

1 AN ACT relating to the Kentucky Reinvestment Act Program.

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

3 ➔SECTION 1. A NEW SECTION OF SUBCHAPTER 34 OF KRS CHAPTER  
4 154 IS CREATED TO READ AS FOLLOWS:

- 5 *(1) An approved company or, with the authority's consent, an affiliate of an*  
6 *approved company may impose wage assessments against employees as provided*  
7 *in this section, if a wage assessment is included in the incentives awarded to the*  
8 *approved company in the reinvestment agreement. The level of wage assessment*  
9 *shall be negotiated as part of the reinvestment agreement.*
- 10 *(2) If the reinvestment project is located in an enhanced county, the approved*  
11 *company or, with the authority's consent, an affiliate of an approved company*  
12 *may require that each employee subject to the income tax imposed by KRS*  
13 *141.020, whose job was preserved or created as a result of the project, as a*  
14 *condition of employment or the retention of employment, agree to pay an*  
15 *assessment up to twenty percent (20%) of the individual income tax rate imposed*  
16 *by KRS 141.020, and which assessment shall operate as the Commonwealth's*  
17 *wage assessment.*
- 18 *(3) If the reinvestment project is not located in an enhanced county, the approved*  
19 *company or, with the authority's consent, an affiliate of the approved company*  
20 *may require that each employee subject to the income tax imposed by KRS*  
21 *141.020, whose job was preserved or created as a result of the project, as a*  
22 *condition of employment or the retention of employment, agree to pay an*  
23 *assessment up to fifteen percent (15%) of the individual income tax rate imposed*  
24 *by KRS 141.020. The Commonwealth's wage assessment shall be either of the*  
25 *following:*
- 26 *(a) Up to ten percent (10%) of the individual income tax rate imposed by KRS*  
27 *141.020 if the project is located in a local jurisdiction where:*

- 1            1. No local occupational license fee is imposed;
- 2            2. a. A local occupational license fee greater than or equal to five
- 3                            percent (5%) of the individual income tax rate in KRS 141.020 is
- 4                            imposed; and
- 5                            b. The local jurisdiction agrees to forgo the local wage assessment,
- 6                            at least five percent (5%) of the individual income tax rate
- 7                            imposed by KRS 141.020 through credits against the local
- 8                            occupational license fee for the affected employees; or
- 9            3. a. A local occupational license fee less than five percent (5%) of the
- 10                            individual income tax rate in KRS 141.020 is imposed; and
- 11                            b. The local jurisdiction agrees to forgo the total amount of the
- 12                            local occupational license fee as the local wage assessment; or
- 13            (b) Up to two (2) times the forgone local wage assessment rate if the project is
- 14                            located in a local jurisdiction where:
- 15            1. a. A local occupational license fee greater than or equal to five
- 16                            percent (5%) of the individual income tax rate in KRS 141.020 is
- 17                            imposed; and
- 18                            b. The local jurisdiction agrees to forgo an amount of the local
- 19                            occupational license fee that is less than five percent (5%) of the
- 20                            individual income tax rate imposed by KRS 141.020 as the local
- 21                            wage assessment; or
- 22            2. a. A local occupational license fee less than five percent (5%) of the
- 23                            individual income tax rate in KRS 141.020 is imposed; and
- 24                            b. The local jurisdiction agrees to forgo only a portion of the total
- 25                            amount of the local occupational license fee as the local wage
- 26                            assessment.
- 27            (4) If the reinvestment project is not located in an enhanced county, and:

- 1        (a) Is located in a local jurisdiction that does not impose a local occupational  
2        license fee, the local jurisdiction shall be required to provide some  
3        alternative inducement satisfactory to the authority at the local level in  
4        order for a preliminarily approved company to receive final approval.  
5        However, the authority may waive this requirement if there are reasonable  
6        circumstances that prevent the local jurisdiction from providing a  
7        reasonable incentive; or
- 8        (b) Is located in a local jurisdiction that does impose a local occupational  
9        license fee, the local jurisdiction may request that the authority waive the  
10       local occupational license fee requirements established by subsection (3) of  
11       this section if the local jurisdiction offers alternative incentives of similar  
12       value satisfactory to the authority. The authority shall review all requests  
13       for a waiver, and may waive the local occupational license fee requirements  
14       and instead require the local jurisdiction to provide alternative incentives of  
15       similar value if the authority determines that the circumstances warrant an  
16       alternative contribution by the local jurisdiction.
- 17       (5) Each employee paying the assessment shall simultaneously be entitled to a credit  
18       against the Kentucky individual income tax required to be withheld under Section  
19       2 of this Act equal to the Commonwealth's wage assessment and shall be entitled  
20       to a credit against the local occupational license tax equal to the local wage  
21       assessment.
- 22       (6) If more than one (1) local jurisdiction imposes an occupational license fee, the  
23       local jurisdiction portion of the assessment shall be prorated proportionately  
24       among the taxes imposed by the local jurisdiction unless one (1) local jurisdiction  
25       agrees to forgo the receipt of these taxes in an amount equal to the local  
26       jurisdiction portion of the wage assessment, in which case no proration shall be  
27       made.

- 1 (7) If an approved company elects to impose the assessment as a condition of  
 2 employment, or retention of employment, it shall be authorized to deduct the  
 3 assessment from each payment of wages to the employee.
- 4 (8) Notwithstanding KRS 131.183(3), if an approved company elects not to deduct the  
 5 assessment from each payment of wages to the employee, but rather requests a  
 6 reimbursement of state tax imposed by KRS 141.020 or local occupational tax in  
 7 the aggregate after they have been paid to the state or local jurisdiction, no  
 8 interest shall be paid by the state or by the local jurisdiction on that  
 9 reimbursement.
- 10 (9) No credit or portion thereof shall be allowed against any occupational license fee  
 11 imposed by or dedicated solely to the board of education in a local jurisdiction.
- 12 (10) An approved company imposing an assessment shall make its payroll, books, and  
 13 records available to the authority or the department upon request, and shall file  
 14 with the authority or department documentation pertaining to the assessment as  
 15 the authority or department may require.
- 16 (11) Any assessment of the wages of employees of an approved company in connection  
 17 with their employment at a reinvestment project shall permanently cease at the  
 18 expiration of the reinvestment agreement.

19 ➔Section 2. KRS 141.310 is amended to read as follows:

- 20 (1) Every employer making payment of wages on or after January 1, 1971, shall deduct  
 21 and withhold upon the wages a tax determined under KRS 141.315 or by the tables  
 22 authorized by KRS 141.370.
- 23 (2) If wages are paid with respect to a period which is not a payroll period, the amount  
 24 to be deducted and withheld shall be that applicable in the case of a miscellaneous  
 25 payroll period containing a number of days, including Sundays and holidays, equal  
 26 to the number of days in the period with respect to which the wages are paid.
- 27 (3) If wages are paid by an employer without regard to any payroll period or other

1 period, the amount to be deducted and withheld shall be that applicable in the case  
2 of a miscellaneous payroll period containing a number of days equal to the number  
3 of days, including Sundays and holidays, which have elapsed since the date of the  
4 last payment of wages by the employer during the calendar year, or the date of  
5 commencement of employment with the employer during the year, or January 1 of  
6 the year, whichever is the later.

7 (4) In determining the amount to be deducted and withheld under this section, the  
8 wages may, at the election of the employer, be computed to the nearest dollar.

9 (5) The tables mentioned in subsection (1) of this section shall consider the standard  
10 deduction.

11 (6) The department may permit the use of accounting machines to calculate the proper  
12 amount to be deducted from wages when the calculation produces substantially the  
13 same result as set forth in the tables authorized by KRS 141.370. Prior approval of  
14 the calculation shall be secured from the department at least thirty (30) days before  
15 the first payroll period for which it is to be used.

16 (7) The department may, by administrative regulations, authorize employers:

17 (a) To estimate the wages which will be paid to any employee in any quarter of  
18 the calendar year;

19 (b) To determine the amount to be deducted and withheld upon each payment of  
20 wages to the employee during the quarter as if the appropriate average of the  
21 wages estimated constituted the actual wages paid; and

22 (c) To deduct and withhold upon any payment of wages to the employee during  
23 the quarter the amount necessary to adjust the amount actually deducted and  
24 withheld upon the wages of the employee during the quarter to the amount  
25 that would be required to be deducted and withheld during the quarter if the  
26 payroll period of the employee was quarterly.

27 (8) The department may provide by regulation, under the conditions and to the extent it

1       deems proper, for withholding in addition to that otherwise required under this  
2       section and KRS 141.315 in cases in which the employer and the employee agree to  
3       the additional withholding. The additional withholding shall for all purposes be  
4       considered tax required to be deducted and withheld under this chapter.

5       (9) Effective January 1, 1992, any employer required by this section to withhold  
6       Kentucky income tax who assesses and withholds from employees the job  
7       assessment fee provided in KRS 154.24-110 may offset a portion of the fee against  
8       the Kentucky income tax required to be withheld from the employee under this  
9       section. The amount of the offset shall be four-fifths (4/5) of the amount of the  
10      assessment fee withheld from the employee or the Commonwealth's contribution of  
11      KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply,  
12      the offset, the offset shall be one hundred percent (100%) of the assessment.

13     (10) Any employer required by this section to withhold Kentucky income tax who  
14     assesses and withholds from employees an assessment provided in KRS 154.22-070  
15     or KRS 154.28-110 may offset the fee against the Kentucky income tax required to  
16     be withheld from the employee under this section.

17     (11) Any employer required by this section to withhold Kentucky income tax who  
18     assesses and withholds from employees the job assessment fee provided in KRS  
19     154.26-100 may offset a portion of the fee against the Kentucky income tax  
20     required to be withheld from the employee under this section. The amount of the  
21     offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from  
22     the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated,  
23     the offset shall be one hundred percent (100%) of the assessment fee.

24     (12) Any employer required by this section to withhold Kentucky income tax who  
25     assesses and withholds from employees the job development assessment fee  
26     provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky  
27     income tax required to be withheld from the employee under this section. The

1 amount of the offset shall be equal to the Commonwealth's contribution as  
2 determined by KRS 154.23-055(1) to (3).

3 (13) Any employer required by this section to withhold Kentucky income tax who  
4 assesses and withholds from employees the job development assessment fee  
5 provided in KRS 154.32-090 may offset the state portion of the assessment against  
6 the Kentucky income tax required to be withheld from the employee under this  
7 section.

8 (14) Any employer required by this section to withhold Kentucky income tax who  
9 assesses and withholds from employees the job assessment fee provided in Section  
10 1 of this Act may offset the state portion of the assessment against the Kentucky  
11 income tax required to be withheld from the employee.

12 (15) Any employer required by this section to withhold Kentucky income tax may be  
13 required to post a bond with the department. The bond shall be a corporate surety  
14 bond or cash. The amount of the bond shall be determined by the department, but  
15 shall not exceed fifty thousand dollars (\$50,000).

16 ~~(16)~~ Any employer required by this section to withhold Kentucky income tax who  
17 assesses and withholds from employees an assessment provided in KRS 154.27-080  
18 may offset the assessment against the Kentucky income tax required to be withheld  
19 from the employee under this section.

20 ~~(17)~~ The Commonwealth may bring an action for a restraining order or a  
21 temporary or permanent injunction to restrain or enjoin the operation of an  
22 employer's business until the bond is posted or the tax required to be withheld is  
23 paid or both. The action may be brought in the Franklin Circuit Court or in the  
24 Circuit Court having jurisdiction of the defendant.

25 ➔Section 3. KRS 141.350 is amended to read as follows:

26 The amount deducted and withheld as tax under KRS 141.310 and 141.315 during any  
27 calendar year upon the wages of any individual and the amount of credit described in

1 KRS 154.22-070(2), 154.23-055, 154.24-110, 154.24-150(3) and (4), 154.26-100(2),  
2 154.27-080, 154.28-110, ~~for~~ 154.32-090, or Section 1 of this Act shall be allowed as a  
3 credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable  
4 years beginning in the calendar year. If more than one (1) taxable year begins in the  
5 calendar year, the amount shall be allowed as a credit against the tax for the last taxable  
6 year so beginning.

7 →Section 4. KRS 154.34-090 is amended to read as follows:

8 By October 1 of each year, the department shall certify to the authority, in the form of an  
9 annual report, aggregate tax credits and wage assessment fees claimed on tax returns  
10 filed during the fiscal year ending June 30 of that year by approved companies with  
11 respect to their reinvestment projects under this subchapter and KRS 141.415 and shall  
12 certify to the authority, within ninety (90) days from the date an approved company has  
13 filed its state tax return, when an approved company has taken incentives equal to its  
14 approved costs.

15 →Section 5. KRS 154.34-110 is amended to read as follows:

16 (1) The purpose of this subchapter is to provide a means for the Commonwealth to  
17 promote job retention by providing incentives for existing businesses to reinvest in  
18 existing operations in Kentucky for eligible companies.

19 (2) (a) To qualify for the incentives provided in this subchapter, an approved  
20 company shall:

- 21 1. Incur eligible equipment and related costs of at least one million dollars  
22 (\$1,000,000) for leased projects and at least two million five hundred  
23 thousand dollars (\$2,500,000) for all other reinvestment projects;
- 24 2. Agree to maintain a full-time employment base of at least eighty-five  
25 percent (85%) at the facility on the date of preliminary approval; and
- 26 3. Not have been awarded incentives under Subchapter 26 of this chapter  
27 for a period of at least five (5) years prior to applying for incentives



1 under this subchapter.

2 (b) An approved company meeting the expenditure and employment retention  
3 requirements established by this subsection shall be eligible to recover up to  
4 fifty percent (50%) of the amount expended for eligible equipment and related  
5 costs. The actual amount that an approved company may recover shall be  
6 negotiated with the authority, and may be less than the maximum amount for  
7 which the approved company is eligible.

8 (3) An approved company shall be eligible for incentives under this subchapter as  
9 follows:

10 (a) tax incentives of up to one hundred percent (100%) of the Kentucky income  
11 tax imposed under KRS 141.020 or 141.040 and the limited liability entity tax  
12 imposed under KRS 141.0401 on the income, Kentucky gross profits, or  
13 Kentucky gross receipts of the approved company generated by or arising  
14 from the eligible project, as set forth in KRS 154.34-120; and

15 (b) *Wage assessments against the gross wages of each employee subject to the*  
16 *Kentucky tax imposed by KRS 141.020, whose job was created or preserved*  
17 *as a result of the reinvestment project as provided in this subchapter,*  
18 *provided, however, the maximum amount of wage assessments for the*  
19 *reinvestment projects receiving preliminary approval in each fiscal year*  
20 *shall be capped at twenty-five million dollars (\$25,000,000).*

21 (4) The General Assembly finds and declares that:

22 (a) The general welfare and material well-being of the citizens of the  
23 Commonwealth depend in large measure upon the reinvestment and  
24 development of existing industry in the Commonwealth;

25 (b) It is in the best interest of the Commonwealth to induce reinvestment in  
26 existing facilities of eligible companies within the Commonwealth in order to  
27 advance the public purposes of relieving unemployment by preserving jobs

1           that may be lost if not for the incentives to be offered by the authority to  
2           approved companies, and by preserving and creating sources of tax revenues  
3           for the support of public services provided by the Commonwealth; and

4           (c) The authority prescribed by this subchapter and the purposes to be  
5           accomplished under this subchapter are proper governmental and public  
6           purposes for which public moneys may be expended.

7           (5) On or before November 1, 2021, and each November 1 thereafter, the authority  
8           shall submit an overview report to the Interim Joint Committee on Appropriations  
9           and Revenue and the Governor on the success or failure of each completed project  
10          in order to determine the effectiveness of the program. The report shall include but  
11          not be limited to the following information:

12          (a) The number of applications receiving preliminary approval during the fiscal  
13          year;

14          (b) The number of final approvals issued during the fiscal year;

15          (c) The total amount of eligible equipment and other costs projected by the  
16          approved company at preliminary approval;

17          (d) The total amount of eligible equipment and other costs actually incurred by  
18          the approved company at final approval;

19          (e) The total number of full time jobs required to be preserved or retained as a  
20          result of the reinvestment project;

21          (f) The total actual number of full-time jobs reported by the reinvestment project  
22          as being preserved or retained on an annual basis;

23          (g) The maximum approved costs that may be recovered by the approved  
24          companies for the reinvestment projects; and

25          (h) The location of the reinvestment projects receiving preliminary and final  
26          approval during the fiscal year.