shall be as
6 follows:

7 (a) An approved company may be granted a sales tax incentive based on the
8 Kentucky sales tax imposed on sales generated by or arising at the tourism
9 development project; and

10 (b) 1. For a tourism development project other than a lodging facility project
11 described in KRS 148.851(14)(e) or (f), or a tourism attraction project
12 described in subparagraph 2. of this paragraph:

13 a. A sales tax incentive shall be allowed to an approved company
14 over a period of ten (10) years, except as provided in
15 ~~subparagraphs~~^{subparagraph} 5. **and 6.** of this paragraph; and

16 b. The sales tax incentive shall not exceed the lesser of the total
17 amount of the sales tax liability of the approved company and its
18 lessees or a percentage of the approved costs as specified by the
19 agreement, not to exceed twenty-five percent (25%);

20 2. For a tourism attraction project located in an enhanced incentive county
21 at the time the eligible company becomes an approved company as
22 provided in KRS 148.857(6):

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

25 b. The sales tax incentive shall not exceed the lesser of the total
26 amount of the sales tax liability of the approved company and its
27 lessees or a percentage of the approved costs as specified by the

- 1 agreement, not to exceed thirty percent (30%);
- 2 3. For a lodging facility project described in KRS 148.851(14)(e) or (f):
- 3 a. A sales tax incentive shall be allowed to the approved company
- 4 over a period of twenty (20) years; and
- 5 b. The sales tax incentive shall not exceed the lesser of total amount
- 6 of the sales tax liability of the approved company and its lessees or
- 7 a percentage of the approved costs as specified by the agreement,
- 8 not to exceed fifty percent (50%);
- 9 4. Any unused incentives from a previous year may be carried forward to
- 10 any succeeding year during the term of the agreement until the entire
- 11 specified percentage of the approved costs has been received through
- 12 sales tax incentives;~~and~~
- 13 5. If the approved company is an entertainment destination center that has
- 14 dedicated at least thirty million dollars (\$30,000,000) of the incentives
- 15 provided under the agreement to a public infrastructure purpose, the
- 16 agreement may be amended to extend the term of the agreement up to
- 17 two (2) additional years if the approved company agrees to:
- 18 a. Reinvest in the original entertainment destination project one
- 19 hundred percent (100%) of any incentives received during the
- 20 extension that were outstanding at the end of the original term of
- 21 the agreement; and
- 22 b. Report to the authority at the end of each fiscal year the amount of
- 23 incentives received during the extension and how the incentives
- 24 were reinvested in the original entertainment destination project;
- 25 and
- 26 6. The term of a tourism development agreement entered into with a
- 27 tourism attraction project that was in effect on January 1, 2020, shall

- 1 *be extended for one (1) year if the tourism attraction project:*
- 2 *a. Has historically been open to the public on a seasonal basis*
- 3 *consisting of less than six (6) months;*
- 4 *b. Has previously met the requirement of being open to the public*
- 5 *at least one hundred (100) days during the entire term of the*
- 6 *tourism development agreement as required under subsection*
- 7 *(2)(a)2. of this section;*
- 8 *c. Failed to be open to the public at least one hundred (100) days*
- 9 *during the calendar year 2020 solely as a result of complying*
- 10 *with one (1) or more executive orders issued by the Governor*
- 11 *under the authority of KRS 39A.090 that prevented the tourism*
- 12 *attraction project from being open to the public for at least one*
- 13 *hundred (100) days during its normal operating season; and*
- 14 *d. Applied for a sales tax incentive related to the calendar year*
- 15 *2020 operating season and was denied the sales tax incentive*
- 16 *solely on the basis that the tourism attraction project was not*
- 17 *open to the public for at least one hundred (100) days in*
- 18 *calendar year 2020.*

19 ➔Section 26. KRS 154.30-010 is amended to read as follows:

20 As used in this subchapter:

21 (1) "Activation date" means:

22 (a) For all projects except those described in paragraph (b) of this subsection, the

23 date established any time within a two (2) year period after the

24 commencement date. The Commonwealth may extend the two (2) year period

25 to no more than four (4) years upon written application by the agency

26 requesting the extension; and

27 (b) For signature projects approved under KRS 154.30-050(2)(a), the date

1 established any time within a ten (10) year period after the commencement
2 date.

3 For all projects established after July 14, 2018, the activation date is the date on
4 which the time period for the pledge of incremental revenues shall commence. To
5 implement the activation date, the minimum capital investment must be met and the
6 agency that is a party to the tax incentive agreement shall notify the office;

7 (2) "Agency" means:

- 8 (a) An urban renewal and community development agency established under
9 KRS Chapter 99;
- 10 (b) A development authority established under KRS Chapter 99;
- 11 (c) A nonprofit corporation;
- 12 (d) A housing authority established under KRS Chapter 80;
- 13 (e) An air board established under KRS 183.132 to 183.160;
- 14 (f) A local industrial development authority established under KRS 154.50-301
15 to 154.50-346;
- 16 (g) A riverport authority established under KRS 65.510 to 65.650; or
- 17 (h) A designated department, division, or office of a city or county;

18 (3) "Approved public infrastructure costs" means costs associated with the acquisition,
19 installation, construction, or reconstruction of public works, public improvements,
20 and public buildings, including planning and design costs associated with the
21 development of such public amenities. "Approved public infrastructure costs"
22 includes but is not limited to costs incurred for the following:

- 23 (a) Land preparation, including demolition and clearance work;
- 24 (b) Buildings;
- 25 (c) Sewers and storm drainage;
- 26 (d) Curbs, sidewalks, promenades, and pedways;
- 27 (e) Roads;

- 1 (f) Street lighting;
- 2 (g) The provision of utilities;
- 3 (h) Environmental remediation;
- 4 (i) Floodwalls and floodgates;
- 5 (j) Public spaces or parks;
- 6 (k) Parking;
- 7 (l) Easements and rights-of-way;
- 8 (m) Transportation facilities;
- 9 (n) Public landings;
- 10 (o) Amenities, such as fountains, benches, and sculptures; and
- 11 (p) Riverbank modifications and improvements;
- 12 (4) "Approved signature project costs" means:
- 13 (a) The acquisition of land for portions of the project that are for infrastructure;
- 14 and
- 15 (b) Costs associated with the acquisition, installation, development, construction,
- 16 improvement, or reconstruction of infrastructure, including planning and
- 17 design costs associated with the development of infrastructure, including but
- 18 not limited to parking structures, including portions of parking structures that
- 19 serve as platforms to support development above;
- 20 that have been determined by the commission to represent a unique challenge in the
- 21 financing of a project such that the project could not be developed without
- 22 incentives intended by this chapter to foster economic development;
- 23 (5) "Authority" means the Kentucky Economic Development Finance Authority
- 24 established by KRS 154.20-010;
- 25 (6) "Capital investment" means:
- 26 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
- 27 materialmen in connection with the acquisition, construction, installation,

- 1 equipping, and rehabilitation of a project;
- 2 (b) The cost of acquiring land or rights in land within the development area on the
3 footprint of the project, and any cost incident thereto, including recording
4 fees;
- 5 (c) The cost of contract bonds and of insurance of all kinds that may be required
6 or necessary during the course of acquisition, construction, installation,
7 equipping, and rehabilitation of a project which is not paid by the contractor
8 or contractors or otherwise provided;
- 9 (d) All costs of architectural and engineering services, including test borings,
10 surveys, estimates, plans, specifications, preliminary investigations,
11 supervision of construction, and the performance of all the duties required by
12 or consequent upon the acquisition, construction, installation, equipping, and
13 rehabilitation of a project;
- 14 (e) All costs that are required to be paid under the terms of any contract for the
15 acquisition, construction, installation, equipping, and rehabilitation of a
16 project; and
- 17 (f) All other costs of a nature comparable to those described in this subsection
18 that occur after preliminary approval;
- 19 (7) "City" means any city, consolidated local government, or urban-county
20 government;
- 21 (8) "Commencement date" means the final approval date or the date on which a tax
22 incentive agreement is executed;
- 23 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 24 (10) "County" means any county, consolidated local government, charter county, unified
25 local government, or urban-county government;
- 26 (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban
27 consumers, all items, base year computed for 1982 to 1984 equals one hundred

1 (100), published by the United States Department of Labor, Bureau of Labor
2 Statistics;

3 (12) "Department" means the Department of Revenue;

4 (13) "Development area" means an area established under KRS 65.7049, 65.7051, and
5 65.7053;

6 (14) "Economic development projects" means projects which are approved for tax
7 credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter
8 154;

9 (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve
10 requirements, underwriting discount, costs of credit enhancement or liquidity
11 instruments, and other costs directly related to the issuance of bonds or debt for
12 approved public infrastructure costs or approved signature project costs for projects
13 approved pursuant to KRS 154.30-050;

14 (16) "Footprint" means the actual perimeter of a discrete, identified project within a
15 development area. The footprint shall not include any portion of a development area
16 outside the area for which actual capital investments are made and must be
17 contiguous;

18 (17) "Governing body" means the body possessing legislative authority in a city or
19 county;

20 (18) "Increment bonds" means bonds and notes issued for the purpose of paying the
21 costs of one (1) or more projects;

22 (19) "Incremental revenues" means:

23 (a) The amount of revenues received by a taxing district, as determined by
24 subtracting old revenues from new revenues in a calendar year with respect to
25 a development area, or a project within a development area; or

26 (b) The amount of revenues received by the Commonwealth as determined by
27 subtracting old revenues from new revenues in a calendar year with respect to

1 the footprint;

2 (20) "Local participation agreement" means the agreement entered into under KRS
3 65.7063;

4 (21) "Local tax revenues" has the same meaning as in KRS 65.7045;

5 (22) **"Modified new revenues for income tax" means the amount of individual income**
6 **tax included in state tax revenues that is:**

7 **(a) The result of multiplying the portion of state tax revenues from individual**
8 **income taxes by the modifier;**

9 **(b) Used for calculating state tax revenues in calendar years 2023 and 2024;**
10 **and**

11 **(c) For projects approved prior to January 1, 2023;**

12 **(23) "Modifier" means the result of dividing the individual income tax rate of five**
13 **percent (5%), in effect as of December 31, 2022, by the individual income tax rate**
14 **under KRS 141.020 for the calendar year in which the new revenues for income**
15 **tax are being computed;**

16 **(24)** "New revenues" means:

17 (a) The amount of local tax revenues received by a taxing district with respect to
18 a development area in any calendar year beginning with the year in which the
19 activation date occurred; **and**

20 (b) The amount of state tax revenues received by the Commonwealth with respect
21 to the footprint in any calendar year beginning with the year in which the
22 activation date occurred.

23 **For projects approved prior to January 1, 2023, any state tax revenues received**
24 **by the Commonwealth from individual income tax shall be computed using**
25 **modified new revenues for income tax;**

26 **(25)**~~(23)~~ "Old revenues" means:

27 (a) The amount of local tax revenues received by a taxing district with respect to

1 a development area as of December 31 of the year of preliminary approval; or

2 (b) 1. The amount of state tax revenues received by the Commonwealth within
3 the footprint as of December 31 of the year of preliminary approval. If
4 the authority determines that the amount of state tax revenues received
5 as of December 31 of the last calendar year prior to the commencement
6 of preliminary approval does not represent a true and accurate depiction
7 of revenues, the authority may consider revenues for a period of no
8 longer than three (3) calendar years prior to the year of preliminary
9 approval, so as to determine a fair representation of state tax revenues.
10 The amount determined by the authority shall be specified in the tax
11 incentive agreement. If state tax revenues were derived from the
12 footprint prior to the year of preliminary approval, old revenues shall
13 increase each calendar year by:

- 14 a. The percentage increase, if any, of the CPI or a comparable index;
15 or
16 b. An alternative percentage increase that is determined to be
17 appropriate by the authority.

18 The method for increasing old revenues shall be set forth in the tax
19 incentive agreement;

20 2. If state revenues were derived from the footprint prior to the year of
21 preliminary approval, the calculation of incremental revenues shall be
22 based on the value of old revenues as increased using the method
23 prescribed in subparagraph 1. of this paragraph to reflect the same
24 calendar year as is used in the determination of new revenues;

25 ~~(26)~~~~(24)~~ "Outstanding" means increment bonds that have been issued, delivered, and
26 paid for by the purchaser, except any of the following:

27 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon

1 payment or redemption;

2 (b) Increment bonds in replacement of which or in exchange for which other
3 increment bonds have been issued; or

4 (c) Increment bonds for the payment, redemption, or purchase for cancellation
5 prior to maturity, of which sufficient moneys or investments, in accordance
6 with the ordinance or other proceedings or any applicable law, by mandatory
7 sinking fund redemption requirements, or otherwise, have been deposited, and
8 credited in a sinking fund or with a trustee or paying or escrow agent, whether
9 at or prior to their maturity or redemption, and, in the case of increment bonds
10 to be redeemed prior to their stated maturity, notice of redemption has been
11 given or satisfactory arrangements have been made for giving notice of that
12 redemption, or waiver of that notice by or on behalf of the affected bond
13 holders has been filed with the issuer or its agent;

14 ~~(27)~~~~(25)~~ "Preliminary approval" means the action taken by the authority preliminarily
15 approving an eligible project for incentives under this subchapter;

16 ~~(28)~~~~(26)~~ "Project" means any property, asset, or improvement located in a development
17 area and certified by the governing body as:

18 (a) Being for a public purpose; and

19 (b) Being for the development of facilities for residential, commercial, industrial,
20 public, recreational, or other uses, or for open space, including the
21 development, rehabilitation, renovation, installation, improvement,
22 enlargement, or extension of real estate and buildings; and

23 (c) Contributing to economic development or tourism; and

24 (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-
25 050, or 154.30-060;

26 ~~(29)~~~~(27)~~ "Signature project" means a project approved under KRS 154.30-050;

27 ~~(30)~~~~(28)~~ "State real property ad valorem tax" means real property ad valorem taxes

1 levied under KRS 132.020(1)(a);

2 ~~(31)~~~~(29)~~ "State tax revenues" means revenues received by the Commonwealth from
3 one (1) or more of the following sources:

4 (a) State real property ad valorem taxes;

5 (b) Individual income taxes levied under KRS 141.020, other than individual
6 income taxes that have already been pledged to support an economic
7 development project within the development area;

8 (c) Corporation income taxes levied under KRS 141.040, other than corporation
9 income taxes that have already been pledged to support an economic
10 development project within the development area;

11 (d) Limited liability entity taxes levied under KRS 141.0401, other than limited
12 liability entity taxes that have already been pledged to support an economic
13 development project within the development area; and

14 (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged
15 for:

16 1. Approved tourism attraction projects, as defined in KRS 148.851, within
17 the development area; and

18 2. Projects which are approved for sales tax refunds under Subchapter 20
19 of KRS Chapter 154 within the development area;

20 ~~(32)~~~~(30)~~ "Tax incentive agreement" means an agreement entered into in accordance
21 with KRS 154.30-070; and

22 ~~(33)~~~~(31)~~ "Termination date" means:

23 (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040
24 or 154.30-060, a date established by the tax incentive agreement that is no
25 more than twenty (20) years from the activation date. However, the
26 termination date for a tax incentive agreement shall in no event be more than
27 forty (40) years from the establishment date of the development area to which

1 the tax incentive agreement relates; and

2 (b) For a project grant agreement satisfying the requirements of KRS 154.30-050,
3 a date established by the tax incentive agreement that is no more than thirty
4 (30) years from the activation date. However, the termination date for a tax
5 incentive agreement shall in no event be more than forty (40) years from the
6 establishment date of the development area to which the tax incentive
7 agreement relates.

8 ➔Section 27. KRS 224.1-420 is amended to read as follows:

9 (1) For purposes of this section:

10 (a) "Assignor" means the recipient of the tax credit who may assign, sell, or
11 transfer, in whole or in part, the tax credit to any other taxpayer;

12 (b) "Department" means the Department of Revenue;

13 (c) "Qualifying expenditures" means up to one hundred percent (100%) of the
14 costs of materials, supplies, equipment, labor, professional engineering,
15 consulting and architectural fees, permitting fees and expenses, demolition,
16 asbestos abatement, and direct utility charges for voluntarily performing
17 activities to decontaminate or remediate any preexisting hazardous substance,
18 pollutant or contaminant, or petroleum and petroleum products as defined in
19 KRS 224.60-115, including but not limited to the costs of performing
20 operation and maintenance of the remediation systems and equipment at the
21 qualifying decontamination property beyond the year in which the systems
22 and equipment are built and installed and the costs of performing the
23 remediation activities following the taxpayer's tax year in which the systems
24 and equipment were first put into use at the qualifying decontamination
25 property; and

26 (d) "Qualifying decontamination property" includes qualifying voluntary
27 environmental remediation property as defined in KRS 141.418 and shall also

1 include real property under the Brownfield Redevelopment Program as
2 established in KRS 224.1-415, if the guidelines in KRS 141.418(1)(e) are met.

3 (2) There is hereby created a decontamination tax credit.

4 (3) (a) For taxable years beginning on or after January 1, 2022, but before January 1,
5 2032, a taxpayer making a qualifying expenditure at a qualifying
6 decontamination property shall be allowed a refundable credit against the
7 taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of
8 credits as provided in KRS 141.0205.

9 (b) The credit shall be equal to the amount of expenditures made by the taxpayer
10 for the decontamination or remediation of the qualifying decontamination
11 property.

12 (c) The total credit awarded per qualifying decontamination property shall not
13 exceed thirty million dollars (\$30,000,000).

14 (d) The amount of credit to be taken in a taxable year shall not exceed twenty-five
15 percent (25%) of the total amount of approved credit.

16 **(e) A total of no more than thirty million dollars (\$30,000,000) of tax credit**
17 **shall be awarded in fiscal year 2022-2023 and fiscal year 2023-2024.**

18 (4) The qualifying expenditures:

19 (a) Shall be in accordance with a corrective action plan approved by the cabinet
20 under KRS 224.1-400, 224.1-405, or 224.60-135; and

21 (b) May include up to one hundred percent (100%) of the costs of demolition that
22 are not directly part of the decontamination or remediation activities, provided
23 that the demolition is:

24 1. a. On the property where the decontamination or remediation
25 activities are occurring; or

26 b. On adjacent property, so long as it is independently qualified as
27 abandoned or underutilized;

- 1 2. Necessary to accomplish the planned use of the property where the
2 decontamination or remediation activities are occurring; and
- 3 3. Part of a redevelopment plan approved by the municipal or county
4 government and the cabinet.
- 5 (5) The decontamination or remediation shall not be financed through a public grant
6 program or the petroleum storage tank environmental assurance fund under KRS
7 224.60-115.
- 8 (6) The amount of reasonably anticipated total qualifying expenditures associated with
9 the qualifying decontamination property shall equal or exceed ~~sixteen~~ million
10 dollars (\$6,000,000)~~(\$10,000,000)~~.
- 11 (7) (a) The qualifying decontamination property shall be located:
- 12 1. Within one-half (1/2) mile of a tax increment financing development
13 area; or
- 14 2. In a census tract that qualifies for the use of the Kentucky New Markets
15 Development Program tax credit created under KRS 141.434.
- 16 (b) The amount of reasonably anticipated capital investment in the qualifying
17 decontamination property shall exceed thirty million dollars (\$30,000,000).
- 18 (8) (a) Beginning on or after January 1, 2022, a taxpayer seeking the credit
19 established in this section shall file an application with the cabinet not less
20 than thirty (30) days prior to the date the qualifying expenditures will begin,
21 and on a form as prescribed by the cabinet for determination of eligibility.
- 22 (b) The application shall include supporting documentation, including:
- 23 1. The name, address, and taxpayer identification number of the owner of
24 the qualifying decontamination property;
- 25 2. Detailed description of the property;
- 26 3. The proposed start and completion dates for the project; and
- 27 4. The projected amount of total capital investment and qualifying

1 expenditures associated with the property.

2 (c) Taxpayers awarded a credit under this subsection shall submit receipts
3 annually to the cabinet verifying the qualifying expenditures claimed.

4 (d) The cabinet shall make a determination of the maximum credit available for
5 the qualifying decontamination property and provide notification of the
6 awarded credit amount to the department and taxpayer within sixty (60) days
7 of the date on which the application was filed.

8 (e) Any taxpayer approved for credit under this section shall not also claim or
9 apply for any other credit related to the decontamination or remediation of the
10 same qualifying decontamination property.

11 ➔Section 28. KRS 198A.030 is amended to read as follows:

12 (1) There is hereby created and established an independent, de jure municipal
13 corporation and political subdivision of the Commonwealth which shall be a public
14 body corporate and politic to be known as the Kentucky Housing Corporation.

15 (2) The Kentucky Housing Corporation is created and established as a de jure
16 municipal corporation and political subdivision of the Commonwealth to perform
17 essential governmental and public functions and purposes in improving and
18 otherwise promoting the health and general welfare of the people by the production
19 of residential housing in Kentucky.

20 (3) The corporation shall be governed by a board of directors, consisting of fifteen (15)
21 members, five (5) of whom shall be the Commissioner of Agriculture~~Lieutenant~~
22 ~~Governor~~, the secretary of the Finance and Administration Cabinet, the
23 commissioner of the Department for Local Government, the Attorney General, and
24 the secretary of the Cabinet for Economic Development, or their duly appointed
25 designees, as public directors, and ten (10) private directors who shall be appointed
26 by the Governor, subject to confirmation by the Senate as provided by KRS 11.160,
27 as follows:

- 1 (a) One (1) private director representing the interests of financial lending
2 institutions located within the Commonwealth;
- 3 (b) One (1) private director representing the interests of the manufactured housing
4 industry within the Commonwealth;
- 5 (c) One (1) private director representing the interests of real estate practitioners
6 licensed by the Kentucky Real Estate Commission;
- 7 (d) One (1) private director representing the interests of the homeless population
8 within the Commonwealth;
- 9 (e) One (1) private director representing the interests of local government;
- 10 (f) One (1) private director representing the interests of the home construction
11 industry in the Commonwealth;
- 12 (g) One (1) private director representing the interests of consumers in the
13 Commonwealth;
- 14 (h) One (1) private director representing the interests of the Kentucky State
15 Building Trades Council;
- 16 (i) One (1) director representing the interests of nonprofit housing organizations
17 located within the Commonwealth; and
- 18 (j) One (1) director having significant professional experience in auditing,
19 financial accounting, municipal bond financing, or investment banking.
- 20 (4) Private directors appointed by the Governor may include previous members of the
21 board, and members may be reappointed for successive terms. All appointments
22 shall be for four (4) years, and the appointees shall serve until a qualified successor
23 is appointed.
- 24 (5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold
25 office during the remainder of the term. A vacancy shall be filled in accordance
26 with the requirement and procedures for appointments.
- 27 (6) The Governor may remove any private director whom he or she may appoint in

1 case of incompetency, neglect of duty, gross immorality, or malfeasance in office,
2 and the Governor~~he~~ may declare the~~his~~ office vacant and may appoint a person
3 for the vacancy as provided in this section.

4 (7) The Governor shall designate a private director of the corporation to serve as
5 chairman. The term of the chairman shall extend to the earlier of either the date of
6 expiration of his or her then current term as a private director of the corporation or
7 a date six (6) months after the expiration of the then current term of the Governor
8 designating the chairman.

9 (8) The board of directors shall annually elect one (1) of its members as vice chairman.
10 The board of directors shall also elect or appoint, and prescribe the duties of, other
11 officers the board of directors deems necessary or advisable, including an executive
12 director and a secretary, and the board of directors shall fix the compensation of the
13 officers.

14 (9) The executive director shall administer, manage, and direct the affairs and business
15 of the corporation, subject to the policies, control, and direction of the board of
16 directors of the corporation. The secretary of the corporation shall keep a record of
17 the proceedings of the corporation and shall be custodian of all books, documents,
18 and papers filed with the corporation, the minute book or journal of the corporation,
19 and its official seal. The secretary shall have authority to cause copies to be made of
20 all minutes and other records and documents of the corporation and to give
21 certificates under the official seal of the corporation to the effect that copies are true
22 copies, and all persons dealing with the corporation may rely upon the certificates.

23 (10) A majority of the board of directors of the corporation shall constitute a quorum for
24 the purposes of conducting its business and exercising its powers and for all other
25 purposes. A majority shall be determined by excluding any existing vacancies from
26 the total number of directors.

27 (11) Action shall be taken by the corporation upon a vote of a majority of the directors

1 present at a meeting at which a quorum shall exist called upon three (3) days'
 2 written notice to each director or upon the concurrence of at least eight (8)
 3 directors.

4 (12) Each private director shall be entitled to a fee of one hundred dollars (\$100) for
 5 attendance at each meeting of the board of directors or duly called committee
 6 meeting of the board.

7 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
 8 TO READ AS FOLLOWS:

9 *As used in Sections 29 to 34 of this Act:*

10 *(1) "Moderate income" means the income of individuals or families that is below*
 11 *one hundred twenty percent (120%) of the area median income for the*
 12 *Commonwealth as determined by the United States Department of Housing and*
 13 *Urban Development;*

14 *(2) "Nonprofit organization" has the same meaning as in KRS 198A.700;*

15 *(3) "Technical assistance" has the same meaning as in KRS 198A.700; and*

16 *(4) "Trust fund" means the rural housing trust fund created in Section 31 of this*
 17 *Act.*

18 ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
 19 TO READ AS FOLLOWS:

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

21 *(1) Current economic conditions, federal housing policies, and declining resources at*
 22 *the federal, state, and local levels adversely affect the ability of individuals to*
 23 *obtain safe, decent, and affordable rural housing;*

24 *(2) An increasing number of individuals are homeless, at risk of becoming homeless,*
 25 *or live in overcrowded, inadequate, and unsafe rural housing units; and*

26 *(3) It is in the public interest to establish a continuously renewable resource known*
 27 *as a rural housing trust fund to assist moderate income individuals in meeting*

1 basic housing needs.

2 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
3 TO READ AS FOLLOWS:

4 (1) There is hereby established in the State Treasury a revolving account to be known
5 as the rural housing trust fund. The fund shall consist of moneys received from
6 state appropriations, gifts, grants, federal funds, and all repayment, interest, or
7 other return on the investment of trust fund dollars as required by subsection
8 (7)(b) of Section 32 of this Act.

9 (2) The fund shall be administered by the corporation.

10 (3) Amounts deposited in the fund shall be used as provided in Sections 29 to 34 of
11 this Act. Separate accounts within the fund shall be made for state
12 appropriations, federal funds, and moneys received from other sources.

13 (4) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a
14 fiscal year shall not lapse but shall be carried forward into the next fiscal year.

15 (5) Any interest earnings of the fund shall become a part of the fund and shall not
16 lapse.

17 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
18 TO READ AS FOLLOWS:

19 (1) (a) The corporation shall use moneys from the rural housing trust fund created
20 in Section 31 of this Act to make, or participate in the making, of loans or
21 grants for the eligible activities described in this section.

22 (b) Any loan or grant shall be made upon the determination by the corporation
23 that the loan or grant shall be used to create new sources of funding, or to
24 supplement existing sources of funding for eligible activities, and shall not
25 be used to replace existing or available moneys.

26 (2) Activities eligible for fund shall include:

27 (a) Acquisition of housing units for the purpose of preservation of or

- 1 conversion to rural housing units;
- 2 (b) New construction or rehabilitation of rural housing units;
- 3 (c) Matching funds for technical assistance directly related to providing rural
- 4 housing for individuals under Sections 29 to 34 of this Act; and
- 5 (d) Administrative costs for rural housing assistance programs or organizations
- 6 eligible for funding under subsection (3) of this section, if the loans or
- 7 grants will substantially increase the recipient's access to housing funds
- 8 other than those available under Sections 29 to 34 of this Act.
- 9 (3) Organizations eligible for funding from the rural housing trust fund include:
- 10 (a) Local governments;
- 11 (b) Local government housing authorities;
- 12 (c) Nonprofit organizations;
- 13 (d) Regional or statewide housing assistance organizations; and
- 14 (e) Business organizations that undertake the new construction or
- 15 rehabilitation of rural housing units for moderate income individuals.
- 16 (4) Housing units provided to moderate income individuals or families under
- 17 Sections 29 to 34 of this Act shall be deed restricted under the following
- 18 conditions:
- 19 (a) Rental housing shall be deed restricted for a minimum of thirty (30) years.
- 20 Investment from the rural housing trust fund into a specific housing type
- 21 shall revert to like housing for moderate income individuals; and
- 22 (b) Single-family units or units for sale shall be deed restricted for a minimum
- 23 of ten (10) years.
- 24 The corporation may grant amendments to deed restrictions on a case-by-case
- 25 basis.
- 26 (5) In the development of rural housing under Sections 29 to 34 of this Act,
- 27 displacement of moderate income individuals or families shall not be permitted

1 unless the project pays all reasonable relocation costs as defined by the
2 corporation in administrative regulations promulgated under KRS Chapter 13A.

3 (6) Discrimination in the sale or rental, or otherwise making available or denying, a
4 dwelling funded under Sections 29 to 34 of this Act to any buyer or renter
5 because of race, religion, sex, familial status, disability, or national origin is
6 prohibited.

7 (7) (a) Moneys in the trust fund shall be contributed permanently to a rural
8 project, except when serving as a match for federal housing programs that
9 require all funds to be contributed permanently to the federal program.

10 (b) All repayment, interest, or other return on the investment of trust fund
11 moneys are required to be returned to the trust fund and used for eligible
12 trust fund activities in accordance with Sections 29 to 34 of this Act.

13 (c) Trust fund moneys invested in a rural project with federal dollars requiring
14 a permanent contribution shall be recaptured to the federal program
15 account.

16 (8) Beginning on or before October 1, 2024, and on or before each October 1
17 thereafter, the corporation shall submit a report to the Legislative Research
18 Commission on the disposition of the rural housing trust fund moneys for the
19 previous fiscal year.

20 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
21 TO READ AS FOLLOWS:

22 The corporation shall:

23 (1) Issue a public notice to eligible recipients regarding the availability of trust fund
24 moneys at least twice each calendar year;

25 (2) Provide a reasonable opportunity for the filing of applications;

26 (3) After consultation with the Rural Housing Trust Fund Advisory Committee
27 created in Section 34 of this Act, approve or deny properly submitted and

- 1 completed applications within ninety (90) days of their receipt;
- 2 (4) Approve applications that will effectively use available moneys;
- 3 (5) Approve or deny applications by ranking the applications competitively using
- 4 criteria established by the corporation in consultation with the advisory
- 5 committee and promulgated in an administrative regulation under KRS Chapter
- 6 13A;
- 7 (6) Give priority to applications in the following order:
- 8 (a) Applications for projects located in a federally declared disaster area or
- 9 projects assisting individual recipients displaced by a federally declared
- 10 disaster area;
- 11 (b) Applications for projects submitted by nonprofit organizations or local
- 12 governments for new rural housing construction;
- 13 (c) Applications for projects using existing privately owned housing stock,
- 14 including stock purchased by nonprofit public development activities;
- 15 (d) Applications for projects using existing publicly owned housing stock; and
- 16 (e) Applications from local governments for projects that demonstrate effective
- 17 zoning, conversion, or demolition controls for single room occupancy units;
- 18 (7) Provide technical assistance to eligible recipients seeking to construct,
- 19 rehabilitate, or finance housing-related services for moderate income individuals.
- 20 The corporation may contract with nonprofit organizations to provide the
- 21 technical assistance required by this subsection; and
- 22 (8) Provide the following services:
- 23 (a) Financial planning and packaging for housing projects, including
- 24 alternative ownership programs and bridge financing;
- 25 (b) Project design, architectural planning, siting, and compliance with
- 26 planning requirements;
- 27 (c) Securing matching resources for project development;

- 1 (d) Maximizing local government contributions to project development in the
 2 form of land donations, infrastructure improvements, waivers of
 3 development fees, local and state managed funds, zoning variances, density
 4 bonuses for low-rise multifamily projects, or creative local planning;
 5 (e) Coordination with local planning, economic development, environmental,
 6 technical assistance, and recreational activities;
 7 (f) Construction and material management; and
 8 (g) Project maintenance and management.

9 ➔SECTION 34. A NEW SECTION OF KRS CHAPTER 198A IS CREATED
 10 TO READ AS FOLLOWS:

11 (1) There is hereby created the Rural Housing Trust Fund Advisory Committee,
 12 which shall be composed of the following eleven (11) members:

- 13 (a) The Commissioner of Agriculture or the Commissioner's duly appointed
 14 designee;
 15 (b) Two (2) members of the Senate appointed by the President of the Senate,
 16 each of whom shall serve while a member of the Senate for the term for
 17 which he or she was elected;
 18 (c) Two (2) members of the House of Representatives appointed by the Speaker
 19 of the House, each of whom shall serve while a member of the House of
 20 Representatives for the term for which he or she was elected; and
 21 (d) Six (6) private citizens with a principal residence located in a rural
 22 community who shall be appointed by the board of directors of the
 23 corporation.

24 (2) (a) Members appointed under subsection (1)(d) of this section shall serve a
 25 three (3) year term or until their successors are appointed and duly
 26 qualified, and may be reappointed to one (1) additional term.

27 (b) A vacancy on the advisory committee shall be filled following the

1 requirements and procedures for original appointments.

2 **(3) The advisory committee shall consult with and advise the officers and directors of**
3 **the corporation concerning matters relating to the rural housing trust fund.**

4 **(4) The Commissioner of Agriculture shall be the presiding officer, and the advisory**
5 **committee may establish its own rules of procedure, which shall not be**
6 **inconsistent with the housing provisions of this chapter.**

7 **(5) Members of the advisory committee shall serve without compensation, but**
8 **members who are not employees of the Commonwealth shall be entitled to**
9 **reimbursement for actual expenses incurred in carrying out their duties on the**
10 **advisory committee.**

11 ➔Section 35. KRS 48.020 is amended to read as follows:

12 Each branch of government shall have in continuous process of preparation and revision,
13 in the light of its direct studies of the operations, plans and needs of its budget units and
14 of the existing and prospective sources of income, a branch budget recommendation for
15 the next two (2) fiscal years for which a budget recommendation is required to be
16 prepared. Upon receipt of the estimates from its budget units, each branch of government
17 shall check these estimates in the light of its own information, and shall make such
18 further inquiries and investigations and revise its branch budget recommendation as it
19 deems warranted. ~~[The branch budget recommendation when approved shall be certified~~
20 ~~together with the budget statements provided for in KRS 48.110 and submitted as~~
21 ~~provided for in KRS 48.100.]~~

22 ➔Section 36. KRS 48.040 is amended to read as follows:

23 (1) On or before April 1 of each odd-numbered year, representatives designated by the
24 Governor, the Chief Justice, and the Legislative Research Commission for their
25 respective branches shall propose drafts of uniform forms to be used by all budget
26 units in submitting their budget estimates, requests and recommendations, and shall
27 recommend to the Legislative Research Commission such rules and regulations

1 deemed necessary for the preparation of such budget estimates, requests and
2 recommendations.

3 (2) On or before June~~[July]~~ 1 of each odd-numbered year, the Legislative Research
4 Commission shall prescribe uniform forms, records, and instructions to be used by
5 branch budget units. Included in such forms shall be a section requiring budget
6 units to identify the amount of funds to be spent on agency publications.

7 (3) (a) On or before August 15 of each odd-numbered year, each of the state-
8 administered retirement systems as defined by KRS 6.350(5) shall submit to
9 the state budget director's office and the Legislative Research Commission a
10 preliminary projection of the actuarially required contribution rates payable
11 for the budget biennium that begins in the following fiscal year.

12 (b) On or before October 1~~[November 15]~~ of each odd-numbered year, the state-
13 administered retirement systems as defined by KRS 6.350(5) shall submit
14 revised projections to the state budget director's office and the Legislative
15 Research Commission, based upon the most recently completed actuarial
16 valuation, of the actuarially required contribution rates payable for the budget
17 biennium that begins in the following fiscal year.

18 (c) The Legislative Research Commission shall distribute the information
19 received under this subsection to the committee staff and co-chairs of any
20 committee that has jurisdiction over a state-administered retirement system.

21 (4) On or before August~~[September]~~ 1 of each odd-numbered year, the Finance and
22 Administration Cabinet shall supply each branch of government with at least three

23 (3) complete sets of the prescribed uniform forms and instructions for the
24 preparation of estimates and statements, and one (1) copy of the complete statement
25 of the expenditures of each budget unit of the branch to aid each branch of
26 government in preparing its estimates and statements.

27 (5) Upon request, the Finance and Administration Cabinet shall provide such additional

1 assistance to each branch of government as may be required.

2 ➔Section 37. KRS 48.050 is amended to read as follows:

3 **On or before October 1 of each odd-numbered year,** the head of each budget unit shall
4 submit its budget unit request to:

5 **(1)** The Office of State Budget Director, in the case of the executive branch;~~[-, to]~~

6 **(2)** The Chief Justice, in the case of the judicial branch;~~[-, to]~~

7 **(3)** The director of the Legislative Research Commission, in the case of the legislative
8 branch; and~~[-, to]~~

9 **(4)** The Legislative Research Commission~~[-, not later than November 15 of each odd-~~
10 ~~numbered year].~~

11 ➔Section 38. KRS 48.110 is amended to read as follows:

12 Each branch budget recommendation shall contain a complete financial plan for the
13 branch of government for each of the next two (2) fiscal years. **Each branch budget**
14 **recommendation and all supporting documentation shall be submitted in a form and**
15 **format cooperatively developed by each respective branch of government and the**
16 **General Assembly and approved by the Legislative Research Commission.** Each branch
17 budget recommendation shall include:

18 (1) A budget message signed by:

19 (a) The Governor for the executive branch;

20 (b) The Chief Justice for the judicial branch; and

21 (c) The co-chairmen of the Legislative Research Commission for the legislative
22 branch;

23 (2) (a) Statements of income and receipts for the two (2) fiscal years last concluded,
24 and the estimated income and receipts, for each budget unit of the branch of
25 government for the current fiscal year and each of the next two (2) fiscal
26 years.

27 (b) The statements of income and estimated income shall be itemized by budget

1 unit and fund, and shall show separately receipts from:

- 2 1. Current income;
- 3 2. Refunds and reimbursements of expenditures;
- 4 3. The sale of assets; and
- 5 4. Receipts on account of the income of prior years.

6 (c) Existing sources of income and receipts shall be analyzed as to their equity,
7 productivity and need for revision, and any proposed new sources of income
8 or receipts shall be explained;

9 (3) A statement of the surplus in any account and in any special fund of the branch of
10 government. If a surplus exists in any account of the branch of government the
11 statement shall show the excess of all current assets over all current liabilities as of
12 the beginning of each of the two (2) fiscal years last concluded, and all changes in
13 these accounts during each of such two (2) fiscal years;

14 (4) A statement as of the close of the last completed fiscal year and as of the close of
15 the current fiscal year showing, for each budget unit the total funded debt, the value
16 of sinking fund assets, the net funded debt, the floating liabilities as of the end of
17 the current fiscal year, and the total debt as of the close of the last completed fiscal
18 year and as of the close of the current fiscal year;

19 (5) Summary and detailed comparative statements of expenditures itemized by budget
20 unit for each of the two (2) fiscal years last concluded and requests for
21 appropriations by funds or accounts, the budget of the current year, and the
22 recommendations for appropriations for each of the next two (2) fiscal years.
23 Following the lists of actual and proposed expenditures of each budget unit there
24 shall be a detailed explanation of the actual and proposed expenditures, to include
25 activities, beneficiaries and expected results of the programs or services of the
26 budget units;

27 (6) A draft of the proposed branch budget bill containing:

- 1 (a) Recommendations of the branch of government for appropriations for the next
2 two (2) fiscal years, and drafts of such revenue and other acts as may be
3 recommended for implementing the proposed financial plan;
- 4 (b) Recommended appropriations for extraordinary expenses and capital outlays,
5 which shall be itemized in the proposed branch budget bill for the branch by
6 budget unit. The title of each budget unit shall be worded to limit each
7 appropriation to the specific use or purpose intended;
- 8 (c) A plan for the reduction of the branch budget if there is a revenue shortfall of
9 five percent (5%) or less in the general fund or road fund. In recommending
10 budget reductions, the Governor, the Chief Justice, and the Legislative
11 Research Commission shall not recommend universal percentage reductions,
12 but shall weigh the needs of all budget units and shall strive to protect the
13 highest possible level of service in their respective branches. Services which
14 are not essential to constitutional functions shall be subject to reduction.
15 Transfer of funds may be authorized by the budget reduction plan;
- 16 (d) 1. A plan for the expenditure of a general fund or road fund surplus of up
17 to two and one-half percent (2.5%).
- 18 2. The plan shall include provisions for the expenditure of a surplus, and
19 may provide for additional moneys for nonrecurring expenditures for
20 which an appropriation was not made in a branch budget bill, or for a
21 program or service authorized by law for which an appropriation was
22 not made, or which was not fully funded.
- 23 3. In lieu of recommending the appropriation of funds, the plan may
24 instead recommend the retention of surplus funds in the surplus account
25 of the general fund or road fund for investment until appropriated by the
26 General Assembly;
- 27 (e) 1. A recommended state capital projects program and a recommended

- 1 program for the purchase of major items of equipment.
- 2 2. The recommended capital construction program shall include:
- 3 a. A complete list and summary description of each specific capital
- 4 construction project recommended for funding during the
- 5 biennium; and
- 6 b. For each project:
- 7 i. The agency and purpose for which it will be used;
- 8 ii. The justification for the project;
- 9 iii. Its estimated completion date;
- 10 iv. The total estimated cost of completing the project;
- 11 v. The estimated cost of the project during the biennium;
- 12 vi. The recommended sources of funds for the entire project;
- 13 and
- 14 vii. The dollar amounts recommended for appropriation and the
- 15 dollar amounts, listed by source, that are anticipated
- 16 from every other source of funds for the biennium.
- 17 3. All information required by subparagraph 2. of this paragraph shall be
- 18 included in each branch budget recommendation. Each branch budget
- 19 bill shall contain only a complete list of the specific capital construction
- 20 projects recommended for funding during the biennium and, for each
- 21 project, the information specified in subparagraph 2.b.v., vi., and vii. of
- 22 this paragraph.
- 23 4. A report which details the effect of recommended new debt on the debt
- 24 position of the Commonwealth shall be submitted at the same time the
- 25 recommended capital program is submitted. Information shall be
- 26 presented separately, and in total, for the general fund, road fund, and
- 27 any affected restricted fund account.

- 1 5. Information in the report shall include but not be limited to the
2 following:
- 3 a. Debt service on existing appropriation-supported debt, as a
4 percentage of anticipated total revenues;
- 5 b. Debt service on existing appropriation-supported debt, as a
6 percentage of anticipated available revenues;
- 7 c. The sum of debt service on existing appropriation-supported debt
8 and debt service on recommended new appropriation-supported
9 debt, as a percentage of anticipated total revenues;
- 10 d. The sum of debt service on existing appropriation-supported debt
11 and debt service on recommended new appropriation-supported
12 debt, as a percentage of anticipated available revenues;
- 13 e. The sum of debt service on existing appropriation-supported debt
14 and debt service on recommended new appropriation-supported
15 debt, as a percentage of estimated state total personal income; and
- 16 f. The sum of existing appropriation-supported debt and
17 recommended new appropriation-supported debt, as a percentage
18 of estimated state total personal income.
- 19 6. The recommended program for the purchase of major items of
20 equipment submitted by the head of each branch of government shall
21 include:
- 22 a. A complete list and summary description of each specific major
23 item of equipment recommended for purchase during the
24 biennium; and
- 25 b. For each major item of equipment:
- 26 i. The agency and purpose for which it will be used;
- 27 ii. The justification for the purchase;

- 1 iii. The estimated cost of the item, including ancillary expenses
2 and any expenses necessary to make the equipment
3 functional and operational;
- 4 iv. The recommended sources of funds; and
- 5 v. The dollar amounts recommended for appropriation and
6 anticipated from every other source of funds for the
7 purchase.
- 8 7. All information required by subparagraph 5. of this paragraph shall be
9 included in the executive branch budget recommendation. The branch
10 budget bill for the executive branch shall contain only a complete list of
11 each specific item of major equipment recommended for purchase
12 during the biennium and, for each item, the information specified in
13 subparagraph 6.b.iii., iv., and v. of this paragraph;
- 14 (f) The branch budget recommendation for the Transportation Cabinet shall
15 include the following information:
- 16 1. A separate branch budget bill;
- 17 2. A recommended biennial highway construction plan, which shall be
18 presented as a separate bill, and which shall include a list of individual
19 transportation projects included in the last four (4) years of the six (6)
20 year road plan, not to exceed ten percent (10%) of the recommended
21 biennial highway construction appropriation, which can be advanced if:
- 22 a. Additional funds are received; and
- 23 b. All projects included in the biennial highway construction plan
24 have been advanced or completed to the extent possible; and
- 25 3. The six (6) year road plan. The Governor shall have ten (10) working
26 days after submission of the branch budget recommendation and the
27 recommended biennial highway construction plan to submit the six (6)

1 year road plan. The six (6) year road plan shall be submitted in a form
2 and format cooperatively developed by the Transportation Cabinet and
3 the General Assembly and approved by the Legislative Research
4 Commission; and

- 5 (g) 1. In the executive branch budget recommendation, as a separate section,
6 an amount sufficient to meet unexpected contingencies or emergencies,
7 including but not limited to natural or man-made disasters, civil
8 disorders, court orders requiring or resulting in the expenditure of state
9 funds, or other related causes.
- 10 2. The amount shall be based on the nature, type, and frequency of named
11 categories of events which may, from past experience, be reasonably
12 anticipated.
- 13 3. This portion of the budget recommendation shall detail similar incidents
14 and the nature and amount of the expenditures for each during the ten
15 (10) years immediately preceding.

16 The total amount of appropriations recommended from any fund shall not exceed
17 the cash resources estimated to be available and to become available to meet
18 expenditures under the appropriations;

19 (7) A certificate of the branch of government as to the accuracy of the statements of
20 financial condition, of income and receipts, and of expenditures; and

21 (8) Such other information as is deemed desirable, or is required by law or regulation.

22 ➔Section 39. KRS 48.120 is amended to read as follows:

23 (1) By August 15 of each odd-numbered year, the Office of State Budget Director, in
24 conjunction with the consensus forecasting group, shall provide to each branch of
25 government a budget planning report. The budget planning report shall include:

26 (a) A baseline analysis and projections of economic conditions and outlook;

27 (b) Any potential consequences of the analysis and projections for the

1 Commonwealth's fiscal condition;

2 (c) The revenue estimates and implications for the general fund and road fund for
3 the current fiscal year and next four (4) fiscal years; and

4 (d) Projections of personal income, employment, and economic indicators that
5 reflect economic conditions.

6 (2) By October 15 of each odd-numbered year, the Office of State Budget Director
7 shall provide to each branch of government preliminary revenue estimates made by
8 the consensus forecast group for the general fund and road fund for the current and
9 next two (2) fiscal years, including explanatory statements, and a comparative
10 record of the actual revenues of these funds for each of the last two (2) years
11 concluded.

12 (3) **By December 20 of each odd-numbered year**~~[On or before the fifteenth legislative~~
13 ~~day]~~, the Office of State Budget Director shall certify and present to the **Legislative**
14 **Research Commission**~~[General Assembly]~~ the official revenue estimates made by
15 the consensus forecasting group for the general fund and road fund for the current
16 and next two (2) fiscal years.

17 (4) Appropriations made in the branch budget bills enacted for each branch of
18 government shall be based upon the official revenue estimates presented to the
19 **Legislative Research Commission**~~[General Assembly]~~ by the Office of State
20 Budget Director under subsection (3) of this section, as modified by the General
21 Assembly.

22 (5) The enacted estimates shall become the official revenue estimates of the
23 Commonwealth upon the branch budget bills becoming law, and shall remain the
24 official revenue estimates of the Commonwealth until revised by the consensus
25 forecasting group as provided in KRS 48.115.

26 ➔Section 40. KRS 48.170 is amended to read as follows:

27 In addition to the requirements set forth in this chapter, the **standing**~~[appropriations]~~

1 committees of each house or interim joint committees of the Legislative Research
2 Commission, as appropriate, may require additional information and ~~shall~~~~may~~ prescribe
3 the form in which such additional information shall be submitted as a part of, or in
4 support of, a branch budget recommendation. The information shall be submitted within
5 fourteen (14) days of the request unless an extension is granted by the requesting staff
6 person. The extension shall not exceed seven (7) days from the date the extension was
7 granted.

8 ➔Section 41. KRS 48.300 is amended to read as follows:

9 (1) The financial plan for each fiscal year ~~as presented in the branch budget~~
10 ~~recommendation~~ shall be adopted, with any modifications made by the General
11 Assembly, by the passage of a branch budget bill for each branch of government,
12 and any revenue and other acts as necessary.

13 (2) With regard to the Transportation Cabinet, the General Assembly shall:

14 (a) Enact, as a separate bill, a branch budget for the Transportation Cabinet;

15 (b) Enact, as a separate bill, the biennial highway construction plan, as amended
16 by the General Assembly, including identification of projects from the last
17 four (4) years of the six (6) year road plan that may be moved forward, and
18 the conditions and requirements under which the identified projects may be
19 moved forward; and

20 (c) Adopt the last four (4) years of the six (6) year road plan, as amended by the
21 General Assembly, as a joint resolution.

22 ➔Section 42. KRS 48.810 is amended to read as follows:

23 Each ~~program~~ cabinet, the Department for Local Government, the Department of
24 Military Affairs, and the Commonwealth Office of Technology shall develop and submit
25 a four (4) year strategic plan to meet the broad goals outlined by the Governor and shall
26 submit an electronic copy of the full plan and an electronic copy of a brief summary of
27 that plan to the state budget director, the secretary of the Executive Cabinet, and the

1 Legislative Research Commission with each biennial budget request.

2 (1) Each strategic plan shall include but not be limited to:

3 (a) A statement of the cabinet or administrative entity's value, vision, and
4 mission;

5 (b) A statement of how the cabinet or administrative entity's strategic plan is
6 aligned with the Governor's goals and linked to the budget request **by**
7 **program** and the six (6) year capital plan of the cabinet or administrative
8 entity;

9 (c) A brief summary of a situation analysis conducted by the ~~the~~ cabinet or
10 administrative entity;

11 (d) Identification of measurable goals for the next four (4) years **by program**;

12 (e) Specification of objectives to meet the stated goals **by program**;

13 (f) Identification of performance indicators to be used to measure progress
14 toward meeting goals and objectives **by program**; and

15 (g) A progress report providing data and information on the performance
16 indicators set forth in the ~~the~~ cabinet or administrative entity's most
17 recent strategic plan.

18 (2) On or before September 1 of each even-numbered fiscal year, ~~the~~ cabinets
19 and administrative entities which have submitted strategic plans in the previous
20 fiscal year shall submit a progress report to the Office of ~~the~~ State Budget
21 Director, or its designee, which provides data and information regarding the
22 progress the ~~the~~ cabinet or entity has made toward meeting its goals as
23 measured by performance indicators set forth in the cabinet's or entity's most recent
24 strategic plan.

25 (3) The state budget director shall designate an entity to develop and implement a
26 methodology for strategic planning and progress reporting for use by ~~the~~
27 cabinets and administrative entities submitting strategic plans and progress reports

1 pursuant to this section. The entity designated by the state budget director shall
2 develop and make available a training course in strategic planning that is
3 appropriate for and targeted to state government managers, and shall make that
4 training course available to state managers and their designees who have
5 responsibility for the completion of a strategic plan as required by this section.

6 (4) The Commonwealth Office of Technology shall maintain uniform electronic
7 strategic plan and progress report submission forms and a procedure that allows all
8 plans and progress reports to be entered into an electronic database that is
9 searchable by interested parties. The database shall be developed and maintained in
10 a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The
11 Commonwealth Office of Technology shall develop and maintain a program to
12 provide public access to submitted plans and progress reports.

13 ➔Section 43. KRS 48.950 is amended to read as follows:

14 (1) In order to effectuate the constitutional power and duty of the General Assembly to
15 raise and appropriate revenue and approve and adopt a balanced budget, and in
16 order that members and committees of the General Assembly and the Legislative
17 Research Commission may be informed on a continuous basis about current and
18 prospective financial conditions and budgetary needs of the Commonwealth and its
19 budget units, the Kentucky General Assembly finds and declares that uniform
20 detailed budget data and records relating to expenditures, receipts and activities and
21 the budgetary operations of all budget units must be available in electronic and print
22 form to the General Assembly and the Legislative Research Commission on a
23 continuous and timely basis, **including the electronic accounting and budgeting**
24 **systems utilized by all branches of state government such as the Enhanced**
25 **Management Reporting System and the Kentucky Budgeting System.**

26 (2) The contents of all electronic and print forms, records, data and procedures
27 established under KRS 48.955 and 48.960 shall pertain to:

- 1 (a) The submission of budget unit requests and branch budget recommendations;
- 2 (b) The adoption of budget bills;
- 3 (c) The allotments under, and authorized adjustments and revisions to, the
- 4 enacted budget;
- 5 (d) The receipts and disbursements of budget funds pursuant to appropriations
- 6 enacted by the General Assembly; and
- 7 (e) The financial and budgetary conditions of the Commonwealth and branch
- 8 budget units.

9 These contents, forms and records shall be standard and uniform for all budget
10 units.

- 11 (3) The Governor, the Chief Justice and the Legislative Research Commission for their
- 12 respective branches and budget units, shall cause to be created, maintained and
- 13 transmitted in electronic form the data, records and procedures necessary to fulfill
- 14 the intent and purposes of KRS 48.955 and 48.960 and which may be provided by
- 15 KRS 48.955 and 48.960.

16 ➔Section 44. KRS 45A.837 is amended to read as follows:

- 17 (1) Notwithstanding the provisions of KRS 45A.800 to 45A.835, the Finance and
- 18 Administration Cabinet and the Transportation Cabinet may enter into price
- 19 contracts for architectural, engineering, and engineering-related services. If the
- 20 agencies choose to enter into a price contract, subsection (2) of this section shall
- 21 apply.
- 22 (2) Price contracts shall be awarded to firms qualified by the Finance and
- 23 Administration Cabinet, Department of Facilities Management or by the
- 24 Transportation Cabinet, Department of Highways. The Finance and Administration
- 25 Cabinet selection committee established by KRS 45A.810 shall meet at least
- 26 quarterly during each fiscal year to review and make recommendations to the
- 27 commissioner of the Department for Facilities Management for qualification of

1 interested firms. The Transportation Cabinet selection committee established by
2 KRS 45A.810 shall meet at least quarterly during each fiscal year to review and
3 make recommendations to the commissioner of the Department of Highways for
4 qualification of interested firms.

5 (a) The respective committees shall evaluate those firms submitting statements of
6 interest in obtaining a price contract. The submitting firms shall be reviewed
7 according to the following criteria:

- 8 1. Qualifications;
- 9 2. Ability of professional personnel; and
- 10 3. Past record and experience.

11 (b) Firms qualified by the commissioner of the Department for Facilities
12 Management or by the commissioner of the Department of Highways shall be
13 awarded price contracts by the respective departments for the type of work for
14 which they have been qualified.

15 (c) The commissioner of the Department for Facilities Management or the
16 commissioner of the Department of Highways may select firms to perform
17 work under price contract for small projects for which the architectural,
18 engineering, or engineering-related fees do not exceed one hundred
19 fifty~~seventy five~~ thousand dollars (\$150,000)~~(\$75,000)~~. However, no firm
20 that has received more than three~~one~~ hundred~~fifty~~ thousand dollars
21 (\$300,000)~~(\$150,000)~~ in price contract fees in any one (1) fiscal year in the
22 contract discipline being awarded shall be selected to work under a price
23 contract unless the secretary of finance and administration or the secretary of
24 transportation makes a written determination that the selection is in the best
25 interest of the Commonwealth and the determination is confirmed by the
26 appropriate cabinet's selection committee established by KRS 45A.810.

27 (3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract

1 shall be awarded under the provisions of this section before completion of the
2 review procedure provided for in KRS 45A.695 and 45A.705.

3 ➔SECTION 45. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO
4 READ AS FOLLOWS:

5 *The following classes of property shall be exempt from state and local ad valorem*
6 *taxes, including the county, city, school, and other taxing district in which it has a*
7 *taxable situs:*

8 *(1) Farm implements and farm machinery owned by or leased to a person actually*
9 *engaged in farming and used in his or her farm operations;*

10 *(2) Livestock, ratite birds, and domestic fowl;*

11 *(3) Tangible personal property located in a foreign trade zone established pursuant*
12 *to 19 U.S.C. secs. 81a to 81u, provided that the zone is activated in accordance*
13 *with the regulations of the United States Customs Service and the Foreign Trade*
14 *Zones Board;*

15 *(4) Property that is certified as an alcohol production facility as defined in KRS*
16 *247.910;*

17 *(5) Property that is certified as a fluidized bed energy production facility as defined*
18 *in KRS 211.390;*

19 *(6) Computer software, except prewritten computer software as defined in Section 6*
20 *of this Act;*

21 *(7) Trucks, tractors, and buses used on routes or in systems that are partly within*
22 *and partly outside this state, and that are subject to the fee imposed by KRS*
23 *136.188;*

24 *(8) Semitrailers and trailers, as defined in KRS 189.010, if the semitrailers or trailers*
25 *are used on a route or in a system that is partly within and partly outside this*
26 *state. Semitrailers or trailers required to be registered under KRS 186.655 that*
27 *are used only in this state shall be subject to the ad valorem tax imposed by KRS*

1 132.487;

2 (9) All intangible personal property, except intangible personal property assessed
3 under KRS 132.030 or KRS Chapter 136. Nothing in this subsection shall
4 prohibit local taxation of franchises of:

5 (a) Corporations;

6 (b) Financial institutions as provided in KRS 136.575; or

7 (c) Domestic life insurance companies;

8 (10) All real and personal property owned by another state or a political subdivision of
9 another state that is used exclusively for public purposes, if a comparable
10 exemption is provided in that state or political subdivision for property owned by
11 the Commonwealth of Kentucky or its political subdivisions;

12 (11) Every fraternal benefit society organized or licensed under Subtitle 29 of KRS
13 Chapter 304 that is a charitable and benevolent institution, and its funds shall be
14 exempt from all state, county, district, city, and school taxes, other than taxes on
15 real property and office equipment; and

16 (12) (a) Any bridge built by an adjoining state, by the government of the United
17 States, or by any commission created by an Act of Congress, over a
18 boundary line stream between this state and an adjoining state, which is:

19 1. Not operated for profit and, if it connects with a primary highway of
20 this state, is declared to be public property used for public purposes;
21 and

22 2. Exempt from taxation unless the adjoining state, or other public body
23 constructing the bridge, taxes similar bridges built by this
24 Commonwealth in like manner.

25 (b) The issuance of bonds for the purpose of amortizing the cost of construction
26 of the bridges, as described in paragraph (a) of this subsection, shall not
27 affect the tax exemption granted.

1 ➔Section 46. KRS 132.020 is amended to read as follows:

- 2 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes
3 at the rate of:
- 4 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)
5 of value of all real property directed to be assessed for taxation;
- 6 (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of
7 all motor vehicles qualifying for permanent registration as historic motor
8 vehicles under KRS 186.043;
- 9 (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:
- 10 1. Machinery actually engaged in manufacturing;
- 11 2. Commercial radio and television equipment used to receive, capture,
12 produce, edit, enhance, modify, process, store, convey, or transmit audio
13 or video content or electronic signals which are broadcast over the air to
14 an antenna, including radio and television towers used to transmit or
15 facilitate the transmission of the signal broadcast and equipment used to
16 gather or transmit weather information, but excluding telephone and
17 cellular communication towers; and
- 18 3. Tangible personal property which has been certified as a pollution
19 control facility as defined in KRS 224.1-300. In the case of tangible
20 personal property certified as a pollution control facility which is
21 incorporated into a landfill facility, the tangible personal property shall
22 be presumed to remain tangible personal property for purposes of this
23 paragraph if the tangible personal property is being used for its intended
24 purposes;
- 25 (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the
26 operating property of railroads or railway companies that operate solely
27 within the Commonwealth;

- 1 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods
2 held for sale in the regular course of business, which includes:
- 3 1. Machinery and equipment held in a retailer's inventory for sale or lease
4 originating under a floor plan financing arrangement;
 - 5 2. Motor vehicles:
 - 6 a. Held for sale in the inventory of a licensed motor vehicle dealer,
7 including licensed motor vehicle auction dealers, which are not
8 currently titled and registered in Kentucky and are held on an
9 assignment pursuant to KRS 186A.230; or
 - 10 b. That are in the possession of a licensed motor vehicle dealer,
11 including licensed motor vehicle auction dealers, for sale, although
12 ownership has not been transferred to the dealer;
 - 13 3. Raw materials, which includes distilled spirits and distilled spirits
14 inventory;
 - 15 4. In-process materials, which includes distilled spirits and distilled spirits
16 inventory, held for incorporation in finished goods held for sale in the
17 regular course of business; and
 - 18 5. Qualified heavy equipment;
- 19 (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
20 value of all:
- 21 1. Privately owned leasehold interests in industrial buildings, as defined
22 under KRS 103.200, owned and financed by a tax-exempt governmental
23 unit, or tax-exempt statutory authority under the provisions of KRS
24 Chapter 103, upon the prior approval of the Kentucky Economic
25 Development Finance Authority, except that the rate shall not apply to
26 the proportion of value of the leasehold interest created through any
27 private financing;

- 1 2. Qualifying voluntary environmental remediation property, provided the
 2 property owner has corrected the effect of all known releases of
 3 hazardous substances, pollutants, contaminants, petroleum, or petroleum
 4 products located on the property consistent with a corrective action plan
 5 approved by the Energy and Environment Cabinet pursuant to KRS
 6 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not
 7 financed through a public grant or the petroleum storage tank
 8 environmental assurance fund. This rate shall apply for a period of three
 9 (3) years following the Energy and Environment Cabinet's issuance of a
 10 No Further Action Letter or its equivalent, after which the regular tax
 11 rate shall apply;
- 12 3. Tobacco directed to be assessed for taxation;
- 13 4. Unmanufactured agricultural products;
- 14 5. Aircraft not used in the business of transporting persons or property for
 15 compensation or hire;
- 16 6. Federally documented vessels not used in the business of transporting
 17 persons or property for compensation or hire, or for other commercial
 18 purposes; and
- 19 7. Privately owned leasehold interests in residential property described in
 20 KRS 132.195(2)(g); ***and***
- 21 (g) ~~One tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value~~
 22 ~~of all:~~
- 23 1. ~~Farm implements and farm machinery owned by or leased to a person~~
 24 ~~actually engaged in farming and used in his farm operations;~~
- 25 2. ~~Livestock and domestic fowl;~~
- 26 3. ~~Tangible personal property located in a foreign trade zone established~~
 27 ~~pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in~~

1 ~~accordance with the regulations of the United States Customs Service~~
2 ~~and the Foreign Trade Zones Board; and~~

3 ~~4. Property which has been certified as an alcohol production facility as~~
4 ~~defined in KRS 247.910, or as a fluidized bed energy production facility~~
5 ~~as defined in KRS 211.390; and~~

6 (h) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all
7 other property directed to be assessed for taxation shall be paid by the owner
8 or person assessed, except as provided in KRS 132.030, 132.200, 136.300,
9 and 136.320, providing a different tax rate for particular property.

10 (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property
11 shall be reduced to compensate for any increase in the aggregate assessed value of
12 real property to the extent that the increase exceeds the preceding year's assessment
13 by more than four percent (4%), excluding:

14 (a) The assessment of new property as defined in KRS 132.010(8);

15 (b) The assessment from property which is subject to tax increment financing
16 pursuant to KRS Chapter 65; and

17 (c) The assessment from leasehold property which is owned and financed by a
18 tax-exempt governmental unit, or tax-exempt statutory authority under the
19 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
20 one-half cents (\$0.015) pursuant to subsection (1)(f) of this section. In any
21 year in which the aggregate assessed value of real property is less than the
22 preceding year, the state rate shall be increased to the extent necessary to
23 produce the approximate amount of revenue that was produced in the
24 preceding year from real property.

25 (3) By July 1 each year, the department shall compute the state tax rate applicable to
26 real property for the current year in accordance with the provisions of subsection
27 (2) of this section and certify the rate to the county clerks for their use in preparing

1 the tax bills. If the assessments for all counties have not been certified by July 1, the
2 department shall, when either real property assessments of at least seventy-five
3 percent (75%) of the total number of counties of the Commonwealth have been
4 determined to be acceptable by the department, or when the number of counties
5 having at least seventy-five percent (75%) of the total real property assessment for
6 the previous year have been determined to be acceptable by the department, make
7 an estimate of the real property assessments of the uncertified counties and compute
8 the state tax rate.

9 (4) If the tax rate set by the department as provided in subsection (2) of this section
10 produces more than a four percent (4%) increase in real property tax revenues,
11 excluding:

- 12 (a) The revenue resulting from new property as defined in KRS 132.010(8);
- 13 (b) The revenue from property which is subject to tax increment financing
14 pursuant to KRS Chapter 65; and
- 15 (c) The revenue from leasehold property which is owned and financed by a tax-
16 exempt governmental unit, or tax-exempt statutory authority under the
17 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
18 one-half cents (\$0.015) pursuant to subsection (1) of this section;

19 the rate shall be adjusted in the succeeding year so that the cumulative total of each
20 year's property tax revenue increase shall not exceed four percent (4%) per year.

21 (5) The provisions of subsection (2) of this section notwithstanding, the assessed value
22 of unmined coal certified by the department after July 1, 1994, shall not be included
23 with the assessed value of other real property in determining the state real property
24 tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also
25 be excluded from the provisions of subsection (2) of this section. The calculated
26 rate shall, however, be applied to unmined coal property, and the state revenue shall
27 be devoted to the program described in KRS 146.550 to 146.570, except that four

1 hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to
2 the State Treasury and credited to the Office of Energy Policy for the purpose of
3 public education of coal-related issues.

4 ➔Section 47. KRS 132.200 is amended to read as follows:

5 All property subject to taxation for state purposes shall also be subject to taxation in the
6 county, city, school, or other taxing district in which it has a taxable situs, except the
7 class of property described in KRS 132.030 and the following classes of property, which
8 shall be subject to taxation for state purposes only:

9 ~~(1) Farm implements and farm machinery owned by or leased to a person actually~~
10 ~~engaged in farming and used in his farm operation;~~

11 ~~(2) Livestock, ratite birds, and domestic fowl;~~

12 ~~(3) Capital stock of savings and loan associations;~~

13 ~~(2)~~~~(4)~~ Machinery actually engaged in manufacturing, products in the course of
14 manufacture, and raw material actually on hand at the plant for the purpose of
15 manufacture. The printing, publication, and distribution of a newspaper or operating
16 a job printing plant shall be deemed to be manufacturing;

17 ~~(3)~~~~(5)~~ (a) Commercial radio and television equipment used to receive, capture,
18 produce, edit, enhance, modify, process, store, convey, or transmit audio or
19 video content or electronic signals which are broadcast over the air to an
20 antenna;

21 (b) Equipment directly used or associated with the equipment identified in
22 paragraph (a) of this subsection, including radio and television towers used to
23 transmit or facilitate the transmission of the signal broadcast, but excluding
24 telephone and cellular communications towers; and

25 (c) Equipment used to gather or transmit weather information;

26 ~~(4)~~~~(6)~~ Unmanufactured agricultural products. They shall be exempt from taxation for
27 state purposes to the extent of the value, or amount, of any unpaid nonrecourse

1 loans thereon granted by the United States government or any agency thereof, and
2 except that cities and counties may each impose an ad valorem tax of not exceeding
3 one and one-half cents (\$.015) on each one hundred dollars (\$100) of the fair cash
4 value of all unmanufactured tobacco and not exceeding four and one-half cents
5 (\$.045) on each one hundred dollars (\$100) of the fair cash value of all other
6 unmanufactured agricultural products, subject to taxation within their limits that are
7 not actually on hand at the plants of manufacturing concerns for the purpose of
8 manufacture, nor in the hands of the producer or any agent of the producer to whom
9 the products have been conveyed or assigned for the purpose of sale;

10 ~~(5)~~⁽⁷⁾ All privately owned leasehold interest in industrial buildings, as defined under
11 KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-
12 exempt statutory authority under the provisions of KRS Chapter 103, except that
13 the rate shall not apply to the proportion of value of the leasehold interest created
14 through any private financing;

15 ~~(6)~~⁽⁸⁾ Tangible personal property which has been certified as a pollution control
16 facility as defined in KRS 224.1-300. In the case of tangible personal property
17 certified as a pollution control facility which is incorporated into a landfill facility,
18 the tangible personal property shall be presumed to remain tangible personal
19 property for purposes of this subsection if the tangible personal property is being
20 used for its intended purposes;{

21 ~~(9) Property which has been certified as an alcohol production facility as defined in~~
22 ~~KRS 247.910;}~~

23 ~~(7)~~⁽¹⁰⁾ On and after January 1, 1977, the assessed value of unmined coal shall be
24 included in the formula contained in KRS 132.590(9) in determining the amount of
25 county appropriation to the office of the property valuation administrator;{

26 ~~(11) Tangible personal property located in a foreign trade zone established pursuant to~~
27 ~~19 U.S.C. sec. 81, provided that the zone is activated in accordance with the~~

1 ~~regulations of the United States Customs Service and the Foreign Trade Zones~~
2 ~~Board;]~~

3 ~~(8)~~~~[(12)]~~ Motor vehicles qualifying for permanent registration as historic motor
4 vehicles under the provisions of KRS 186.043. However, nothing herein shall be
5 construed to exempt historical motor vehicles from the usage tax imposed by KRS
6 138.460;[

7 ~~(13) Property which has been certified as a fluidized bed energy production facility as~~
8 ~~defined in KRS 211.390;]~~

9 ~~(9)~~~~[(14)]~~ All motor vehicles:

10 (a) Held for sale in the inventory of a licensed motor vehicle dealer, including
11 motor vehicle auction dealers, which are not currently titled and registered in
12 Kentucky and are held on an assignment pursuant to the provisions of KRS
13 186A.230;

14 (b) That are in the possession of a licensed motor vehicle dealer, including
15 licensed motor vehicle auction dealers, for sale, although ownership has not
16 been transferred to the dealer; and

17 (c) With a salvage title held by an insurance company;

18 ~~(10)~~~~[(15)]~~ Machinery or equipment owned by a business, industry, or organization in
19 order to collect, source separate, compress, bale, shred, or otherwise handle waste
20 materials if the machinery or equipment is primarily used for recycling purposes as
21 defined in KRS 139.010;

22 ~~(11)~~~~[(16)]~~ New farm machinery and other equipment held in the retailer's inventory for
23 sale under a floor plan financing arrangement by a retailer, as defined under KRS
24 365.800;

25 ~~(12)~~~~[(17)]~~ New boats and new marine equipment held for retail sale under a floor plan
26 financing arrangement by a dealer registered under KRS 235.220;

27 ~~(13)~~~~[(18)]~~ Aircraft not used in the business of transporting persons or property for

1 compensation or hire if an exemption is approved by the county, city, school, or
2 other taxing district in which the aircraft has its taxable situs;

3 ~~(14)~~~~(19)~~ Federally documented vessels not used in the business of transporting persons
4 or property for compensation or hire or for other commercial purposes, if an
5 exemption is approved by the county, city, school, or other taxing district in which
6 the federally documented vessel has its taxable situs;

7 ~~(15)~~~~(20)~~ Any nonferrous metal that conforms to the quality, shape, and weight
8 specifications set by the New York Mercantile Exchange's special contract rules for
9 metals, and which is located or stored in a commodity warehouse and held on
10 warrant, or for which a written request has been made to a commodity warehouse to
11 place it on warrant, according to the rules and regulations of a trading facility. In
12 this subsection:

13 (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or
14 other facility that has been designated or approved by a trading facility as a
15 regular delivery point for a commodity on contracts of sale for future delivery;
16 and

17 (b) "Trading facility" means a facility that is designated by or registered with the
18 federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et
19 seq. "Trading facility" includes the Board of Trade of the City of Chicago, the
20 Chicago Mercantile Exchange, and the New York Mercantile Exchange;

21 ~~(16)~~~~(21)~~ Qualifying voluntary environmental remediation property for a period of three
22 (3) years following the Energy and Environment Cabinet's issuance of a No Further
23 Action Letter or its equivalent, pursuant to the correction of the effect of all known
24 releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum
25 products located on the property consistent with a corrective action plan approved
26 by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or
27 224.60-135, and provided the cleanup was not financed through a public grant

- 1 program of the petroleum storage tank environmental assurance fund;
- 2 ~~(17)~~~~(22)~~ Biotechnology products held in a warehouse for distribution by the
3 manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
- 4 (a) "Biotechnology products" means those products that are applicable to the
5 prevention, treatment, or cure of a disease or condition of human beings and
6 that are produced using living organisms, materials derived from living
7 organisms, or cellular, subcellular, or molecular components of living
8 organisms. Biotechnology products does not include pharmaceutical products
9 which are produced from chemical compounds;
- 10 (b) "Warehouse" includes any establishment that is designed to house or store
11 biotechnology products, but does not include blood banks, plasma centers, or
12 other similar establishments;
- 13 (c) "Affiliate" means an individual, partnership, or corporation that directly or
14 indirectly owns or controls, or is owned or controlled by, or is under common
15 ownership or control with, another individual, partnership, or corporation;
- 16 ~~(18)~~~~(23)~~ Recreational vehicles held for sale in a retailer's inventory;
- 17 ~~(19)~~~~(24)~~ A privately owned leasehold interest in residential property described in KRS
18 132.195(2)(g), if an exemption is approved by the county, city, school, or other
19 taxing district in which the residential property is located; and
- 20 ~~(20)~~~~(25)~~ Prefabricated homes held for sale in a manufacturer's or retailer's inventory.

21 ➔Section 48. KRS 139.210 is amended to read as follows:

- 22 (1) Except as provided in subsections~~subsection~~ (2) and (3) of this section, the tax
23 shall be required to be collected by the retailer from the purchaser. The tax shall be
24 displayed separately from the sales price, the price advertised in the premises, the
25 marked price, or other price on the sales receipt or other proof of sales.
- 26 (2) The department may relieve certain retailers from the requirement in~~provisions of~~
27 subsection (1) of this section of separate display of the tax when the circumstances

1 of the retailer make compliance impracticable. If the retailer establishes to the
2 satisfaction of the department that the sales tax has been added to the total amount
3 of the sales price and has not been absorbed by the retailer, the amount of the sales
4 price shall be the amount received exclusive of the tax imposed.

5 (3) **Retailers that provide road and travel services that are taxable under Section 7 of**
6 **this Act shall not be required to state the tax separately from the sales price if the**
7 **retailer can establish and provide evidence that the sales tax has been added to**
8 **the total amount of the sales price charged to the purchaser and has not been**
9 **absorbed by the retailer. The amount of the sales price shall be the amount**
10 **received exclusive of the tax imposed.**

11 (4) The taxes collected under this section shall be deemed to be held in trust by the
12 retailer for and on account of the Commonwealth.

13 ~~(5)~~~~(4)~~ The taxes to be collected under this section shall constitute a debt of the
14 retailer to the Commonwealth.

15 ➔Section 49. KRS 138.450 is amended to read as follows:

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

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

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

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

25 (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to
26 KRS 186.043;

27 (5) "Motor vehicle" means:

1 (a) Any vehicle that is propelled by other than muscular power and that is used
2 for transportation of persons or property over the public highways of the state,
3 except road rollers, mopeds, vehicles that travel exclusively on rails, and
4 vehicles propelled by electric power obtained from overhead wires; or

5 (b) *Recreational vehicles:*

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

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

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

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

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

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

27 (c) The value of any items that are not equipment or accessories including but not

1 limited to extended warranties, service contracts, and items that are given
2 away as part of a promotional sales campaign;

3 (10) "Trade-in allowance" means:

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

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

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

13 (12) "Retail price" for:

14 (a) New motor vehicles;

15 (b) Dealer demonstrator vehicles;

16 (c) Previous model year motor vehicles; and

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

20 means the total consideration given, as determined in KRS 138.4603;

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

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

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

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

- 1 (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525,
2 186A.530, or 186A.555 means the total consideration given as attested to in a
3 notarized affidavit;
- 4 (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a
5 dealer and which is regularly loaned or rented to customers of the service or repair
6 component of the dealership;
- 7 (21) "Department" means the Department of Revenue;
- 8 (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on
9 which the signature of the buyer and the signature of the seller are individually
10 notarized;~~and~~
- 11 (23) "Reference manual" means the automotive reference manual prescribed by the
12 department; ***and***
- 13 ***(24) "Recreational vehicle" means any motor home, travel trailer, fifth-wheel trailer,***
14 ***pull-behind camper, or pop-up camping trailer, which:***
- 15 ***(a) Contains living quarters; and***
- 16 ***(b) Is required to be licensed for use on the public highways.***
- 17 ➔Section 50. KRS 132.010 is amended to read as follows:
- 18 As used in this chapter, unless the context otherwise requires:
- 19 (1) "Department" means the Department of Revenue;
- 20 (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- 21 (3) "Real property" includes all lands within this state and improvements thereon;
- 22 (4) "Personal property" includes every species and character of property, tangible and
23 intangible, other than real property;
- 24 (5) "Resident" means any person who has taken up a place of abode within this state
25 with the intention of continuing to abide in this state; any person who has had his or
26 her actual or habitual place of abode in this state for the larger portion of the twelve
27 (12) months next preceding the date as of which an assessment is due to be made

1 shall be deemed to have intended to become a resident of this state;

2 (6) "Compensating tax rate" means that rate which, rounded to the next higher one-
3 tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and
4 applied to the current year's assessment of the property subject to taxation by a
5 taxing district, excluding new property and personal property, produces an amount
6 of revenue approximately equal to that produced in the preceding year from real
7 property. However, in no event shall the compensating tax rate be a rate which,
8 when applied to the total current year assessment of all classes of taxable property,
9 produces an amount of revenue less than was produced in the preceding year from
10 all classes of taxable property. For purposes of this subsection, "property subject to
11 taxation" means the total fair cash value of all property subject to full local rates,
12 less the total valuation exempted from taxation by the homestead exemption
13 provision of the Constitution and the difference between the fair cash value and
14 agricultural or horticultural value of agricultural or horticultural land;

15 (7) "Net assessment growth" means the difference between:

16 (a) The total valuation of property subject to taxation by the county, city, school
17 district, or special district in the preceding year, less the total valuation
18 exempted from taxation by the homestead exemption provision of the
19 Constitution in the current year over that exempted in the preceding year; and

20 (b) The total valuation of property subject to taxation by the county, city, school
21 district, or special district for the current year;

22 (8) "New property" means the net difference in taxable value between real property
23 additions and deletions to the property tax roll for the current year. "Real property
24 additions" shall mean:

25 (a) Property annexed or incorporated by a municipal corporation, or any other
26 taxing jurisdiction; however, this definition shall not apply to property
27 acquired through the merger or consolidation of school districts, or the

- 1 transfer of property from one (1) school district to another;
- 2 (b) Property, the ownership of which has been transferred from a tax-exempt
3 entity to a nontax-exempt entity;
- 4 (c) The value of improvements to existing nonresidential property;
- 5 (d) The value of new residential improvements to property;
- 6 (e) The value of improvements to existing residential property when the
7 improvement increases the assessed value of the property by fifty percent
8 (50%) or more;
- 9 (f) Property created by the subdivision of unimproved property, provided, that
10 when the property is reclassified from farm to subdivision by the property
11 valuation administrator, the value of the property as a farm shall be a deletion
12 from that category;
- 13 (g) Property exempt from taxation, as an inducement for industrial or business
14 use, at the expiration of its tax exempt status;
- 15 (h) Property, the tax rate of which will change, according to the provisions of
16 KRS 82.085, to reflect additional urban services to be provided by the taxing
17 jurisdiction, provided, however, that the property shall be considered "real
18 property additions" only in proportion to the additional urban services to be
19 provided to the property over the urban services previously provided; and
- 20 (i) The value of improvements to real property previously under assessment
21 moratorium.

22 "Real property deletions" shall be limited to the value of real property removed
23 from, or reduced over the preceding year on, the property tax roll for the current
24 year;

25 (9) "Agricultural land" means:

- 26 (a) Any tract of land, including all income-producing improvements, of at least
27 ten (10) contiguous acres in area used for the production of livestock,

- 1 livestock products, poultry, poultry products and/or the growing of tobacco
2 and/or other crops including timber;
- 3 (b) Any tract of land, including all income-producing improvements, of at least
4 five (5) contiguous acres in area commercially used for aquaculture; or
- 5 (c) Any tract of land devoted to and meeting the requirements and qualifications
6 for payments pursuant to agriculture programs under an agreement with the
7 state or federal government;
- 8 (10) "Horticultural land" means any tract of land, including all income-producing
9 improvements, of at least five (5) contiguous acres in area commercially used for
10 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,
11 flowers, or ornamental plants;
- 12 (11) "Agricultural or horticultural value" means the use value of "agricultural or
13 horticultural land" based upon income-producing capability and comparable sales
14 of farmland purchased for farm purposes where the price is indicative of farm use
15 value, excluding sales representing purchases for farm expansion, better
16 accessibility, and other factors which inflate the purchase price beyond farm use
17 value, if any, considering the following factors as they affect a taxable unit:
- 18 (a) Relative percentages of tillable land, pasture land, and woodland;
- 19 (b) Degree of productivity of the soil;
- 20 (c) Risk of flooding;
- 21 (d) Improvements to and on the land that relate to the production of income;
- 22 (e) Row crop capability including allotted crops other than tobacco;
- 23 (f) Accessibility to all-weather roads and markets; and
- 24 (g) Factors which affect the general agricultural or horticultural economy, such
25 as: interest, price of farm products, cost of farm materials and supplies, labor,
26 or any economic factor which would affect net farm income;
- 27 (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural

- 1 value and the tax based on fair cash value;
- 2 (13) "Homestead" means real property maintained as the permanent residence of the
3 owner with all land and improvements adjoining and contiguous thereto including
4 but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all
5 other land connected thereto;
- 6 (14) "Residential unit" means all or that part of real property occupied as the permanent
7 residence of the owner;
- 8 (15) "Special benefits" are those which are provided by public works not financed
9 through the general tax levy but through special assessments against the benefited
10 property;
- 11 (16) "Manufactured home" means a structure manufactured after June 15, 1976, in
12 accordance with the National Manufactured Housing Construction and Safety
13 Standards Act, transportable in one (1) or more sections, which when erected on
14 site measures eight (8) body feet or more in width and thirty-two (32) body feet or
15 more in length, and which is built on a permanent chassis and designed to be used
16 as a dwelling, with or without a permanent foundation, when connected to the
17 required utilities, and includes the plumbing, heating, air-conditioning, and
18 electrical systems contained therein. It may be used as a place of residence,
19 business, profession, or trade by the owner, lessee, or their assignees and may
20 consist of one (1) or more units that can be attached or joined together to comprise
21 an integral unit or condominium structure;
- 22 (17) "Mobile home" means a structure manufactured on or before June 15, 1976, that
23 was not required to be constructed in accordance with the National Manufactured
24 Housing Construction and Safety Standards Act, transportable in one (1) or more
25 sections, which when erected on site measures eight (8) body feet or more in width
26 and thirty-two (32) body feet or more in length, and which is built on a permanent
27 chassis and designed to be used as a dwelling, with or without a permanent

1 foundation, when connected to the required utilities, and includes the plumbing,
2 heating, air-conditioning, and electrical systems contained therein. It may be used
3 as a place of residence, business, profession, or trade by the owner, lessee, or their
4 assigns and may consist of one (1) or more units that can be attached or joined
5 together to comprise an integral unit or condominium structure;

6 (18) "Modular home" means a structure which is certified by its manufacturer as being
7 constructed in accordance with all applicable provisions of the Kentucky Building
8 Code and standards adopted by the local authority which has jurisdiction,
9 transportable in one (1) or more sections, and designed to be used as a dwelling on
10 a permanent foundation when connected to the required utilities, and includes the
11 plumbing, heating, air-conditioning, and electrical systems contained therein;

12 (19) "Prefabricated home" means a manufactured home, a mobile home, or a modular
13 home;

14 (20) "Recreational vehicle" means a vehicular type unit primarily designed as temporary
15 living quarters for recreational, camping, or travel use, which either has its own
16 motive power or is mounted on or drawn by another vehicle. The basic entities are:
17 travel trailer, camping trailer, truck camper, and motor home. As used in this
18 subsection:

19 (a) "Travel trailer" means a vehicular unit, mounted on wheels, designed to
20 provide temporary living quarters for recreational, camping, or travel use, and
21 of a size or weight that does not require special highway movement permits
22 when drawn by a motorized vehicle, and with a living area of less than two
23 hundred twenty (220) square feet, excluding built-in equipment (such as
24 wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet
25 rooms;

26 (b) "Camping trailer" means a vehicular portable unit mounted on wheels and
27 constructed with collapsible partial side walls which fold for towing by

- 1 another vehicle and unfold at the camp site to provide temporary living
2 quarters for recreational, camping, or travel use;
- 3 (c) "Truck camper" means a portable unit constructed to provide temporary living
4 quarters for recreational, travel, or camping use, consisting of a roof, floor,
5 and sides, designed to be loaded onto and unloaded from the bed of a pick-up
6 truck; and
- 7 (d) "Motor home" means a vehicular unit designed to provide temporary living
8 quarters for recreational, camping, or travel use built on or permanently
9 attached to a self-propelled motor vehicle chassis or on a chassis cab or van
10 which is an integral part of the completed vehicle;
- 11 (21) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- 12 (22) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;
- 13 (23) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and
14 KRS 224.60-115;
- 15 (24) "Qualifying voluntary environmental remediation property" means real property
16 subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the
17 Energy and Environment Cabinet has made a determination that:
- 18 (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or
19 petroleum products at the property occurred prior to the property owner's
20 acquisition of the property;
- 21 (b) The property owner has made all appropriate inquiry into previous ownership
22 and uses of the property in accordance with generally accepted practices prior
23 to the acquisition of the property;
- 24 (c) The property owner or a responsible party has provided all legally required
25 notices with respect to hazardous substances, pollutants, contaminants,
26 petroleum, or petroleum products found at the property;
- 27 (d) The property owner is in compliance with all land use restrictions and does

- 1 not impede the effectiveness or integrity of any institutional control;
- 2 (e) The property owner complied with any information request or administrative
3 subpoena under KRS Chapter 224; and
- 4 (f) The property owner is not affiliated with any person who is potentially liable
5 for the release of hazardous substances, pollutants, contaminants, petroleum,
6 or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405,
7 or 224.60-135, through:
- 8 1. Direct or indirect familial relationship;
 - 9 2. Any contractual, corporate, or financial relationship, excluding
10 relationships created by instruments conveying or financing title or by
11 contracts for sale of goods or services; or
 - 12 3. Reorganization of a business entity that was potentially liable;
- 13 (25) "Intangible personal property" means stocks, mutual funds, money market funds,
14 bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits,
15 patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred
16 compensation, retirement plans, and any other type of personal property that is not
17 tangible personal property;
- 18 (26) (a) "County" means any county, consolidated local government, urban-county
19 government, unified local government, or charter county government;
- 20 (b) "Fiscal court" means the legislative body of any county, consolidated local
21 government, urban-county government, unified local government, or charter
22 county government; and
- 23 (c) "County judge/executive" means the chief executive officer of any county,
24 consolidated local government, urban-county government, unified local
25 government, or charter county government;
- 26 (27) "Taxing district" means any entity with the authority to levy a local ad valorem tax,
27 including special purpose governmental entities;

- 1 (28) "Special purpose governmental entity" shall have the same meaning as in KRS
2 65A.010, and as used in this chapter shall include only those special purpose
3 governmental entities with the authority to levy ad valorem taxes, and that are not
4 specifically exempt from the provisions of this chapter by another provision of the
5 Kentucky Revised Statutes;
- 6 (29) (a) "Broadcast" means the transmission of audio, video, or other signals, through
7 any electronic, radio, light, or similar medium or method now in existence or
8 later devised over the airwaves to the public in general.
- 9 (b) "Broadcast" shall not apply to operations performed by multichannel video
10 programming service providers as defined in KRS 136.602 or any other
11 operations that transmit audio, video, or other signals, exclusively to persons
12 for a fee;
- 13 (30) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes,
14 and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid
15 species;
- 16 (31) "Heavy equipment rental agreement" means the short-term rental contract under
17 which qualified heavy equipment is rented without an operator for a period:
- 18 (a) Not to exceed three hundred sixty-five (365) days; or
19 (b) That is open-ended under the terms of the contract with no specified end date;
- 20 (32) "Heavy equipment rental company" means an entity that is primarily engaged in a
21 line of business described in Code 532412 or 532310 of the North American
22 Industry Classification System Manual in effect on January 1, 2019;
- 23 (33) "Qualified heavy equipment" means machinery and equipment, including ancillary
24 equipment and any attachments used in conjunction with the machinery and
25 equipment, that is:
- 26 (a) Primarily used and designed for construction, mining, forestry, or industrial
27 purposes, including but not limited to cranes, earthmoving equipment, well-

1 drilling machinery and equipment, lifts, material handling equipment, pumps,
2 generators, and pollution-reducing equipment; and

3 (b) Held in a heavy equipment rental company's inventory for:

- 4 1. Rental under a heavy equipment rental agreement; or
5 2. Sale in the regular course of business;~~[-and]~~

6 (34) "Veteran service organization" means an organization wholly dedicated to
7 advocating on behalf of military veterans and providing charitable programs in
8 honor and on behalf of military veterans;

9 **(35) "Government restriction on use" means a limitation on the use of at least fifty**
10 **percent (50%) of the individual dwelling units of a multi-unit rental housing in**
11 **order to receive a federal or state government incentive based on low-income**
12 **renter restrictions, including the following government incentives:**

13 **(a) A tax credit under Section 42 of the Internal Revenue Code;**

14 **(b) Financing derived from exempt facility bonds for qualified residential**
15 **rental projects under Section 142 of the Internal Revenue Code;**

16 **(c) A low-interest loan under Section 235 or 236 of the National Housing Act**
17 **or Section 515 of the Housing Act of 1949;**

18 **(d) A rent subsidy;**

19 **(e) A guaranteed loan;**

20 **(f) A grant; or**

21 **(g) A guarantee;**

22 **(36) "Low income" means earning at or below eighty percent (80%) of the area**
23 **median income as defined by the United States Department of Housing and**
24 **Urban Development for the location of the multi-unit rental housing; and**

25 **(37) "Multi-unit rental housing" means residential property or project consisting of**
26 **four (4) or more individual dwelling units and does not include:**

27 **(a) Assisted living facilities; or**

1 **(b) Duplexes or single-family units unless they are included as part of a larger**
2 **property that is subject to government restriction on use.**

3 ➔Section 51. KRS 132.191 is amended to read as follows:

4 (1) The General Assembly recognizes that Section 172 of the Constitution of Kentucky
5 requires all property, not exempted from taxation by the Constitution, to be assessed
6 at one hundred percent (100%) of the fair cash value, estimated at the price the
7 property would bring at a fair voluntary sale, and that it is the responsibility of the
8 property valuation administrator to value property in accordance with the
9 Constitution.

10 (2) The General Assembly further recognizes that property valuation may be
11 determined using a variety of valid valuation methods, including but not limited to:

12 (a) A cost approach, which is a method of appraisal in which the estimated value
13 of the land is combined with the current depreciated reproduction or
14 replacement cost of improvements on the land;

15 (b) An income approach, which is a method of appraisal based on estimating the
16 present value of future benefits arising from the ownership of the property;

17 (c) A sales comparison approach, which is a method of appraisal based on a
18 comparison of the property with similar properties sold in the recent past;~~f~~
19 ~~and~~

20 (d) A subdivision development approach, which is a method of appraisal of raw
21 land:

22 1. When subdivision and development are the highest and best use of the
23 parcel of raw land being appraised; and

24 2. When all direct and indirect costs and entrepreneurial incentives are
25 deducted from the estimated anticipated gross sales price of the finished
26 lots, and the resultant net sales proceeds are then discounted to present
27 value at a market-derived rate over the development and absorption

1 period; and

2 (e) The approaches listed in subsection (5) of this section for multi-unit rental
3 housing that is subject to government restriction on use.

4 (3) The valuation of a residential, commercial, or industrial tract development shall
5 meet the minimum applicable appraisal standards established by:

6 (a) The Kentucky Department of Revenue, as stated in its Guidelines for
7 Assessment of Vacant Lots, dated March 26, 2008; or

8 (b) The International Association of Assessing Officers.

9 (4) To be appraised using the subdivision development approach, a subdivision
10 development shall consist of five (5) or more units. The appraisal of the
11 development shall reflect deductions and discounts for:

12 (a) Holding costs, including interest and maintenance;

13 (b) Marketing costs, including commissions and advertising; and

14 (c) Entrepreneurial profit.

15 (5) (a) The property valuation of multi-unit rental housing that is subject to
16 government restriction on use may be determined:

17 1. a. Through an annual net operating income approach to value that
18 uses actual income and stabilized operating expenses that are
19 based on the actual history of the property, when available, and a
20 capitalization rate.

21 b. The methodology employed in the projection of income,
22 expenses, and capitalization rate used shall be consistent with
23 the Uniform Standards of Professional Appraisal Practice.

24 c. The capitalization rate shall be:

25 i. Based on the risks associated with multi-unit rental
26 housing subject to government restriction on use, including
27 diminished ownership control; income generating

1 potential; liquidity; the condition of the property; the class
2 of the property; and the property's location and size;

3 ii. Equal to or greater than the capitalization rate used for
4 valuing multi-unit rental housing that is not subject to
5 government restriction on use; and

6 iii. In the range of fifty (50) to one hundred fifty (150) basis
7 points above the most recent quarterly survey of the
8 national average cap rates of multifamily properties
9 published by realtyrates.com or a successor organization.

10 d. The department shall publish the capitalization rate range for
11 the property valuation administrators to use on its website at the
12 beginning of each year; or

13 2. By adjusting the unrestricted market value of the multi-unit rental
14 housing, computed without regard to any government restriction on
15 use applicable to the multi-unit rental housing, based on the ratio of
16 the average annual rent of those units of the property that are subject
17 to government restriction on use to the average annual rent of
18 comparable multi-unit rental housing that is not subject to
19 government restriction on use.

20 (b) Income tax credits received under Section 42 of the Internal Revenue Code
21 or from any state or federal program shall not be included in the methods
22 used under paragraph (a) of this subsection in determining the income
23 attributable to the multi-unit rental housing or in any separate intangible
24 assessment.

25 (c) 1. The owner of multi-unit rental housing shall:

26 a. Notify the property valuation administrator if:

27 i. The property is subject to government restriction on use;

- 1 ii. The property is no longer subject to government restriction
 2 on use; or
 3 iii. A foreclosure action has been brought upon the property;
 4 and
 5 b. File with the property valuation administrator, on a form
 6 prescribed by the department, the information necessary for the
 7 multi-unit rental housing to be valued based on the methods
 8 described in paragraph (a) of this subsection.
- 9 2. The notification shall be in writing and submitted to the property
 10 valuation administrator within sixty (60) days of the date on which the
 11 applicable circumstance listed in subparagraph 1.a. i., ii., or iii. of this
 12 paragraph occurred.
- 13 3. An owner who fails to comply with this paragraph may be subject to
 14 penalties in an amount not to exceed two hundred dollars (\$200) as
 15 determined by the department.
- 16 (d) The department shall promulgate administrative regulations in accordance
 17 with KRS Chapter 13A to adopt forms, penalties, and procedures to carry
 18 out this subsection.

19 ➔Section 52. The following KRS sections are repealed:

- 20 132.098 Exemption from state and local ad valorem tax of computer software, except
 21 prewritten computer software.
- 22 132.192 Property tax exemption reciprocity.
- 23 132.205 Exemption of bridges built by adjoining state, United States or commission
 24 created by Act of Congress over boundary line stream -- Bonds.
- 25 132.208 Exemption of intangible personal property from state and local ad valorem
 26 taxes -- Local taxation permitted.
- 27 132.210 Exemption of fraternal benefit societies' funds.

1 132.760 Exemption from ad valorem taxes for trucks, tractors, buses, and trailers used
2 both in and outside Kentucky and subject to KRS 136.188 fee.

3 ➔Section 53. The Department of Revenue shall provide a report on or before
4 November 1, 2023, to the Interim Joint Committee on Appropriations and Revenue
5 outlining the following details related to a centralized tax reporting and distribution
6 system for state and local transient room taxes, including:

7 (1) A proposed scope of work considering how a state and local centralized tax
8 reporting and distribution system will integrate with legacy systems currently operational
9 within the department;

10 (2) An estimated time line for developing and implementing a centralized system;

11 (3) An estimated cost for developing and implementing a centralized system;

12 (4) An estimate of the cost of maintaining a centralized system, including
13 temporary or permanent personnel needs;

14 (5) Any recommendations for statutory changes which may be necessary to
15 develop and implement a centralized system, considering both the time and cost for
16 development and implementation; and

17 (6) Experiences, both good and bad, from other states that have developed or
18 implemented a centralized system.

19 ➔Section 54. Notwithstanding subsection (2)(a) of Section 34 of this Act, the
20 initial terms of private citizens appointed to the Rural Housing Trust Fund Advisory
21 Committee under subsection (1)(d) of Section 34 of this Act shall be staggered as
22 follows:

23 (1) Two members shall be appointed for a three-year term;

24 (2) Two members shall be appointed for a two-year term; and

25 (3) Two members shall be appointed for a one-year term.

26 ➔Section 55. Section 4 of this Act applies retroactively to January 1, 2023, except
27 that any penalty imposed under subsection (11) of Section 4 of this Act and any interest

1 imposed under KRS 131.183 shall not apply to a return required to be filed under
2 subsection (3)(b) of Section 4 of this Act before the effective date of this Act if the return
3 is filed and the tax is paid by the twentieth day of the month following the effective date
4 of this Act. Notwithstanding KRS 131.183, interest shall not be allowed or paid on a
5 refund related to the amendments made in Section 4 of this Act.

6 ➔Section 56. Section 5 of this Act takes effect on January 1, 2024.

7 ➔Section 57. Sections 6 to 15 of this Act apply retroactively to January 1, 2023.
8 Notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to
9 the amendments made in Sections 6 to 15 of this Act.

10 ➔Section 58. Whereas many of the provisions of this Act impact tax returns
11 currently being filed by taxpayers, an emergency is declared to exist, and this Act takes
12 effect upon its passage and approval by the Governor or upon its otherwise becoming a
13 law.