

1 AN ACT relating to economic development, making an appropriation therefor, and
2 declaring an emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) As used in this section:*

7 *(a) "Approved company" has the same meaning as in Section 9 or 13 of this*
8 *Act;*

9 *(b) "Authority" has the same meaning as in Section 9 or 13 of this Act; and*

10 *(c) "Credit" means the refundable economic development credit provided to an*
11 *approved company by the authority in accordance with Section 10 or 14 of*
12 *this Act.*

13 *(2) (a) For taxable years beginning on or after January 1, 2026, there shall be*
14 *allowed a nontransferable, refundable economic development credit against*
15 *the tax imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering*
16 *of the credit as provided in Section 2 of this Act.*

17 *(b) The amount of the credit that may be claimed in any taxable year by an*
18 *approved company shall be determined by the authority in accordance with*
19 *the provisions of Section 10 or 14 of this Act, as applicable.*

20 *(3) The department shall:*

21 *(a) Promulgate administrative regulations in accordance with KRS Chapter*
22 *13A to administer the credit;*

23 *(b) Work with the authority to determine the approved amount of refundable*
24 *credit or apportionable share of refundable credit available to be claimed in*
25 *any tax year on a return as filed by an approved company, or each partner,*
26 *member, or shareholder of an approved company; and*

27 *(c) Report to the authority on the refundable credits claimed in accordance*

1 with this section and include:

2 1. The total amount of refundable credit awarded for each taxable year,

3 by county, with location distinction of a rural county or any other

4 Kentucky county;

5 2. Each taxpayer claiming a credit; and

6 3. The total amount of wages paid to a full-time employee by an

7 approved company and included in credit computation.

8 (4) The information required to be reported under subsection (3) of this section shall

9 not be considered confidential taxpayer information and shall not be subject to

10 KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes

11 prohibiting disclosure or reporting of information.

12 ➔Section 2. KRS 141.0205 is amended to read as follows:

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

16 (1) The nonrefundable business incentive credits against the tax imposed by KRS
17 141.020 shall be taken in the following order:

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

19 (b) The economic development credits computed under KRS 141.347, 141.381,
20 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
21 154.12-2088;

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

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

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

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

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

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

- 1 (i) The~~tax~~ credit for cash contributions in investment funds permitted by KRS
2 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
3 154.20-258;
- 4 (j) The research facilities credit permitted by KRS 141.395;
- 5 (k) The employer High School Equivalency Diploma program incentive credit
6 permitted under KRS 151B.402;
- 7 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 8 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 9 (n) The clean coal incentive credit permitted by KRS 141.428;
- 10 (o) The ethanol credit permitted by KRS 141.4242;
- 11 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 12 (q) The energy efficiency credits permitted by KRS 141.436;
- 13 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 14 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 15 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 16 (u) The distilled spirits credit permitted by KRS 141.389;
- 17 (v) The angel investor credit permitted by KRS 141.396;
- 18 (w) The film industry credit permitted by KRS 141.383 for applications approved
19 on or after April 27, 2018, but before January 1, 2022;
- 20 (x) The inventory credit permitted by KRS 141.408;
- 21 (y) The renewable chemical production credit permitted by KRS 141.4231; and
- 22 (z) The qualified broadband investment~~tax~~ credit permitted by KRS 141.391;
- 23 (2) After the application of the nonrefundable credits in subsection (1) of this section,
24 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
25 shall be taken in the following order:
- 26 (a) The individual credits permitted by KRS 141.020(3);
- 27 (b) The credit permitted by KRS 141.066;

- 1 (c) The tuition credit permitted by KRS 141.069;
- 2 (d) The household and dependent care credit permitted by KRS 141.067;
- 3 (e) The income gap credit permitted by KRS 141.066; and
- 4 (f) The Education Opportunity Account Program~~[-tax]~~ credit permitted by KRS
- 5 141.522;
- 6 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 7 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 8 taken in the following order:
- 9 (a) The individual withholding tax credit permitted by KRS 141.350;
- 10 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 11 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 12 171.397(1)(b);
- 13 (d) The film industry~~[-tax]~~ credit permitted by KRS 141.383 for applications
- 14 approved prior to April 27, 2018, or on or after January 1, 2022;
- 15 (e) The development area~~[-tax]~~ credit permitted by KRS 141.398;
- 16 (f) The decontamination~~[-tax]~~ credit permitted by KRS 141.419;~~[-and]~~
- 17 (g) The pass-through entity tax credit permitted by KRS 141.209; **and**
- 18 **(h) The economic development credit permitted by Section 1 of this Act;**
- 19 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
- 20 tax imposed by KRS 141.040;
- 21 (5) The following nonrefundable credits shall be applied against the sum of the tax
- 22 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
- 23 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 24 (a) The economic development credits computed under KRS 141.347, 141.381,
- 25 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
- 26 154.12-2088;
- 27 (b) The qualified farming operation credit permitted by KRS 141.412;

- 1 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 2 (d) The health insurance credit permitted by KRS 141.062;
- 3 (e) The unemployment credit permitted by KRS 141.065;
- 4 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 5 (g) The coal conversion credit permitted by KRS 141.041;
- 6 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
7 ending prior to January 1, 2008;
- 8 (i) The ~~tax~~ credit for cash contributions to investment funds permitted by KRS
9 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
10 154.20-258;
- 11 (j) The research facilities credit permitted by KRS 141.395;
- 12 (k) The employer High School Equivalency Diploma program incentive credit
13 permitted by KRS 151B.402;
- 14 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 15 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 16 (n) The clean coal incentive credit permitted by KRS 141.428;
- 17 (o) The ethanol credit permitted by KRS 141.4242;
- 18 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 19 (q) The energy efficiency credits permitted by KRS 141.436;
- 20 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
21 permitted by KRS 141.437;
- 22 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 23 (t) The railroad expansion credit permitted by KRS 141.386;
- 24 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 25 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 26 (w) The distilled spirits credit permitted by KRS 141.389;
- 27 (x) The film industry credit permitted by KRS 141.383 for applications approved

- 1 on or after April 27, 2018, but before January 1, 2022;
- 2 (y) The inventory credit permitted by KRS 141.408;
- 3 (z) The renewable chemical production~~[-tax]~~ credit permitted by KRS 141.4231;
- 4 (aa) The Education Opportunity Account Program~~[-tax]~~ credit permitted by KRS
- 5 141.522; and
- 6 (ab) The qualified broadband investment~~[-tax]~~ credit permitted by KRS 141.391;
- 7 and
- 8 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 9 the refundable credits shall be taken in the following order:
- 10 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 11 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 12 171.397(1)(b);
- 13 (c) The film industry~~[-tax]~~ credit permitted by KRS 141.383 for applications
- 14 approved prior to April 27, 2018, or on or after January 1, 2022;
- 15 (d) The decontamination~~[-tax]~~ credit permitted by KRS 141.419;~~[-and]~~
- 16 (e) The pass-through entity tax credit permitted by KRS 141.209; **and**
- 17 **(f) The economic development credit permitted by Section 1 of this Act.**

18 ➔SECTION 3. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER

19 154 IS CREATED TO READ AS FOLLOWS:

20 **(1) As used in this section:**

- 21 **(a) "Authority" means the Kentucky Economic Development Finance**
- 22 **Authority established in KRS 154.20-010;**
- 23 **(b) "Cabinet" means the Cabinet for Economic Development;**
- 24 **(c) "Economic development project" means a project employing a minimum of**
- 25 **twenty-five (25) full-time employees;**
- 26 **(d) "Eligible recipient" means a nonprofit corporation, city or county**
- 27 **government, or industrial development authority located in a heritage**

1 county;

2 (e) "Eligible use" means financing support to an eligible recipient to assist
3 with compliance risk mitigation for New Markets Development Program
4 Tax Credits or low-interest rate loans to eligible recipients to assist with
5 construction of new buildings or renovation of existing buildings for lease
6 to economic development projects with well-paying wages where the
7 recipient will serve as lessor;

8 (f) "Full-time employee" means a job held by a person who:

- 9 1. Is required to work a minimum of thirty-five (35) hours per week; and
10 2. Is subject to the Kentucky individual income tax imposed by KRS
11 141.020;

12 (g) "Fund" means the heritage community revolving fund established in
13 subsection (5) of this section;

14 (h) "Heritage county" has the same meaning as in Section 13 of this Act; and

15 (i) "Well-paying wages" means wages not less than two hundred fifty percent
16 (250%) of the federal minimum wage that are paid to residents of a heritage
17 county.

18 (2) The authority shall use moneys in the fund to provide financing assistance to
19 support New Markets Development Program Tax Credit applications mitigating
20 compliance risks associated therewith, and to issue low-interest rate loans to
21 eligible recipients to assist with construction of new buildings for lease to
22 economic development projects or renovation of existing buildings for lease to
23 economic development projects.

24 (3) The cabinet shall determine the terms and conditions of the agreements, monitor
25 performance of the economic development projects, secure reasonable collateral,
26 establish minimum debt coverage ratios requirements, and require demonstration
27 of the economic development project's capacity to fund all operations and

1 obligations of the project.

2 (4) The cabinet may provide financing under this section up to one hundred
 3 thousand dollars (\$100,000) per new full-time employee of an approved economic
 4 development project, not to exceed two million five hundred thousand dollars
 5 (\$2,500,000) per project.

6 (5) (a) There is hereby established in the State Treasury a trust and agency
 7 account to be known as the heritage community revolving fund;

8 (b) The cabinet shall administer the fund.

9 (c) The fund shall consist of appropriations, contributions, donations, gifts, or
 10 federal funds.

11 (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the
 12 close of the fiscal year shall not lapse but shall be carried forward into the
 13 succeeding fiscal year.

14 (e) Any interest earnings of the fund shall become part of the fund and shall
 15 not lapse.

16 ➔Section 4. KRS 154.12-204 is amended to read as follows:

17 As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

18 (1) "Agribusiness" has the same meaning as in KRS 154.32-010;

19 (2) "Alternative fuel production" has the same meaning as in KRS 154.32-010;

20 (3) "Applicant" means a business or industry that has made application for a grant-in-
 21 aid or skills training investment credit as authorized by KRS 154.12-205 to 154.12-
 22 208;

23 (4) "Approved company" means any qualified company seeking to sponsor an
 24 occupational upgrade training program or skills upgrade training program for the
 25 benefit of one (1) or more of its employees, which is approved by the corporation to
 26 receive grant-in-aid or skills training investment credits as provided by KRS
 27 154.12-205 to 154.12-208;

- 1 (5) "Approved costs" means costs confirmed as eligible by the corporation, including:
- 2 (a) Fees or salaries required to be paid to instructors who are employees of the
- 3 approved company, instructors who are full-time, part-time, or adjunct
- 4 instructors with an educational institution, and instructors who are consultants
- 5 on contract with an approved company in connection with an occupational
- 6 upgrade training program or skills upgrade training program sponsored by an
- 7 approved company;
- 8 (b) The cost of supplies, equipment, and materials used exclusively in an
- 9 occupational upgrade training program or skills upgrade training program
- 10 sponsored by an approved company;
- 11 (c) Employee wages to be paid in connection with an occupational upgrade
- 12 training program or skills upgrade training program sponsored by an approved
- 13 company; and
- 14 (d) All other costs of a nature comparable to those described in this subsection;
- 15 (6) "Board" means the board of directors of the Bluegrass State Skills Corporation;
- 16 (7) "Carbon dioxide or hydrogen transmission pipeline" has the same meaning as in
- 17 KRS 154.32-010;
- 18 (8) "Coal severing and processing" has the same meaning as in KRS 154.32-010;
- 19 (9) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
- 20 (10) "Educational institution" means a public or nonpublic secondary or postsecondary
- 21 institution or an independent provider within the Commonwealth authorized by law
- 22 to provide a program of skills training or education beyond the secondary school
- 23 level or to adult persons without a high school diploma or its equivalent;
- 24 (11) "Employee" means any person:
- 25 (a) Who is currently a permanent full-time employee of the qualified company;
- 26 (b) Who is subject to the Kentucky individual income tax imposed by KRS
- 27 141.020~~Who is a resident of Kentucky, as that term is defined in KRS~~

1 ~~141.010~~; and

2 (c) Who is paid the minimum base hourly wage plus employee benefits equal to
3 or greater than fifteen percent (15%) of the minimum base hourly wage. If the
4 qualified company does not provide employee benefits equal to at least fifteen
5 percent (15%) of the minimum base hourly wage, the qualified company may
6 still qualify if it provides the full-time employee total hourly compensation
7 equal to or greater than one hundred fifteen percent (115%) of the minimum
8 base hourly wage through increased hourly wages combined with at least one
9 (1) company-paid employee benefit;

10 (12) "Energy-efficient alternative fuel production" has the same meaning as in KRS
11 154.32-010;

12 (13) "Gasification production" has the same meaning as in KRS 154.32-010;

13 (14) "Grant-in-aid" means funding that is provided to qualified companies by the BSSC
14 for the development or expansion of a program as provided in this chapter;

15 (15) "Headquarters" has the same meaning as in KRS 154.32-010;

16 **(16) "Heritage county" has the same meaning as in Section 13 of this Act;**

17 ~~(17)~~ "Hospital" has the same meaning as in KRS 154.32-010;

18 ~~(18)~~ "Manufacturing" has the same meaning as in KRS 154.32-010;

19 ~~(19)~~ "Minimum base hourly wage" means the minimum wage amount paid to an
20 employee by a qualified company, which shall not be less than **two hundred**
21 **percent (20%)**~~one hundred fifty percent (150%)~~ of the federal minimum wage
22 **for a company located in a heritage county or three hundred percent (300%) of**
23 **the federal minimum wage for a company located in any other county;**

24 ~~(20)~~ "Nonretail service or technology" means the same as in KRS 154.32-010;

25 ~~(21)~~ "Occupational upgrade training" means employee training sponsored by a
26 qualified company that is designed to qualify the employee for a promotional
27 opportunity with the qualified company;

1 ~~(21)~~ (22) "Program" or "program of skills training or education consistent with
2 employment needs" means a coordinated course of instruction which is designed to
3 prepare individuals for employment in a specific trade, occupation, or profession.

4 Such instruction may include:

- 5 (a) Classroom instruction;
- 6 (b) Classroom-related field, shop, factory, office, or laboratory work; and
- 7 (c) Basic skills, entry level training, job upgrading, retraining, and advance
8 training;

9 ~~(22)~~ (23) (a) "Qualified company" means any corporation, limited liability company,
10 partnership, limited partnership, sole proprietorship, business trust, or any
11 other legal entity through which business is conducted that is engaged in or is
12 planning to be engaged in one (1) or more of the following activities within
13 the Commonwealth:

- 14 1. Manufacturing;
- 15 2. Agribusiness;
- 16 3. Nonretail service or technology;
- 17 4. Headquarter operations, regardless of the underlying business activity of
18 the company;
- 19 5. Alternative fuel, gasification, energy-efficient alternative fuel, or
20 renewable energy production;
- 21 6. Carbon dioxide or hydrogen transmission pipeline;
- 22 7. Coal severing and processing; or
- 23 8. Hospital operations.

24 (b) "Qualified company" does not include companies where the primary activity
25 to be conducted within the Commonwealth is forestry, fishing, the provision
26 of utilities, construction, wholesale trade, retail trade, real estate, rental and
27 leasing, accommodation and food services, or public administration services;

1 ~~(24)~~~~(23)~~ "Renewable energy production" means the same as in KRS 154.32-010;

2 ~~(25)~~~~(24)~~ "Skills upgrade training" means employee training sponsored by a qualified
3 company that is designed to provide the employee with new skills necessary to
4 enhance productivity, improve performance, or retain employment, including but
5 not limited to technical and interpersonal skills, and training that is designed to
6 enhance computer skills, communication skills, problem solving, reading, writing,
7 or math skills of employees who are unable to function effectively on the job due to
8 deficiencies in these areas, are unable to advance on the job, or who risk
9 displacement because their skill deficiencies inhibit their training potential for new
10 technology;

11 ~~(26)~~~~(25)~~ "Skills training investment credit" means the credit against Kentucky income
12 tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
13 imposed by KRS 141.0401, as provided in this subchapter; and

14 ~~(27)~~~~(26)~~ "Technical assistance" means professional and any other assistance provided
15 by qualified companies to an educational institution, which is reasonably calculated
16 to support directly the development and expansion of a particular program as
17 defined herein.

18 ➔Section 5. KRS 154.12-207 is amended to read as follows:

19 (1) The corporation may, subject to appropriation from the General Assembly or from
20 funds made available to the corporation from any other public or private source,
21 provide grants-in-aid to qualified companies, not in excess of five hundred thousand
22 dollars (\$500,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for
23 programs which are consistent with the provisions of this chapter.

24 (2) The corporation may, in accordance with KRS 154.12-204 to 154.12-208, award a
25 skills training investment credit to an approved company. The amount of the skills
26 training investment credit awarded by the corporation shall be an amount not to
27 exceed fifty percent (50%) of the amount of approved costs incurred by the

1 approved company in connection with its program of occupational upgrade training
2 or skills upgrade training, the credit amount not to exceed five thousand dollars
3 (\$5,000)~~[two thousand dollars (\$2,000)]~~ per trainee for an approved company in a
4 heritage company and four thousand dollars (\$4,000) per trainee for an approved
5 company in any other county, and, in the aggregate, not to exceed five hundred
6 thousand dollars (\$500,000) for each approved company per fiscal year. The
7 corporation shall only approve one (1) application per fiscal year for each approved
8 company.

9 (3) To apply for a grant-in-aid or a skills training investment credit, a qualified
10 company shall submit an application to the Bluegrass State Skills Corporation
11 before commencing its program of skills upgrade or occupational upgrade training.
12 Each application shall contain information the corporation requires, including but
13 not limited to:

- 14 (a) A proposal for a program of skills upgrade training, occupational upgrade
15 training, and education;
- 16 (b) A description of each component of the proposed training program and the
17 number of employee training hours requested; and
- 18 (c) A statement of the total anticipated costs and expenses of the program,
19 including a breakdown of the costs associated with equipment, personnel,
20 facilities, and materials.

21 (4) Approval of the grant-in-aid and skills training investment credit application by the
22 board shall be based upon the following criteria:

- 23 (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
- 24 (b) Participants in the program must qualify as an employee as defined by KRS
25 154.12-204;
- 26 (c) The program must involve an area of skills upgrade training, occupational
27 upgrade training, and education which is needed by a qualified company and

1 for which a shortage of qualified individuals exists within the
2 Commonwealth; and

3 (d) The grant-in-aid and skills training investment credit must be essential to the
4 success of the program as the resources are inadequate to attract the technical
5 assistance and financial support necessary from a qualified company.

6 (5) After a review of applications for grant-in-aid and skills training investment credits,
7 the corporation may designate the qualified company as an approved company and
8 approve the maximum amount of grants and skills training investment credits the
9 approved company is eligible to receive. The maximum amount of skills training
10 investment credits approved for all qualified companies by the corporation shall not
11 exceed two million five hundred thousand dollars (\$2,500,000) for each fiscal year.
12 Skills training investment credits that remain unallocated by the corporation at the
13 end of its fiscal year shall lapse and shall not be carried forward to a new fiscal
14 year.

15 (6) The approved company shall complete all programs of skills upgrade training or
16 occupational upgrade training within three (3) years~~one (1) year~~ from the date of
17 approval by the corporation and shall certify the completion of these programs to
18 the corporation. Once they are completed and certified and all required
19 documentation is provided and received by the corporation, the corporation shall
20 disburse the grant funds or notify the approved company of the final authorized
21 skills training investment credit.

22 ➔Section 6. KRS 154.21-015 is amended to read as follows:

23 As used in KRS 154.21-010 to 154.21-040:

24 (1) "Cabinet" means the Cabinet for Economic Development;

25 (2) "County population ranking" means the score of each county determined by the
26 cabinet under KRS 154.21-017;

27 (3) "Eligible grant recipient" means a grant applicant that is a local government or an

1 economic development authority in an economic development district in this
2 Commonwealth that is engaged in an eligible project;

3 (4) "Eligible project":

4 (a) Means an economic development project initiated on a property that meets the
5 availability requirements in KRS 154.21-035(3); and

6 (b) Requires local matching funds based on the county population ranking;

7 (5) "Eligible use":

8 (a) Means the authorized purpose for which an awarded grant may be used
9 depending on the source of funds from the Commonwealth; and

10 (b) May include expenditures in any of the following categories or some
11 combination thereof:

12 1. Due diligence study;

13 2. Property acquisition;

14 3. Infrastructure extension or improvement;

15 4. Site preparation work;

16 5. Building construction or renovation; or

17 6. Road improvement;

18 (6) **"Heritage county" has the same meaning as in Section 13 of this Act;**

19 **(Z)** "Population density":

20 (a) Means the number of persons per square mile of a county;

21 (b) Is calculated by dividing the total county population by the square miles in the
22 county;

23 (c) Is determined by using the population estimate from the most recent available
24 five (5) year American Community Survey as published by the United States
25 Census Bureau; and

26 (d) Is used to rank each county in descending order, with the county having the
27 largest population density receiving a rank of one (1) and the county with the

1 smallest population density receiving a rank of one hundred twenty (120);

2 ~~(8)~~~~(7)~~ "Regional project" means an eligible project that is proposed by eligible grant
3 recipients residing in different counties in this Commonwealth who submit a single
4 grant application as co-applicants; and

5 ~~(9)~~~~(8)~~ "Ten (10) year percentage change in population":

6 (a) Means the percentage change in population within a county;

7 (b) Is determined by comparing the population estimate from the most recent
8 available five (5) year American Community Survey as published by the
9 United States Census Bureau to the same survey ten (10) years prior to the
10 most recent available survey; and

11 (c) Is used to rank each county in descending order, with the county having the
12 largest positive percentage change in population receiving a rank of one (1)
13 and the county with the largest negative percentage change receiving a rank of
14 one hundred twenty (120).

15 ➔Section 7. KRS 154.21-017 is amended to read as follows:

16 (1) The Kentucky Product Development Initiative of 2024 is hereby established under
17 the cabinet. The cabinet shall partner with the Kentucky Association for Economic
18 Development to administer the program. The cabinet's administration of the
19 program includes:

20 (a) Creating and making available a standardized grant application and regional
21 grant application;

22 (b) Adopting a standardized scoring system pursuant to KRS 154.21-040;

23 (c) Reviewing the applications and proposals submitted by the proposed grant
24 recipients;

25 (d) Verifying the eligibility of the proposed grant recipients;

26 (e) Verifying that the proposed grant recipient seeks grant money for an eligible
27 project prior to prioritizing all eligible projects;

- 1 (f) Determining the county's population ranking under subsection (3) of this
2 section;
- 3 (g) Awarding grants to selected eligible grant recipients in multiple rounds of
4 funding; and
- 5 (h) Compiling and submitting the reports required by subsections (3) and (5) of
6 this section.
- 7 (2) Upon receipt of eligible grant recipients and eligible project recommendations and
8 prioritization from the Kentucky Association for Economic Development and the
9 third-party independent site selection consultant, the cabinet shall verify and
10 process the eligible grant recipients and eligible project recommendations with the
11 intent to approve and award grants under the economic development fund program
12 pursuant to KRS 154.12-100 and based on the following criteria:
- 13 (a) Consideration of whether the eligible grant recipient had received a grant
14 award from the Kentucky Product Development Initiative of 2022 under KRS
15 154.21-020; and
- 16 (b) The matching funds for the selected grant recipient's contribution to its
17 eligible project based on the county population ranking determined under
18 subsection (3) of this section.
- 19 (3) (a) On or before June 1, 2024, and no later than June 1 every two (2) years
20 thereafter, the cabinet shall determine a county population ranking for each
21 county by adding the following two (2) factors:
- 22 1. The population density ranking; and
23 2. The ten (10) year percentage change in population ranking.
- 24 (b) The required local match for each county shall be as follows:
- 25 1. Eligible projects in counties where the county population ranking is
26 greater than or equal to one hundred ninety-three (193) shall provide a
27 minimum amount of local matching funds equal to ten percent (10%) of

- 1 the project cost;
- 2 2. Eligible projects in counties where the county population ranking is less
3 than one hundred ninety-three (193) but greater than or equal to one
4 hundred forty-five (145) shall provide a minimum amount of local
5 matching funds equal to twelve and one-half percent (12.5%) of the
6 project cost;
- 7 3. Eligible projects in counties where the county population ranking is less
8 than one hundred forty-five (145) but greater than or equal to ninety-
9 seven (97) shall provide a minimum amount of local matching funds
10 equal to fifteen percent (15%) of the project cost;
- 11 4. Eligible projects in counties where the county population ranking is less
12 than ninety-seven (97) but greater than or equal to forty-nine (49) shall
13 provide a minimum amount of local matching funds equal to seventeen
14 and one-half percent (17.5%) of the project cost;
- 15 5. Eligible projects in counties where the county population ranking is less
16 than forty-nine (49) shall provide a minimum amount of local matching
17 funds equal to twenty percent (20%) of the project cost; and
- 18 6. For eligible projects requesting due diligence as an eligible use, the due
19 diligence must be completed prior to acquisition of the site. If the due
20 diligence result leads to the decision to not purchase the site, then the
21 cabinet may expend up to two hundred thousand dollars (\$200,000) with
22 no local matching funds required. If the amount to be reimbursed by the
23 cabinet exceeds two hundred thousand dollars (\$200,000), the cabinet
24 shall report to the Interim Joint Committee on Appropriations and
25 Revenue, or the Senate Standing Committee on Appropriations and
26 Revenue and the House Standing Committee on Appropriations and
27 Revenue, within five (5) days of the disbursement. The report shall

1 include the name and county location of the eligible project approved,
2 the amount of the grant awarded, the amount of the funding disbursed
3 for due diligence and the extenuating circumstances related to the due
4 diligence study.

5 (c) On or before July 1, 2024, and no later than July 1 every two (2) years
6 thereafter, the cabinet shall report to the Legislative Research Commission
7 and the Interim Joint Committee on Appropriations and Revenue the
8 following information for each county:

- 9 1. The county name;
- 10 2. The population density ranking for that county;
- 11 3. The ten (10) year percentage change in population ranking for that
12 county; and
- 13 4. The county population ranking for that county.

14 (d) When awarding grants in this initiative, the cabinet shall not award grants to:

- 15 1. An eligible grant recipient or a group of eligible grant recipients in
16 excess of the amount allocated to the county in which the county is
17 located, except when pooled pursuant to subsection (4) of this section;
18 or
- 19 2. An eligible grant recipient that received a grant award from the
20 Kentucky Product Development Initiative of 2022 prior to all other
21 eligible grant recipients receiving a grant award from the Kentucky
22 Product Development Initiative of 2024 if the eligible project scores are
23 equal to or above the score of an eligible project from an eligible grant
24 recipient who received a grant award from the Kentucky Product
25 Development Initiative of 2022 under KRS 154.21-040, and in the case
26 where the scores are equal, discretion by the Kentucky Association for
27 Economic Development and the cabinet shall be used.

- 1 (e) The maximum funding available for an approved development project is two
2 million five hundred thousand (\$2,500,000) in a heritage county and two
3 million dollars (\$2,000,000) per county in all other counties, except as
4 permitted by subsection (4) of this section.
- 5 (f) If there are funds available after the first round of grant awards of the
6 Kentucky Product Development Initiative of 2024, the cabinet shall initiate
7 additional rounds of grant awards.
- 8 (4) (a) For selected eligible grant recipients that are involved in a regional project,
9 the cabinet may pool the potential allocation of funds available for each
10 county represented by the eligible grant recipients for the grant amount
11 awarded.
- 12 (b) A county that is an eligible grant recipient involved in a regional project shall
13 provide that county's local matching funds based on the county population
14 ranking determined under subsection (3) of this section and each county's
15 local matching funds may be pooled as described in paragraph (a) of this
16 subsection.
- 17 (5) Beginning no later than November 1, 2024, and annually thereafter until the
18 authorized appropriation is spent or returned, the cabinet shall compile and submit a
19 report for each application approved by the Kentucky Economic Development
20 Finance Authority for the Kentucky Product Development Initiative of 2024. The
21 report shall be electronically delivered to the Legislative Research Commission and
22 the Interim Joint Committee on Appropriations and Revenue and contain the
23 following information:
- 24 (a) The name of the applicant, a description of the eligible project, and the
25 location of each proposed project for which an application was approved;
- 26 (b) The date the application was approved by the Kentucky Economic
27 Development Finance Authority;

- 1 (c) The amount of funding authorized for each project approved;
- 2 (d) The total amount of funding disbursed for each project approved; and
- 3 (e) The round of funding for which each project received approval.
- 4 (6) The Kentucky Product Development Initiative of 2024 shall begin July 1, 2024.

5 ➔Section 8. KRS 154.21-035 is amended to read as follows:

- 6 (1) The Kentucky Association for Economic Development shall evaluate each
7 applicant's eligible project according to the criteria described in this section and
8 KRS 154.21-040 for the purposes of compiling a recommendation and score for the
9 eligible project and project site pursuant to KRS 154.21-040.
- 10 (2) The Kentucky Association for Economic Development and the third-party
11 independent site selection consultant shall consider the requirements in the
12 following five (5) categories in the evaluation of proposed projects:
 - 13 (a) Property availability as described in subsection (3) of this section;
 - 14 (b) Property development ability as described in subsection (4) of this section;
 - 15 (c) Zoning availability as described in subsection (5) of this section;
 - 16 (d) Transportation accessibility as described in subsection (6) of this section; and
 - 17 (e) Utility adequacy as described in subsection (7) of this section.
- 18 (3) The property that the eligible project occupies or is proposed to occupy shall be
19 available. Property shall be deemed available for the purposes of this program:
 - 20 (a) If the property is publicly owned; or
 - 21 (b) If the project's eligible use includes property acquisition or a due diligence
22 study. In this situation the application shall include one (1) of the following:
 - 23 1. A legally binding letter of intent or option for the sale to an eligible
24 grant recipient; or
 - 25 2. An agreement for the sale to an eligible recipient.
- 26 (4) The property that the eligible project occupies or is proposed to occupy shall be
27 developable. Property shall be deemed developable if:

- 1 (a) The acreage intended for development is clearly defined by either:
- 2 1. The grant applicant; or
- 3 2. An engineering partner during or after a site visit, if the applicant is
- 4 unable to define the developable acreage; and
- 5 (b) The property is free of impediments to development, or a known impediment
- 6 can be mitigated by a grant applicant. A property is free of impediments if it:
- 7 1. Is located outside of the one hundred (100) year and five hundred (500)
- 8 year flood zone;
- 9 2. Is free of recognized environmental conditions;
- 10 3. Is free of wetlands;
- 11 4. Is free of state and federally threatened and endangered species;
- 12 5. Is free of areas of archaeological or historical significance; and
- 13 6. Possesses soils compatible with the grant applicant's intended
- 14 development.
- 15 (5) The property that the eligible project occupies or is proposed to occupy shall be
- 16 appropriately zoned for the intended use or shall be able to be rezoned within ninety
- 17 (90) calendar days. The properties surrounding the grant applicant's project site
- 18 shall be zoned so they are compatible with the grant applicant's intended
- 19 development and use of the project site.
- 20 (6) The property that the eligible project occupies or is proposed to occupy shall be
- 21 directly served by a road or roads that are compatible with the intended use of the
- 22 property. Additionally, if the property is marketed as rail-served, the property shall
- 23 be deemed rail-served if:
- 24 (a) The grant applicant provides documentation from the rail provider that
- 25 evinces that rail infrastructure exists and the rail provider actually provides
- 26 rail service; or
- 27 (b) If the rail service does not exist at the time of the grant application, the grant

1 applicant provides documentation from the rail provider that evinces that the
2 project site will be able to be rail-served within twelve (12) months.

- 3 (7) The property that the eligible project occupies or is proposed to occupy shall have
4 access to adequate utilities and shall be served or able to be served by the
5 following:
- 6 (a) Electric infrastructure;
 - 7 (b) Natural gas *or propane*;
 - 8 (c) Water infrastructure and a public water system;
 - 9 (d) Wastewater infrastructure and a public wastewater treatment plant, excluding
10 a septic wastewater treatment system; and
 - 11 (e) Fiber telecommunications infrastructure.

12 ➔Section 9. KRS 154.25-010 is amended to read as follows:

13 As used in this subchapter:

- 14 (1) "Activation date" means a date selected by an approved company and set forth in
15 the jobs retention agreement at any time within a three (3) year period after the date
16 of final approval of the agreement by the authority upon which the required
17 investment shall be made and the jobs retention project completed;
- 18 (2) "Agreement" means a jobs retention agreement entered into pursuant to KRS
19 154.25-030 on behalf of the authority and an approved company with respect to a
20 jobs retention project;
- 21 (3) "Agribusiness" has the same meaning as in KRS 154.32-010;
- 22 (4) "Approved company" means any eligible company approved by the authority
23 pursuant to KRS 154.25-030 for a jobs retention project;
- 24 (5) "Approved costs" means that portion of the eligible costs approved by the authority
25 that an approved company may recover through the inducements authorized by
26 KRS 154.25-030, being a percentage of eligible costs as approved by the authority;
- 27 (6) "Assessment" means the wage assessment fee authorized by KRS 154.25-040;

- 1 (7) "Authority" means the Kentucky Economic Development Finance Authority
2 created by KRS 154.20-010;
- 3 (8) "Commonwealth" means the Commonwealth of Kentucky;
- 4 (9) "Eligible company" means any corporation, limited liability company, partnership,
5 limited partnership, sole proprietorship, business trust, or any other entity that has
6 been operating within the Commonwealth on a continuous basis for at least sixty
7 (60) months preceding the request for approval by the authority of the project which
8 meets the standards set forth in KRS 154.25-020, has been previously approved for
9 economic development incentives from the Commonwealth related to one (1) or
10 more of its facilities, and employs a minimum of **two hundred fifty (250) full-time**
11 **persons for a project located in a heritage county or** one thousand (1,000) full-
12 time persons **for a project located in any other county** engaged in one (1) or more
13 of the following activities:
- 14 (a) Manufacturing;
- 15 (b) Agribusiness;
- 16 (c) Nonretail service or technology; or
- 17 (d) Headquarters operations, regardless of the underlying business activity of the
18 company.
- 19 "Eligible company" does not include companies where the primary activity to be
20 conducted within the Commonwealth is forestry, fishing, mining, coal or mineral
21 processing, the provision of utilities, construction, wholesale trade, retail trade, real
22 estate, rental and leasing, educational services, accommodation and food services,
23 or public administration services;
- 24 (10) "Eligible costs" means:
- 25 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
26 builders, suppliers, deliverymen, and materialmen in connection with the
27 acquisition, construction, equipping, rehabilitation, and installation of a jobs

- 1 retention project;
- 2 (b) The cost of contract bonds and of insurance of all kinds that may be required
3 or necessary during the course of a jobs retention project which is not paid by
4 the vendor, supplier, deliveryman, contractor, or otherwise provided;
- 5 (c) All costs of architectural and engineering services, including estimates, plans
6 and specifications, preliminary investigations, and supervision of
7 construction, rehabilitation, and installation, as well as for the performance of
8 all the duties required by or consequent upon the acquisition, construction,
9 equipping, rehabilitation, and installation of a jobs retention project;
- 10 (d) All costs required to be paid under the terms of any contract for the
11 acquisition, construction, equipping, rehabilitation, and installation of a jobs
12 retention project;
- 13 (e) All costs required for the installation of utilities, including but not limited to
14 water, sewer, sewer treatment, gas, electricity, communications, and railroads,
15 and including off-site construction of the facilities paid for by the approved
16 company; and
- 17 (f) All other costs comparable with those described above;
- 18 (11) "Final approval" means the action taken by the authority authorizing the eligible
19 company to receive inducements under this subchapter;
- 20 (12) "Headquarters" has the same meaning as in KRS 154.32-010;
- 21 (13) **"Heritage county" has the same meaning as in Section 13 of this Act;**
- 22 **(14)** "Inducements" means the Kentucky tax credit and the wage assessment fee as
23 prescribed in KRS 154.25-030 and 154.25-040;
- 24 **(15)**~~(14)~~ "Jobs retention project" or "project" means the acquisition, construction, and
25 installation of new equipment and, with respect thereto, the construction,
26 rehabilitation, and installation of improvements to facilities necessary to house the
27 acquisition, construction, and installation of new equipment, including surveys;

1 installation of utilities, including water, sewer, sewage treatment, gas, electricity,
2 communications, and similar facilities; off-site construction of utility extensions to
3 the boundaries of the real estate on which the facilities are located; and shall contain
4 eligible costs of not less than twenty-five million dollars (\$25,000,000) for a
5 project located in a heritage county or one hundred million dollars (\$100,000,000)
6 for a project located in any other county, all of which are utilized to improve the
7 economic and operational situation of an approved company to allow the approved
8 company to reinvest in its operations and retain a significant number of existing
9 jobs within the Commonwealth;

10 ~~(16)~~~~(15)~~ "Kentucky gross profits" means Kentucky gross profits as defined in KRS
11 141.0401;

12 ~~(17)~~~~(16)~~ "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
13 141.0401;

14 ~~(18)~~~~(17)~~ "Manufacturing" has the same meaning as in KRS 154.32-010;

15 ~~(19)~~~~(18)~~ "Nonretail service or technology" has the same meaning as in KRS 154.32-
16 010;

17 ~~(20)~~~~(19)~~ "Preliminary approval" means the action taken by the authority conditioning
18 final approval by the authority upon satisfaction by the eligible company of the
19 requirements under this subchapter;

20 ~~(21)~~~~(20)~~ "Supplemental project" means an additional jobs retention project proposed
21 by the approved company or its affiliate during the term of a previously approved
22 jobs retention project, which may be included in the jobs retention agreement by
23 way of amendment and which may result in increased inducements and an
24 extension of the original project term as set forth in KRS 154.25-050; and

25 ~~(22)~~~~(21)~~ "Transferred credits" means unused approved costs as determined by the
26 Department of Revenue from a previously approved, independent, active project
27 under a different incentive program governed by the Cabinet for Economic

1 Development that may be transferred to a jobs retention project and used by the
2 approved company pursuant to a jobs retention agreement.

3 ➔Section 10. KRS 154.25-030 is amended to read as follows:

4 (1) The authority, upon adoption of its final approval, may enter into, with any
5 approved company, an agreement with respect to the jobs retention project. The
6 terms and provisions of each agreement, including the amount of approved costs,
7 the amount of the inducement, the job maintenance requirement, and any
8 limitations the authority may deem necessary, shall be determined by negotiations
9 between the authority and the approved company, except that each agreement shall
10 include the following provisions:

11 (a) The amount the approved company may recover through inducements under
12 this subchapter for the initial project, which shall be a negotiated percentage
13 not to exceed fifty percent (50%) of eligible costs. However, the authority
14 may negotiate an increase in the percentage such that both the initial project
15 and any supplemental projects are eligible for seventy-five percent (75%) of
16 eligible costs upon approval of a supplemental project. The adjustment to the
17 initial project shall be made on the total approved costs and any credits taken
18 prior to the addition of a supplemental project shall then be subtracted from
19 that increased amount of approved costs. Neither the initial project nor any
20 supplemental project shall ever be eligible for inducements greater than
21 seventy-five percent (75%) of the eligible costs. The authority shall negotiate
22 a maximum allowable inducement for each year of the agreement, and the
23 approved company may not recover inducements above that maximum in any
24 year during the term of the agreement, except that the annual maximum
25 allowable inducement may be exceeded if a carry-forward of unused
26 inducements from previous years exists. Any carry-forward of unused
27 inducements will lapse upon maturity or termination of the agreement;

- 1 (b) A provision that sets the activation date for the initial project within three (3)
2 years of the final approval. Prior to the activation date, the authority may
3 extend the time for the completion of the jobs retention project and
4 compliance with the required investment upon request of the approved
5 company for good cause; however, the ten (10) year period for the term of the
6 agreement shall begin from the activation date. No inducements from the jobs
7 retention project shall be available, other than the transferred credits provided
8 for under subsection (2) of this section, until activation. Upon activation, the
9 balance of transferred credits shall expire;
- 10 (c) A provision that states that within three (3) months of the completion of the
11 jobs retention project, the approved company shall document the actual cost
12 of the project in a manner acceptable to the authority. The authority may
13 employ an independent consultant or utilize technical resources to verify the
14 cost of the project. The approved company shall reimburse the authority for
15 the cost of the consultant;
- 16 (d) A provision that establishes a minimum required number of full-time jobs that
17 must be maintained at the site of the jobs retention project and filled with
18 residents of the Commonwealth subject to Kentucky income tax and states
19 that the authorized inducements may be suspended at the discretion of the
20 authority from the date of noncompliance until the date compliance is
21 reestablished if the approved company's employment falls below the
22 established minimum employment requirement. If the company does not
23 increase the number of full-time employees at the site who are residents of the
24 Commonwealth and subject to Kentucky income tax sufficiently to meet the
25 minimum employment requirement within one (1) year from the date of the
26 initial suspension, the remaining unused inducements may be terminated at
27 the discretion of the authority;

- 1 (e) A provision that gives the authority discretion to suspend or terminate the
 2 authorized inducements for any failure to comply with the terms of the
 3 agreement; and
- 4 (f) 1. A provision that provides the term shall not be longer than the earlier of:
 5 a.~~[1.]~~The date on which the approved company has received
 6 inducements or withheld assessments equal to the amount that the
 7 company may recover under paragraph (a) of this subsection; or
 8 b.~~[2.]~~Ten (10) years from the activation date.
- 9 2. ~~[However,]~~The term *in subparagraph 1. of this paragraph* may be
 10 extended to a period longer than ten (10) years upon:
- 11 a. *The approved company demonstrating that less than seventy-five*
 12 *percent (75%) of the incentives awarded under the agreement*
 13 *will be claimed during the term of the agreement; or*
- 14 b. The addition of a supplemental project as negotiated and approved
 15 by the authority.
- 16 *An extension of a project under subparagraph 2.a. of this paragraph*
 17 *shall not amend any provision of the agreement impacting the scope of*
 18 *the project or the maximum amount of incentives awarded under the*
 19 *tax incentive agreement.*
- 20 (2) In consideration of the execution of the agreement, during the time the agreement is
 21 in effect, which time shall commence on the date of the agreement, the approved
 22 company may be permitted the following inducements:
- 23 (a) Beginning on the effective date of the jobs retention agreement, which shall
 24 also be the date of final approval, if the approved company has a balance of
 25 unused approved costs on a previously existing and active incentive
 26 agreement approved by the authority pursuant to KRS Chapter 154, the
 27 approved company may impose wage assessments on employees whose jobs

1 are at the facility where the project defined in the previously existing
2 incentive agreement was located. The wage assessments may be imposed as
3 provided in KRS 154.25-040, and shall be available in an amount up to the
4 balance of transferred credits from the previously existing project.

- 5 1. The transferred credits shall only be available to the approved company
6 until the activation date, the term from the original incentive agreement
7 expires, or the balance of transferred credits is exhausted, whichever
8 occurs first; and
- 9 2. Should the approved company exercise this option, the incentive
10 agreement from which the credits were transferred shall be terminated
11 upon transfer and all parties shall be released from their obligations
12 thereunder.

13 (b) After the activation date:

- 14 1. A one hundred percent (100%) credit against the taxes imposed by KRS
15 141.020, 141.040, and 141.0401 that would otherwise be owed by the
16 approved company, in the approved company's taxable year, as
17 determined under KRS 141.402, on the taxable income, Kentucky gross
18 receipts, or Kentucky gross profits of the approved company generated
19 by or arising from the jobs retention project. The ordering of credits
20 shall be as provided in KRS 141.0205;
- 21 2. The aggregate assessment withheld by the approved company as
22 provided in KRS 154.25-040 in each year after the activation date;

23 (c) The tax credits allowed to the approved company shall be equal to the lesser
24 of the total amount of the tax liability or the amount that the company may
25 recover under subsection (1)(a) of this section that has not yet been recovered,
26 reduced by any recovery through the collection of assessments subject to the
27 annual maximum inducements authorized pursuant to subsection (1)(a) of this

1 section. The credit shall be allowed for each taxable year of the approved
2 company during the term of the agreement and for which a tax return of the
3 approved company is filed until the amount that the company may recover
4 under subsection(1)(a) of this section has been received through a
5 combination of credits and assessments, if the company elects to impose
6 assessments. The approved company shall not be required to pay estimated
7 tax payments as prescribed under KRS 141.044 or 141.305 on income,
8 Kentucky gross profits, or Kentucky gross receipts from the jobs retention
9 project. One hundred eighty (180) days after the filing of the tax return of the
10 approved company, the Department of Revenue shall certify to the authority
11 the state tax liability for the preceding taxable year of the approved company
12 and the amount of any tax credits taken pursuant to this section;

13 (d) Prior to execution of the agreement, the eligible company shall secure from all
14 local governmental authorities responsible for collecting local occupational
15 license fees a resolution or order of the local governmental entities
16 acknowledging and consenting to the termination or partial termination of the
17 receipt of local occupational license fees on wages subject to the agreement
18 paid by the approved company on behalf of its employees to the local
19 government entities;

20 (e) If more than one (1) local occupational license fee is imposed upon the
21 employees of the approved company, the assessment imposed upon the
22 employees shall be credited against the local occupational license fee and
23 shall be apportioned to each local occupational license fee according to each
24 local occupational license fee's proportion to the total of all local occupational
25 license fees for such employees. No credit or portion thereof shall be allowed
26 against any local occupational license fee imposed by or dedicated solely to a
27 local board of education; and

1 (f) If, in any taxable year of the approved company during which the agreement
2 is in effect, the assessment collected from the wages of the employees exceeds
3 the expended portion of the amount that the approved company may recover
4 under paragraph (a) of this subsection, or exceeds the annual maximum
5 negotiated by the authority, the assessment collected from the wages of the
6 employees shall cease for the remainder of that taxable year of the approved
7 company. The approved company shall resume normal personal income tax
8 and occupational license fee withholdings from the employees' wages for the
9 remainder of that taxable year, and the approved company shall remit to the
10 Commonwealth and applicable local jurisdictions their respective shares of
11 the excess assessment collected on the withholding filing date for employees'
12 wages next succeeding the first date when the approved company collected
13 excess assessments.

14 (3) (a) An approved company receiving preliminary approval after July 1, 2026,
15 may apply to the authority for, in addition to the inducements provided for
16 in subsections (1) and (2) of this section, a credit up to one and three-
17 fourths percent (1.75%) of the wages paid to all new full-time employees for
18 an approved company with an economic development project located in a
19 Tier II county, up to two percent (2%) of the wages paid to all new full-time
20 employees for an approved company with an economic development project
21 located in a Tier III county, up to two and one-fourth percent (2.25%) of the
22 wages paid to all new full-time employees for an approved company with an
23 economic development project located in a Tier IV county, and up to one
24 and one-half percent (1.5%) of the wages paid to all new full-time
25 employees for an approved company with an economic development project
26 located in any other county.

27 (b) The tax credit in paragraph (a) of this subsection shall be allowed against

1 *the tax imposed by KRS 141.020 or 141.040 and 141.0401, and shall be*
 2 *refundable as provided in Section 1 of this Act.*

3 *(c) For any year of the agreement, in no event shall the cumulative credits*
 4 *awarded to the approved company under this section exceed the annual*
 5 *maximum approved costs of the jobs retention project as provided in the tax*
 6 *incentive agreement.*

7 **(4)** The jobs retention agreement and inducements available pursuant thereto shall not
 8 be transferable or assignable by the approved company without the expressed
 9 written consent of the authority.

10 ➔Section 11. KRS 154.25-040 is amended to read as follows:

11 (1) The approved company may require that each employee subject to the income tax
 12 imposed by KRS 141.020, whose job was preserved or created as a result of the
 13 project, as a condition of employment or the retention of employment, agree to pay
 14 an assessment up to one hundred percent (100%) of the individual income tax rate
 15 imposed by KRS 141.020 for each employee subject to the income tax imposed by
 16 KRS 141.020. The Commonwealth's wage assessment shall be equal to the
 17 following:

18 (a) Up to eighty percent (80%) of the individual income tax rate imposed by KRS
 19 141.020 if the project is located in a local jurisdiction where:

- 20 1. No local occupational license fee is imposed;
- 21 2. a. A local occupational fee greater than or equal to twenty percent
 22 (20%) of the individual income tax rate in KRS 141.020 is
 23 imposed; and
- 24 b. The local jurisdiction agrees to forgo the local wage assessment of
 25 at least twenty percent (20%) of the individual income tax rate
 26 imposed by KRS 141.020 via credits against the local occupational
 27 license fee for the affected employees; or

1 employment or the retention of employment, the approved company shall deduct
2 the assessment from each paycheck of each employee subject to the provisions of
3 subsections (2) and (3) of this section.

4 (5) Any approved company collecting an assessment shall make its payroll books and
5 records available to the authority at such reasonable times as the authority shall
6 request and shall file with the authority the documentation respecting the
7 assessment the authority may require.

8 (6) Any assessment of the wages of the employees of an approved company shall
9 permanently lapse upon expiration or termination of the agreement unless the
10 agreement has been amended to extend the termination as a result of a supplemental
11 project.

12 (7) (a) By October 1 of each year, the Department of Revenue shall certify to the
13 authority, in the form of an annual report, aggregate tax credits claimed on tax
14 returns filed during the taxable year ending June 30 of that year and wage
15 assessment fees taken during the prior calendar year by approved companies
16 with respect to their jobs retention projects under this subchapter, and shall
17 certify to the authority, within one hundred eighty (180) days from the date an
18 approved company has filed its state tax return, when an approved company
19 has taken tax credits equal to its total inducements.

20 (b) For the refundable economic development credit, the department shall
21 report to the authority the total amount of the refundable credit awarded for
22 each taxable year, by county, with location distinction of a heritage county
23 or any other Kentucky county, the following:

24 1. Each approved company awarded credit; and

25 2. The total amount of wages paid to a full-time employee by an
26 approved company and included in the wage computation.

27 (8) By November 1, 2027, and annually thereafter, the cabinet shall prepare an

1 annual report of the refundable economic development credit to be submitted to
 2 the Governor and the Legislative Research Commission for referral to the
 3 Interim Joint Committee on Appropriations and Revenue and made available on
 4 the cabinet's website. The annual report shall include the following:

5 (a) A summary of the refundable economic development credit received and
 6 relevant statistics relating to actions taken by the cabinet, including the
 7 applicant, refundable economic development credit amount, the number of
 8 jobs maintained, and the annual maximum approved costs of the jobs
 9 retention project;

10 (b) The annual balance of the refundable economic development credit
 11 received; and

12 (c) Recommendations for legislation or policy actions needed to increase the
 13 number of jobs retention projects.

14 ➔Section 12. KRS 154.25-050 is amended to read as follows:

15 (1) If an approved company makes additional investments in the form of additional
 16 jobs retention projects during the term of the initial jobs retention project, the
 17 approved company may apply for, and the authority may approve, a supplemental
 18 project.

19 (2) The authority, upon adoption of its final approval of a supplemental project, may
 20 enter into, with any approved company, an amended agreement with respect to both
 21 the initial jobs retention project and the supplemental project which shall jointly
 22 make up its project. The terms and provisions of each amended agreement,
 23 including the amount of approved costs, the amount of the tax credit pursuant to
 24 KRS 154.25-030, the job maintenance requirement established by the agreement,
 25 and any limitations the authority may deem necessary, shall be determined by
 26 negotiations between the authority and the approved company, except that each
 27 agreement shall include the following provisions:

- 1 (a) Upon approval of a supplemental project, the amount the approved company
2 may recover through inducements for the initial project and any supplemental
3 projects shall be a negotiated percentage not to exceed seventy-five percent
4 (75%) of the eligible costs from the initial project and all newly incurred
5 eligible costs from any supplemental projects, subject to the annual maximum
6 negotiated and approved by the authority. At the time a supplemental project
7 is approved, the recoverable amount and the annual maximum inducement for
8 the initial jobs retention project and any previous supplemental projects may
9 also be increased at the discretion of the authority pursuant to KRS 154.25-
10 030.
- 11 (b) The activation date for a supplemental project shall be no more than three (3)
12 years from final approval of the supplemental project. Prior to the activation
13 date, the authority may extend the time for the completion of the jobs
14 retention project and compliance with the required investment upon request of
15 the approved company for good cause; however, the ten (10) year period for
16 the term of the agreement shall begin from the activation date. Within three
17 (3) months of the completion date for a supplemental project, the approved
18 company shall document the actual cost of the project in a manner acceptable
19 to the authority. The authority may employ an independent consultant to
20 verify the cost of the supplemental project subject to reimbursement for the
21 cost of same from the approved company.
- 22 (c) In consideration of the execution of the amended agreement, on the date
23 stated in the agreement, the approved company may be permitted during the
24 term of the amended agreement to take the inducements set forth in KRS
25 154.25-030(2)(b), ~~and (2)(c)~~, **and (3)(a)**, subject to the remaining terms of
26 **Section 10 of this Act**~~[that section]~~.

27 ➔Section 13. KRS 154.32-010 is amended to read as follows:

- 1 (1) "Activation date" means the date established in the tax incentive agreement that is
2 within two (2) years of final approval;
- 3 (2) "Affiliate" means the following:
- 4 (a) Members of a family, including only brothers and sisters of the whole or half
5 blood, spouse, ancestors, and lineal descendants of an individual;
- 6 (b) An individual, and a corporation more than fifty percent (50%) in value of the
7 outstanding stock of which is owned, directly or indirectly, by or for that
8 individual;
- 9 (c) An individual, and a limited liability company of which more than fifty
10 percent (50%) of the capital interest or profits are owned or controlled,
11 directly or indirectly, by or for that individual;
- 12 (d) Two (2) corporations which are members of the same controlled group, which
13 includes and is limited to:
- 14 1. One (1) or more chains of corporations connected through stock
15 ownership with a common parent corporation if:
- 16 a. Stock possessing more than fifty percent (50%) of the total
17 combined voting power of all classes of stock entitled to vote or
18 more than fifty percent (50%) of the total value of shares of all
19 classes of stock of each of the corporations, except the common
20 parent corporation, is owned by one (1) or more of the other
21 corporations; and
- 22 b. The common parent corporation owns stock possessing more than
23 fifty percent (50%) of the total combined voting power of all
24 classes of stock entitled to vote or more than fifty percent (50%) of
25 the total value of shares of all classes of stock of at least one (1) of
26 the other corporations, excluding, in computing the voting power
27 or value, stock owned directly by the other corporations; or

- 1 2. Two (2) or more corporations if five (5) or fewer persons who are
2 individuals, estates, or trusts own stock possessing more than fifty
3 percent (50%) of the total combined voting power of all classes of stock
4 entitled to vote or more than fifty percent (50%) of the total value of
5 shares of all classes of stock of each corporation, taking into account the
6 stock ownership of each person only to the extent the stock ownership is
7 identical with respect to each corporation;
- 8 (e) A grantor and a fiduciary of any trust;
- 9 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a
10 grantor of both trusts;
- 11 (g) A fiduciary of a trust and a beneficiary of that trust;
- 12 (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a
13 grantor of both trusts;
- 14 (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value
15 of the outstanding stock of which is owned, directly or indirectly, by or for the
16 trust or by or for a person who is a grantor of the trust;
- 17 (j) A fiduciary of a trust and a limited liability company more than fifty percent
18 (50%) of the capital interest, or the interest in profits, of which is owned
19 directly or indirectly, by or for the trust or by or for a person who is a grantor
20 of the trust;
- 21 (k) A corporation, a partnership, or a limited partnership if the same persons own:
22 1. More than fifty percent (50%) in value of the outstanding stock of the
23 corporation; and
24 2. More than fifty percent (50%) of the capital interest, or the profits
25 interest, in the partnership or limited partnership;
- 26 (l) A corporation and a limited liability company if the same persons own:
27 1. More than fifty percent (50%) in value of the outstanding stock of the

- 1 corporation; and
- 2 2. More than fifty percent (50%) of the capital interest or the profits in the
- 3 limited liability company;
- 4 (m) A partnership or limited partnership and a limited liability company if the
- 5 same persons own:
- 6 1. More than fifty percent (50%) of the capital interest or profits in the
- 7 partnership or limited partnership; and
- 8 2. More than fifty percent (50%) of the capital interest or the profits in the
- 9 limited liability company;
- 10 (n) An S corporation and another S corporation if the same persons own more
- 11 than fifty percent (50%) in value of the outstanding stock of each corporation;
- 12 S corporation designation being the same as that designation under the
- 13 Internal Revenue Code of 1986, as amended;
- 14 (o) An S corporation and a C corporation, if the same persons own more than
- 15 fifty percent (50%) in value of the outstanding stock of each corporation; S
- 16 and C corporation designations being the same as those designations under the
- 17 Internal Revenue Code of 1986, as amended; or
- 18 (p) Two (2) or more limited liability companies, if the same persons own more
- 19 than fifty percent (50%) of the capital interest or are entitled to more than fifty
- 20 percent (50%) of the capital profits in the limited liability companies;
- 21 (3) "Agribusiness" means the processing of raw agricultural products, including but not
- 22 limited to timber and industrial hemp, or the performance of value-added functions
- 23 with regard to raw agricultural products;
- 24 (4) "Alternative fuel production" means a Kentucky operation that primarily produces
- 25 alternative transportation fuels for sale. The alternative fuel production may
- 26 produce electricity as a by-product if the primary function of the operations remains
- 27 the production and sale of alternative transportation fuels;

- 1 (5) "Alternative transportation fuels" has the same meaning as in KRS 152.715;
- 2 (6) "Approved company" means an eligible company that has received final approval
3 to receive incentives under this subchapter;
- 4 (7) "Approved costs" means the amount of eligible costs approved by the authority at
5 final approval;
- 6 (8) "Authority" means the Kentucky Economic Development Finance Authority
7 established by KRS 154.20-010;
- 8 (9) "Biomass resources" has the same meaning as in KRS 152.715;
- 9 (10) "Capital lease" means a lease classified as a capital lease by the Statement of
10 Financial Accounting Standards No. 13, Accounting for Leases, issued by the
11 Financial Accounting Standards Board, November 1976, as amended;
- 12 (11) "Carbon dioxide or hydrogen transmission pipeline" means the in-state portion of a
13 pipeline, including appurtenant facilities, property rights, and easements, that is
14 used exclusively for the purpose of transporting carbon dioxide or hydrogen to the
15 point of sale, storage, or other carbon or hydrogen management applications;
- 16 (12) "Coal severing and processing" means activities resulting in the eligible company
17 being subject to the tax imposed by KRS Chapter 143;
- 18 (13) "Commonwealth" means the Commonwealth of Kentucky;
- 19 (14) "Confirmed approved costs" means:
- 20 (a) For owned economic development projects, the documented eligible costs
21 incurred on or before the activation date; or
- 22 (b) For leased economic development projects:
- 23 1. The documented eligible costs incurred on or before the activation date;
24 and
- 25 2. Estimated rent to be incurred by the approved company throughout the
26 term of the tax incentive agreement.

27 For both owned and leased economic development projects, "confirmed approved

1 costs" may be less than approved costs, but shall not be more than approved costs;

2 (15) "Department" means the Department of Revenue;

3 (16) "Economic development project" means:

4 (a) The acquisition, leasing, or construction of a new facility;

5 (b) The acquisition, leasing, rehabilitation, or expansion of an existing facility; or

6 (c) The installation and equipping of a facility;

7 by an eligible company. "Economic development project" does not include any
8 economic development project that will result in the replacement of facilities
9 existing in the Commonwealth, except as provided in KRS 154.32-060;

10 (17) (a) "Eligible company" means any corporation, limited liability company,
11 partnership, limited partnership, sole proprietorship, business trust, or any
12 other entity with a proposed economic development project that is engaged in
13 or is planning to be engaged in one (1) or more of the following activities
14 within the Commonwealth:

15 1. Manufacturing;

16 2. Agribusiness;

17 3. Nonretail service or technology;

18 4. Headquarters operations, regardless of the underlying business activity
19 of the company;

20 5. Alternative fuel, gasification, energy-efficient alternative fuel, or
21 renewable energy production;

22 6. Carbon dioxide or hydrogen transmission pipeline;

23 7. Coal severing and processing;~~[-or]~~

24 8. Hospital operations;

25 **9. Research and development; or**

26 **10. An entity outside of the Commonwealth that otherwise meets the**
27 **requirements under this paragraph if the proposed economic**

- 1 *development project:*
- 2 *a. Is located within twenty (20) miles of a county certified as Tier*
- 3 *IV by the authority under Section 17 of this Act;*
- 4 *b. Is locating or expanding in a state with a reciprocal agreement*
- 5 *between the Commonwealth and the other state as described in*
- 6 *KRS 141.070;*
- 7 *c. Will employ a minimum of two hundred fifty (250) full-time*
- 8 *employees; and*
- 9 *d. Meets any other criteria the authority may require, including an*
- 10 *interstate compact.*

11 (b) "Eligible company" does not include companies where the primary activity to
 12 be conducted within the Commonwealth is forestry, fishing, the provision of
 13 utilities, construction, wholesale trade, retail trade, real estate, rental and
 14 leasing, educational services, accommodation and food services, or public
 15 administration services;

16 (18) "Eligible costs" means:

- 17 (a) For owned economic development projects:
- 18 1. Start-up costs;
- 19 2. Nonrecurring obligations incurred for labor and nonrecurring payments
 20 to contractors, subcontractors, builders, and materialmen in connection
 21 with the economic development project;
- 22 3. The cost of acquiring land or rights in land and any cost incidental
 23 thereto, including recording fees;
- 24 4. The cost of contract bonds and of insurance of all kinds that may be
 25 required or necessary for completion of an economic development
 26 project which is not paid by a contractor or otherwise provided for;
- 27 5. All costs of architectural and engineering services, including test

1 borings, surveys, estimated plans and specifications, preliminary
 2 investigations, and supervision of construction, as well as for the
 3 performance of all the duties required for construction of the economic
 4 development project;

5 6. All costs which are required to be paid under the terms of any contract
 6 for the economic development project;

7 7. All costs incurred for construction activities, including site tests and
 8 inspections; subsurface site work; excavation; removal of structures,
 9 roadways, cemeteries, and other surface obstructions; filling, grading,
 10 and providing drainage and storm water retention; installation of utilities
 11 such as water, sewer, sewage treatment, gas, electric, communications,
 12 and similar facilities; off-site construction of utility extensions to the
 13 boundaries of the real estate; construction and installation of railroad
 14 spurs as needed to connect the economic development project to existing
 15 railways; or similar activities as the authority may determine necessary
 16 for construction of the economic development project; and

17 8. All other costs of a nature comparable to those described above; and

18 (b) For leased economic development projects:

19 1. Start-up costs;

20 2. Building/leasehold improvements; and

21 3. Fifty percent (50%) of the estimated annual rent for each year of the tax
 22 incentive agreement[.

23 ~~Notwithstanding any other provision of this subsection, for economic development~~
 24 ~~projects that are not in enhanced incentive counties, the cost of equipment eligible~~
 25 ~~for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000)~~
 26 ~~for each new full-time job created as of the activation date];~~

27 (19) "Employee benefits" means payments by an approved company for its full-time

1 employees for health insurance, life insurance, dental insurance, vision insurance,
2 defined benefits, 401(k), or similar plans;

3 (20) "Energy-efficient alternative fuel production" means a Kentucky operation that
4 produces for sale energy-efficient alternative fuels;

5 (21) "Energy-efficient alternative fuels" means homogeneous fuels that:

6 (a) Are produced from processes designed to densify feedstock coal, waste coal,
7 or biomass resources; and

8 (b) Have an energy content that is greater than the feedstock coal, waste coal, or
9 biomass resource;

10 ~~(22) ["Enhanced incentive counties" means counties certified by the authority pursuant~~
11 ~~to KRS 154.32-050;~~

12 ~~(23) ["Final approval" means the action taken by the authority authorizing the eligible~~
13 ~~company to receive incentives under this subchapter;~~

14 ~~(23)~~~~(24)~~ (a) "Full-time job" means a job held by a person who:

15 1. Is required to work a minimum of thirty-five (35) hours per week; and

16 2. a. Is subject to the Kentucky individual income tax imposed by KRS
17 141.020; or

18 b. Works remotely away from the economic development project if
19 the job meets all of the following conditions:

20 i. Is held by a Kentucky resident;

21 ii. Was created as a result of the economic development project;
22 and

23 iii. The payroll of this job is expensed to the economic
24 development project.

25 (b) "Full-time job" does not include a job held by a resident of any state with a
26 reciprocal agreement between the Commonwealth and the other state as
27 described in KRS 141.070;

1 ~~(24)~~~~(25)~~ "Gasification process" means a process that converts any carbon-containing
2 material into a synthesis gas composed primarily of carbon monoxide and
3 hydrogen;

4 ~~(25)~~~~(26)~~ "Gasification production" means a Kentucky operation that primarily
5 produces for sale:

6 (a) Alternative transportation fuels;

7 (b) Synthetic natural gas;

8 (c) Chemicals;

9 (d) Chemical feedstocks; or

10 (e) Liquid fuels;

11 from coal, waste coal, coal-processing waste, or biomass resources, through a
12 gasification process. The gasification production may produce electricity as a by-
13 product if the primary function of the operations remains the production and sale of
14 alternative transportation fuels, synthetic natural gas, chemicals, chemical
15 feedstocks, or liquid fuels;

16 ~~(26)~~~~(27)~~ "Headquarters" means the principal office where the principal executives of
17 the entity are located and from which other personnel, branches, affiliates, offices,
18 or entities are controlled;

19 ~~(27)~~ **"Heritage county" means a county certified as Tier III or Tier IV by the**
20 **authority under Section 17 of this Act;**

21 (28) "Hospital" means a facility licensed by the Cabinet for Health and Family Services
22 under KRS Chapter 216B for the operation of a hospital and the basic services
23 provided by a hospital;

24 (29) "Incentives" means the incentives available under this subchapter, as listed in KRS
25 154.32-020(3);

26 (30) "Job target" means the annual average number of new full-time jobs that the
27 approved company commits to create and maintain at the economic development

- 1 project, which shall not be less than ten (10) new full-time jobs;
- 2 (31) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- 3 (32) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- 4 (33) "Lease agreement" means an agreement between an approved company and an
5 unrelated entity conveying the right to use a facility, the terms of which reflect an
6 arms' length transaction, or between a related entity where the facility to be
7 occupied by the approved company was conveyed by an unrelated entity after the
8 approved company received preliminary approval. "Lease agreement" does not
9 include a capital lease;
- 10 (34) "Leased project" means an economic development project site occupied by an
11 approved company pursuant to a lease agreement;
- 12 (35) "Manufacturing" means any activity involving:
- 13 (a) Processing, assembling, or production of any property, including the
14 processing resulting in a change in the conditions of the property and any
15 activity related to the processing, assembling, or production of property,
16 together with the storage, warehousing, distribution, and related office
17 facilities; or
- 18 (b) Production of vital medications, personal protective equipment, or equipment
19 necessary to produce personal protective equipment;
- 20 (36) (a) "Nonretail service or technology" means any activity where service or
21 technology is provided predominantly outside the Commonwealth and
22 designed to serve a multistate, national, or international market.
- 23 (b) "Nonretail service or technology" includes but is not limited to call centers,
24 centralized administrative or processing centers, telephone or Internet sales
25 order or processing centers, distribution or fulfillment centers, data processing
26 centers, research and development facilities, and other similar activities;
- 27 (37) "Owned project" means an economic development project owned in fee simple by

- 1 the approved company or an affiliate, or possessed by the approved company or an
2 affiliate pursuant to a capital lease;
- 3 (38) "Personal protective equipment" means protective clothing, helmets, gloves, face
4 shields, goggles, face masks, respirators, and other equipment designed to protect
5 the user from injury or the spread of infection or illness;
- 6 (39) "Preliminary approval" means the action taken by the authority preliminarily
7 approving an eligible company for incentives under this subchapter;
- 8 (40) "Renewable energy production" means a Kentucky operation that utilizes wind
9 power, biomass resources, landfill methane gas, hydropower, solar power, or other
10 similar renewable resources to generate electricity for sale to unrelated entities;
- 11 (41) "Rent" means the actual annual rent or fee paid by an approved company under a
12 lease agreement;
- 13 (42) "Start-up costs" means nonrecurring costs, with the exception of paragraphs (c)
14 and (d) of this subsection, incurred to furnish and equip a facility for an economic
15 development project, including costs incurred for:
- 16 (a) Computers, furnishings, office equipment, manufacturing equipment, and
17 fixtures;
- 18 (b) The relocation of out-of-state equipment;~~and~~
- 19 (c) Recurring software subscription or licensing fees covering a period not to
20 exceed one (1) year from activation of the project;
- 21 (d) The initial software and licensing costs associated with each new full-time
22 job created; and
- 23 (e) Cost of fixed telecommunications equipment;
24 as certified to the authority in accordance with KRS 154.32-030;
- 25 (43) "Synthetic natural gas" means the same thing as in KRS 152.715;
- 26 (44) "Tax incentive agreement" means the agreement entered into pursuant to KRS
27 154.32-040 between the authority and an approved company;

- 1 (45) "Term," **except as provided in Section 18 of this Act,** means the period of time for
 2 which a tax incentive agreement may be in effect, which shall not exceed fifteen
 3 (15) years for an economic development project located in **a heritage**~~[an enhanced~~
 4 ~~incentive]~~ county, or ten (10) years for an economic development project not
 5 located in any other county;
- 6 (46) "Vital medications" means any drug or biologic used to prevent or treat a serious
 7 life-threatening disease or medical condition for which there is no other available
 8 source with sufficient supply of that drug or biologic or alternative drug or biologic;
- 9 (47) "Wage" means the per hour earnings of a full-time employee, including wages, tips,
 10 overtime, bonuses, and commissions, as reflected on the employee's federal form
 11 W-2 wage and tax statement, but excludes employee benefits; and
- 12 (48) "Wage target" means the average total hourly compensation amount, including the
 13 minimum wage and employee benefits, that the approved company commits to
 14 meet for all new full-time jobs created and maintained as a result of the economic
 15 development project, which shall not be less than:
- 16 (a) **Two hundred percent (200%)**~~[One hundred twenty five percent (125%)]~~ of
 17 the federal minimum wage in **heritage**~~[enhanced incentive]~~ counties; or
- 18 (b) **Three hundred percent (300%)**~~[One hundred fifty percent (150%)]~~ of the
 19 federal minimum wage in all other counties.
- 20 ➔Section 14. KRS 154.32-020 is amended to read as follows:
- 21 (1) The purposes of this subchapter are:
- 22 (a) To provide incentives for eligible companies and to encourage the location or
 23 expansion of manufacturing facilities, agribusiness operations, nonretail
 24 service or technology facilities, headquarters operations, alternative fuel
 25 production facilities, gasification production facilities, energy-efficient
 26 alternative fuel production facilities, renewable energy production facilities,
 27 carbon dioxide or hydrogen transmission pipelines, coal severing and

1 processing, and hospital operations in the Commonwealth to advance the
2 public purposes of:

- 3 1. Creation of new jobs that, but for the incentives offered by the authority,
4 would not exist within the Commonwealth;
- 5 2. Creation of new sources of tax revenues for the support of public
6 services provided by the Commonwealth;
- 7 3. Improvement in the quality of life for Kentucky citizens through the
8 creation of sustainable jobs with higher salaries; and
- 9 4. Providing an economic stimulus to bolster in-state production of vital
10 medications and personal protective equipment; and

11 (b) To provide ***more balanced***~~enhanced~~ incentives for companies that locate in
12 ***heritage***~~enhanced incentive~~ counties in recognition of the depressed
13 economic conditions in those counties and the increased need for the growth
14 and development caused by the depressed economic conditions.

15 (2) To qualify for the incentives provided by subsection (3) of this section, an approved
16 company shall:

- 17 (a) Incur eligible costs of at least one hundred thousand dollars (\$100,000);
- 18 (b) Create at least ten (10) new full-time jobs and maintain an annual average
19 number of at least ten (10) new full-time jobs; and
- 20 (c) 1. Pay at least ninety percent (90%) of all new full-time employees whose
21 jobs were created as a result of the economic development project a
22 minimum wage of at least ***two hundred percent (200%)***~~one hundred
23 twenty five percent (125%)~~ of the federal minimum wage in
24 ***heritage***~~enhanced incentive~~ counties, and ***three hundred percent***
25 ***(300%)***~~one hundred fifty percent (150%)~~ of the federal minimum wage
26 in other counties throughout the term of the economic development
27 project; and

- 1 2. Provide employee benefits for all new full-time jobs equal to at least
2 fifteen percent (15%) of the minimum wage requirement established by
3 subparagraph 1. of this paragraph. If the eligible company does not
4 provide employee benefits equal to at least fifteen percent (15%) of the
5 minimum wage requirement established by subparagraph 1. of this
6 paragraph, the eligible company may still qualify for incentives if it
7 provides the full-time employees hired as a result of the economic
8 development project total hourly compensation equal to or greater than
9 one hundred fifteen percent (115%) of the minimum wage requirement
10 established in subparagraph 1. of this paragraph through increased
11 hourly wages combined with employee benefits; or
- 12 (d) Produce vital medications, personal protective equipment, or equipment
13 necessary to produce personal protective equipment.
- 14 (3) The incentives available under this subchapter are as follows:
- 15 (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax
16 imposed under KRS 141.020 or 141.040 and the limited liability entity tax
17 imposed under KRS 141.0401 on the income, Kentucky gross profits, or
18 Kentucky gross receipts of the approved company generated by or arising
19 from the economic development project, as set forth in KRS 141.415 and
20 154.32-070;
- 21 (b) Authorization for the approved company to impose a wage assessment against
22 the gross wages of each new employee subject to the Kentucky income tax as
23 provided in KRS 154.32-090;~~and~~
- 24 (c) **1. An approved company receiving preliminary approval after July 1,**
25 **2026, may apply to the authority for, in addition to the inducements**
26 **provided for in paragraphs (a) and (b) of this subsection, a credit up to**
27 **one and three-fourths percent (1.75%) of wages paid to all new full-**

1 time employees for an approved company with an economic
 2 development project located in a Tier II county, up to two percent (2%)
 3 of the wages paid to all new full-time employees for an approved
 4 company with an economic development project located in a Tier III
 5 county, up to two and one-fourth percent (2.25%) of the wages paid to
 6 all new full-time employees for an approved company with an
 7 economic development project located in a Tier IV county, and up to
 8 one and one-half percent (1.5%) of the wages paid to all new full-time
 9 employees for an approved company with an economic development
 10 project located in any other county.

11 2. The tax credit in subparagraph 1. of this paragraph shall be allowed
 12 against the tax imposed by KRS 141.020 or KRS 141.040 and KRS
 13 141.0401, and shall be nontransferable and refundable as provided in
 14 Section 1 of this Act.

15 3. For any year of the agreement, in no event shall the cumulative credits
 16 awarded to the approved company under this section exceed the
 17 annual maximum approved costs of the project as provided in the tax
 18 incentive agreement; and

19 (d) Notwithstanding any provision of law to the contrary, for any economic
 20 development project with an eligible investment of more than two hundred
 21 million dollars (\$200,000,000), the authority may authorize approval to the
 22 economic development project based upon terms and incentives applicable to
 23 economic development project locating in a Tier IV~~[an enhanced incentive]~~
 24 county.

25 (4) The General Assembly hereby finds and declares that the authority granted in this
 26 subchapter and the purposes accomplished hereby are proper governmental and
 27 public purposes for which public moneys may be expended, and that the

1 inducement of the location of economic development projects within the
2 Commonwealth is of paramount importance to the economic well-being of the
3 Commonwealth.

4 ➔Section 15. KRS 154.32-030 is amended to read as follows:

- 5 (1) The application, approval, and review process under this subchapter shall be as
6 follows:
- 7 (a) An eligible company with a proposed economic development project may
8 submit an application to the authority. The application shall include the
9 information required by subsection (3) of this section;
- 10 (b) Upon review of the application and any additional information submitted, the
11 authority may, by resolution, give preliminary approval to an eligible
12 company and authorize the negotiation and execution of a memorandum of
13 agreement. The memorandum of agreement shall establish a preliminary job
14 target, minimum wage target, including employee benefits, and maximum
15 total approved cost for the economic development project, and shall only
16 allow the recovery of eligible costs incurred ninety (90) days prior to
17 receiving~~after~~ preliminary approval. Upon preliminary approval, the
18 preliminarily approved company may undertake the project in accordance
19 with the memorandum of agreement, and may begin to hire employees that
20 may be counted toward the minimum full-time job requirements established
21 by the memorandum of agreement;
- 22 (c) After preliminary approval but before final approval, the authority shall post
23 the preliminarily approved company's name, the location of the economic
24 development project, and the incentives that have been preliminarily approved
25 on the Cabinet for Economic Development's website~~[Web site]~~;
- 26 (d) The preliminarily approved company shall submit any documentation
27 required by the authority upon request of the authority;

- 1 (e) To obtain final approval, the preliminarily approved company shall submit:
- 2 1. Documentation required by the authority to confirm that the
- 3 requirements established by the memorandum of agreement have been
- 4 met; and
- 5 2. Documentation of official action taken by a local governmental entity
- 6 detailing the manner and level of local contribution, if applicable.

7 Upon review and confirmation of the documentation, the authority may, by

8 resolution, give final approval to the preliminarily approved company, and

9 authorize the execution of a tax incentive agreement between the authority

10 and the approved company pursuant to KRS 154.32-040. The tax incentive

11 agreement shall establish an activation date, which shall be within two (2)

12 years of final approval;

- 13 (f) 1. On or before the activation date, the approved company shall notify the
- 14 authority of its intention to activate the tax incentive agreement. The
- 15 approved company shall submit:
- 16 a. Documentation that it has met the minimum full-time job,
- 17 minimum investment, and minimum wage and employee benefits
- 18 requirements established by KRS 154.32-020 as of the date of
- 19 activation; and
- 20 b. The confirmed approved costs incurred as of the date of activation,
- 21 which shall be the total eligible costs that may be recovered by the
- 22 approved company.
- 23 2. If the approved company fails to meet any of the minimum investment,
- 24 full-time job, or wage requirements, including employee benefits,
- 25 established by KRS 154.32-020 on the activation date, the tax incentive
- 26 agreement shall be canceled and the approved company shall not be
- 27 eligible for incentives.

- 1 3. If an approved company meets the minimum investment, full-time job,
2 and wage requirements, including employee benefits, established by
3 KRS 154.32-020, but fails to meet higher job targets and minimum
4 wage targets, including employee benefits, established in the tax
5 incentive agreement, then the provisions of subsection (4) of this section
6 shall apply in determining the incentives for which the approved
7 company qualifies.
- 8 4. Upon activation of a tax incentive agreement, the authority shall notify
9 the department, and shall provide the department with the information
10 necessary to monitor and track the incentives taken by the approved
11 company; and
- 12 (g) 1. The authority shall monitor the tax incentive agreement at least
13 annually, and the approved company shall submit all documentation
14 necessary for the authority to monitor the agreement.
- 15 2. The authority shall, based on the documentation provided, confirm that
16 the approved company is in continued compliance with the provisions of
17 the tax incentive agreement and, therefore, eligible for incentives.
- 18 3. Upon annual review, if the approved company meets the minimum job
19 and wage requirements, including employee benefits, established by
20 KRS 154.32-020, but fails to meet the job target and minimum wage
21 target, including employee benefits, established in the tax incentive
22 agreement, then the provisions of subsection (4) of this section shall
23 apply in determining the incentives for which the approved company
24 qualifies in any year.
- 25 4. Upon final approval, the authority shall notify the department that an
26 approved company is eligible for incentives and shall provide the
27 department with the information necessary to monitor the use of

1 incentives by the approved company. If, at any time during the term of
2 the tax incentive agreement, an approved company becomes ineligible
3 for incentives, the authority shall notify the department, and the
4 department shall discontinue the availability of incentives for the
5 approved company.

6 (2) (a) The authority may establish procedures and standards for the review and
7 approval of eligible companies and their economic development projects
8 through the promulgation of administrative regulations in accordance with
9 KRS Chapter 13A.

10 (b) Standards to be used by the authority in reviewing and approving an eligible
11 company and its economic development project shall include but not be
12 limited to:

- 13 1. The creditworthiness of the eligible company;
- 14 2. The proposed capital investment to be made;
- 15 3. The number of new full-time jobs to be provided for the residents of the
16 Commonwealth and the wages to be paid;
- 17 4. Support of the local community; and
- 18 5. The likelihood of the economic success of the economic development
19 project.

20 (3) The application shall include but not be limited to:

21 (a) The name of the applicant and identification of any affiliates of the applicant
22 who will have some relation to the economic development project;

23 (b) A description of the economic development project, including its location, the
24 total investment in the economic development project, and total proposed
25 eligible costs;

26 (c) The projected number of new full-time jobs to be created as a result of the
27 economic development project and identification of any affiliates who may

- 1 employ persons hired to fill those jobs;
- 2 (d) The number of existing full-time jobs at the site of the economic development
3 project on the date of the application and a description and breakdown of the
4 relevant affiliated employers;
- 5 (e) Proposed wage and employee benefit amounts for the new full-time jobs to be
6 created as a result of the proposed economic development project;
- 7 (f) For proposed economic development projects new to the Commonwealth,
8 certification by the eligible company that the economic development project
9 could reasonably and efficiently locate outside of the Commonwealth and,
10 without the incentives offered by the authority, the eligible company would
11 likely locate outside the Commonwealth;
- 12 (g) For eligible companies with an existing location in the Commonwealth
13 considering an expansion, certification that the tax incentives are necessary
14 for the expansion to occur;
- 15 (h) A letter of support from a local governmental entity in the city or county
16 where the economic development project will be located; and
- 17 (i) Any other information the authority may require.
- 18 (4) (a) An approved company that meets the minimum job and wage requirements,
19 including employee benefits established by KRS 154.32-020, but fails to meet
20 the job target and minimum wage target, including employee benefits
21 established by the tax incentive agreement, shall be eligible to receive the
22 incentives authorized by the tax incentive agreement as provided in this
23 subsection.
- 24 (b) If, upon activation or annual review, an approved company achieves at least
25 ninety percent (90%) of both the job target and minimum wage target,
26 including employee benefits established by the tax incentive agreement, and
27 no other default has occurred, then the approved company shall be eligible to

1 receive full incentives as provided in the tax incentive agreement.

2 (c) If, upon activation or annual review, an approved company achieves less than
3 ninety percent (90%) of either the job target or minimum wage target,
4 including employee benefits established in the tax incentive agreement, and
5 no other default has occurred, then the incentives available to the approved
6 company for the following year shall be reduced by a percentage equal to the
7 percentage representing the difference between the job target or minimum
8 wage target, including employee benefits established in the tax incentive
9 agreement, and the actual average number of full-time jobs or average wage,
10 including employee benefits, paid. If both the number of actual average full-
11 time jobs and average wages paid, including employee benefits, are below
12 ninety percent (90%) of the targets on the same measurement date, then the
13 greater percentage reduction of the two (2) shall be applied rather than
14 reducing the incentives available by the sum of the two (2).

15 (d) If, upon annual review, either the actual number of new full-time jobs or the
16 average wages paid for those jobs, including employee benefits, is less than
17 the minimum requirements established by KRS 154.32-020, then the
18 economic development project may be suspended automatically or, with
19 approval of the authority, terminated.

20 ➔Section 16. KRS 154.32-040 is amended to read as follows:

21 The authority, upon final approval of a company, may enter into a tax incentive
22 agreement with the approved company. The terms and conditions of the tax incentive
23 agreement shall be negotiated between the authority and the approved company. The
24 terms of the tax incentive agreement shall include but not be limited to the following
25 provisions:

26 (1) The maximum approved costs that may be recovered over the term of the tax
27 incentive agreement and the annual maximum for approved costs;

- 1 (2) That the approved company shall provide the authority with all documentation
2 requested in a manner acceptable to the authority;
- 3 (3) Identification of the contribution of the local government to the economic
4 development project, if any;
- 5 (4) The activation date, which shall be within two (2) years of final approval;
- 6 (5) That the approved company shall implement the activation date by notifying the
7 authority;
- 8 (6) That the approved company shall provide documentation satisfactory to the
9 authority within the timeframes required by the authority that it has met the
10 minimum employment, minimum investment, and minimum wage requirements,
11 including employee benefits, established by KRS 154.32-020;
- 12 (7) That failure of the approved company to meet any of the minimum job, minimum
13 investment, or minimum wage requirements, including employee benefits,
14 established by KRS 154.32-020, on the activation date shall result in cancellation of
15 the tax incentive agreement;
- 16 (8) The term of the agreement, which shall not exceed fifteen (15) years for an
17 economic development project located in a heritage~~[an enhanced incentive]~~ county,
18 or ten (10) years for an economic development project located in another county;
- 19 (9) **Notwithstanding subsection (8) of this section, an approved company receiving**
20 **preliminary approval for an economic development project prior to January 1,**
21 **2023, in which wage assessments were provided pursuant to Section 19 of this Act**
22 **may request a one (1) time extension for up to five (5) years under the following**
23 **conditions:**
- 24 **(a) At the time the extension is granted, the approved company has received less**
25 **than seventy-five percent (75%) of the incentives awarded under the tax**
26 **incentive agreement; and**
- 27 **(b) The extension does not amend any provision of the agreement impacting the**

1 *scope of the project or the maximum amount of incentives awarded under*
2 *the tax incentive agreement;*

3 (10) That, if confirmed approved costs are less than the maximum approved costs
4 included in the tax incentive agreement, the confirmed approved costs shall become
5 the maximum amount that may be recovered by the approved company;

6 (11)~~(10)~~ If the economic development project is a leased project, that future rent
7 payments that are included in eligible costs shall be included as confirmed approved
8 costs upon submission of a valid lease agreement executed after preliminary
9 approval;

10 (12)~~(11)~~ Establishment of a job target and minimum wage target, including employee
11 benefits;

12 (13)~~(12)~~ A requirement that the job target and minimum wage target, including
13 employee benefits, be measured:

14 (a) On the activation date, against the actual new full-time jobs created and the
15 average wages, including employee benefits, paid for those jobs; and

16 (b) Annually during each year of the agreement, against the annual average of the
17 new full-time jobs and the average wages paid for those jobs, including
18 employee benefits;

19 (14)~~(13)~~ A provision requiring the approved company to notify the authority
20 immediately if the approved company sells or otherwise transfers or disposes of the
21 land on which an economic development project is located, if a lease relating to the
22 economic development project is terminated or lapses, or if the approved company
23 ceases or fundamentally alters operations at the economic development project;

24 (15)~~(14)~~ A provision detailing the reductions in incentives that will occur pursuant to
25 KRS 154.32-030(4) if an approved company fails to meet its job target or minimum
26 wage target, including employee benefits;

27 (16)~~(15)~~ That the agreement may be assigned by the approved company upon the

1 adoption of a resolution by the authority to that effect;

2 ~~(17)~~~~(16)~~ That the approved company shall make available to the authority all of its
3 records pertaining to the economic development project, including but not limited
4 to payroll records, records relating to eligible costs, and any other records
5 pertaining to the economic development project that the authority may require;

6 ~~(18)~~~~(17)~~ That the authority may share information with the department for the purposes
7 of monitoring and enforcing the terms of the tax incentive agreement;

8 ~~(19)~~~~(18)~~ That, if an approved company fails to comply with its obligations under the
9 tax incentive agreement other than the jobs target or minimum wage target, the
10 authority may take any or all of the following actions:

- 11 (a) Suspend the incentives available to the approved company;
- 12 (b) Terminate the incentives available to the approved company; or
- 13 (c) Pursue any other remedy set forth in the tax incentive agreement or to which it
14 may be entitled by law; and

15 ~~(20)~~~~(19)~~ Any other provisions not inconsistent with this subchapter and determined to
16 be necessary or appropriate by the parties to the tax incentive agreement.

17 ➔Section 17. KRS 154.32-050 is amended to read as follows:

18 (1) The authority shall ***rank all***~~identify and certify or decertify enhanced incentive~~
19 counties ***into four (4) tiers*** on an annual basis as provided in this section.

20 (2) Each fiscal year, the authority shall:

21 (a) Obtain from the Department of Workforce Development in the Education and
22 Labor Cabinet, the final unemployment figures for the prior calendar year for
23 each county and for the Commonwealth as a whole; ***and***

24 (b) ***For each county,*** identify~~those counties which have had~~:

- 25 1. ***a.*** A countywide unemployment rate that exceeds the statewide
26 unemployment rate in the most recent five (5) consecutive
27 calendar years; or

1 ~~b.[2.]~~ An average countywide rate of unemployment exceeding the
 2 statewide unemployment rate by two hundred percent (200%) in
 3 the most recent calendar year; and

4 2. The county population ranking under Section 7 of this Act~~[(e)~~
 5 ~~— Certify the counties identified in paragraph (b) of this subsection~~
 6 ~~as enhanced incentive counties].~~

7 (3) On or before July 1, 2026, and no later than July 1 annually thereafter, the
 8 authority shall determine a county's tier based on the five (5) year average of:

9 (a) A county's unemployment rate; and

10 (b) A county's population ranking under Section 7 of this Act.

11 (4) The cabinet shall publish the tiers determined under this section on July 1, 2026,
 12 and annually thereafter on July 1 as follows:

13 (a) Tier I shall be the top twenty (20) counties with the highest composite score
 14 as calculated pursuant to subsection (3) of this section;

15 (b) Tier II shall be the next twenty (20) counties after Tier I with the highest
 16 composite score as calculated pursuant to subsection (3) of this section;

17 (c) Tier III shall be the next forty (40) counties after Tier II with the highest
 18 composite score as calculated pursuant to subsection (3) of this section; and

19 (d) Tier IV shall be the next forty (40) counties after Tier III with the highest
 20 composite score as calculated pursuant to subsection (3) of this section~~[(A~~

21 ~~county not certified under subsection (2) of this section may also be certified~~
 22 ~~by the authority as an enhanced incentive county if the authority determines~~
 23 ~~the county is one (1) of the sixty (60) most distressed counties in the~~
 24 ~~Commonwealth based on the following criteria with equal weight given to~~
 25 ~~each criterion:~~

26 ~~(a) The average countywide rate of unemployment in the most recent three (3)~~
 27 ~~consecutive calendar years, using the information obtained under subsection~~

1 ~~(2)(a) of this section;~~

2 ~~(b) The percentage of adults twenty five (25) years of age and older who have~~
 3 ~~attained at least a high school education or equivalent, on the basis of the most~~
 4 ~~recent data available from the United States Department of Commerce,~~
 5 ~~Bureau of the Census; and~~

6 ~~(c) The quality of the roads in the county. Quality of roads shall be determined by~~
 7 ~~the access within a county to roads, ranked in descending order from best~~
 8 ~~quality to worst quality, as certified to the authority by the Kentucky~~
 9 ~~Transportation Cabinet as follows:~~

10 ~~1. Two (2) or more interstate highways;~~

11 ~~2. One (1) interstate highway;~~

12 ~~3. A state four (4) lane parkway;~~

13 ~~4. A four (4) lane principal arterial access to an interstate highway;~~

14 ~~5. A state two (2) lane parkway; and~~

15 ~~6. None of the preceding road types}.~~

16 ~~(5) [(4)]~~ (a) If the authority determines that a~~[an enhanced incentive]~~ county no
 17 longer *ranks as a Tier III or Tier IV county*~~[meets the criteria to be certified~~
 18 ~~as an enhanced incentive county]~~ under this section, the authority shall
 19 decertify that county.

20 (b) Any economic development project located in a heritage~~[an enhanced~~
 21 ~~incentive]~~ county that was decertified by the authority after May 1, 2009, shall
 22 have until July 1 of the third year following the fiscal year in which the
 23 county was decertified to obtain final approval from the authority.

24 ~~(6) [(5)]~~ (a) As used in this subsection, "industrial park" means a regional industrial
 25 park as defined in KRS 42.4588, or an industrial park created pursuant to an
 26 interlocal agreement in which revenues are shared as provided in KRS 65.210
 27 to 65.300.

1 (b) An economic development project undertaken in an industrial park that is
 2 located in two (2) or more counties, one (1) of which is a heritage~~an~~
 3 ~~enhanced incentive~~ county, may be approved for the heritage~~enhanced~~
 4 ~~incentive~~ county incentives set forth in this subchapter.

5 **(7) On or before November 1, 2026, and annually thereafter, the cabinet shall report**
 6 **to the Legislative Research Commission for referral to the Interim Joint**
 7 **Committee on Appropriations and Revenue the following information for each**
 8 **county:**

9 **(a) The county name;**

10 **(b) The tier ranking for that county;**

11 **(c) The five (5) year average unemployment rate; and**

12 **(d) The five (5) year average county population ranking**~~[(6) — A county not~~
 13 ~~certified under subsection (2) or (3) of this section may be certified by the~~
 14 ~~authority as an enhanced incentive county if the county has been declared a~~
 15 ~~disaster relief area by any state or federal agency on or after December 1,~~
 16 ~~2021. The enhanced county certification shall be effective for a period of two~~
 17 ~~(2) years from the date of certification by the authority. Following the two (2)~~
 18 ~~year period, if a county certified under this subsection does not meet the~~
 19 ~~criteria under subsections (2) and (3) of this section to be certified as an~~
 20 ~~enhanced incentive county, the county shall be decertified in accordance with~~
 21 ~~subsection (4) of this section].~~

22 ➔Section 18. KRS 154.32-070 is amended to read as follows:

23 (1) For taxable years beginning after December 31, 2009, an approved company may
 24 be eligible for a credit of up to one hundred percent (100%) of the Kentucky
 25 income tax imposed under KRS 141.020 or 141.040, and the limited liability entity
 26 tax imposed under KRS 141.0401, that would otherwise be owed by the approved
 27 company to the Commonwealth for the approved company's taxable year, on the

1 income, Kentucky gross profits, or Kentucky gross receipts of the approved
2 company generated by or arising from the economic development project.

3 (2) The credit allowed the approved company shall be applied against both the income
4 tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
5 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for
6 the taxable year for which the tax return of the approved company is filed, subject
7 to the annual maximum set forth in the tax incentive agreement. Any credit not used
8 in the year in which it was first available may be carried forward to subsequent
9 years, provided that no credit may be carried forward beyond the term of the tax
10 incentive agreement.

11 (3) The approved company shall not be required to pay estimated tax payments under
12 KRS 141.044 on the Kentucky taxable income, Kentucky gross receipts, or
13 Kentucky gross profits generated by or arising from the eligible project.

14 (4) The credit provided by this section shall be determined as provided in KRS
15 141.415.

16 (5) The amount of incentives allowed under subsections (1) to (4) of this section~~in~~
17 ~~any year~~ shall not exceed the lesser of the tax liability of the approved company
18 related to the economic development project for that year or the annual maximum
19 approved costs set forth in the tax incentive agreement in any year. The incentives
20 shall be allowed for each fiscal year of the approved company during the term of
21 the tax incentive agreement for which a tax return is filed by the approved
22 company.

23 (6) (a) An approved company receiving preliminary approval after July 1, 2026,
24 may receive, in addition to the tax incentives allowed under subsections (1)
25 to (4) of this section, a credit up to one and three-fourths percent (1.75%) of
26 wages paid to all new full-time employees of an approved company with an
27 economic development project located in a Tier II county, up to two percent

1 *(2%) of wages paid to all new full-time employees of an approved company*
 2 *with an economic development project located in a Tier III county, up to*
 3 *two and one-fourth percent (2.25%) of the wages paid to all new full-time*
 4 *employees of an approved company with an economic development project*
 5 *located in a Tier IV county, and up to one and one-half percent (1.5%) of*
 6 *the wages paid to all new full-time employees of an approved company with*
 7 *an economic development project located in any other county.*

8 *(b) The tax credit in paragraph (a) in this subsection shall be allowed against*
 9 *the tax imposed by KRS 141.020 or 141.040 and KRS 141.0401, and shall be*
 10 *nontransferable and refundable as provided in Section 1 of this Act.*

11 *(c) For any year of the agreement, in no event shall the cumulative credits*
 12 *awarded to the approved company under this section exceed the annual*
 13 *maximum approved costs of the project as provided in the tax incentive*
 14 *agreement.*

15 ➔Section 19. KRS 154.32-090 is amended to read as follows:

16 (1) An approved company or, with the authority's consent, an affiliate of an approved
 17 company may impose wage assessments against employees as provided in this
 18 section if a wage assessment is included in the incentives awarded to the approved
 19 company in the tax incentive agreement. The level of wage assessment shall be
 20 negotiated as part of the tax incentive agreement.

21 (2) If an economic development project is located in *a heritage*~~[an enhanced incentive]~~
 22 county, the approved company or, with the authority's consent, an affiliate of the
 23 approved company may require that each employee subject to the tax imposed by
 24 KRS 141.020, whose job is determined by the authority to be created as a result of
 25 the economic development project, as a condition of employment, agree to an
 26 assessment of up to one hundred percent (100%) of the individual income tax rate
 27 imposed by KRS 141.020, and that assessment shall operate as the

1 Commonwealth's wage assessment. Although not required for an economic
2 development project located in a heritage~~[an enhanced incentive]~~ county, a local
3 jurisdiction may agree to forgo all or a portion of its local occupational license fee
4 as a local wage assessment.

- 5 (3) (a) If the economic development project is not located in a heritage~~[an enhanced
6 incentive]~~ county, and is located in a local jurisdiction where:
- 7 1. No local occupational license fee is imposed;
 - 8 2. a. A local occupational license fee greater than or equal to twenty
9 percent (20%) of the individual income tax rate in KRS 141.020 is
10 imposed; and
11 b. The local jurisdiction agrees to forgo, as the local wage
12 assessment, at least twenty percent (20%) of the individual income
13 tax rate imposed by KRS 141.020 via credits against the local
14 occupational license fee for the affected employees; or
 - 15 3. a. A local occupational license fee less than twenty percent (20%) of
16 the individual income tax rate in KRS 141.020 is imposed; and
17 b. The local jurisdiction agrees to forgo the total amount of the local
18 occupational license fee as the local wage assessment; then
- 19 (b) An approved company or, with the authority's consent, an affiliate of an
20 approved company may require that each employee subject to tax imposed by
21 KRS 141.020, whose job is determined by the authority to be created as a
22 result of the economic development project, as a condition of employment,
23 agree to pay an assessment of up to sixty percent (60%) of the individual
24 income tax rate imposed by KRS 141.020 and that assessment shall operate as
25 the Commonwealth's wage assessment.

- 26 (4) (a) If the economic development project is not located in a heritage~~[an enhanced
27 incentive]~~ county, and is located in a local jurisdiction where:

- 1 (b) Is located in a local jurisdiction that does impose a local occupational license
2 fee, the jurisdiction may request that the authority waive the local
3 occupational license fee requirements established by subsection (3) or (4) of
4 this section if the local jurisdiction offers alternative inducements of similar
5 value satisfactory to the authority. The authority shall review all requests for a
6 waiver, and may waive the local occupational license fee requirements and
7 instead require the local jurisdiction to provide alternative inducements of
8 similar value if the authority determines that the circumstances warrant an
9 alternative contribution by the local jurisdiction.
- 10 (6) Each employee paying the assessment shall simultaneously be entitled to a credit
11 against the Kentucky individual income tax required to be withheld under KRS
12 141.310 equal to the state portion of the assessment and shall be entitled to a credit
13 against the local occupational license tax equal to the local portion of the
14 assessment.
- 15 (7) If more than one (1) local jurisdiction imposes an occupational license fee, the local
16 jurisdiction portion of the assessment shall be prorated proportionately among the
17 taxes imposed by the local jurisdictions unless one (1) local jurisdiction agrees to
18 forgo the receipt of these taxes in an amount equal to the local jurisdiction portion
19 of the wage assessment, in which case no proration shall be made.
- 20 (8) If a full-time employee subject to state tax imposed by KRS 141.020 is already
21 employed by the approved company at a site other than the site of the economic
22 development project, that full-time employee's job shall be deemed to have been
23 created when the full-time employee is transferred to the site of the economic
24 development project if the full-time employee's existing job is filled with a new
25 full-time employee.
- 26 (9) If an approved company elects to impose the assessment as a condition of
27 employment, it shall be authorized to deduct the assessment from each payment of

1 wages to the employee.

2 (10) Notwithstanding any other provision of the Kentucky Revised Statutes, if an
3 approved company elects not to deduct the assessment from each payment of wages
4 to the employee, but rather requests a reimbursement of state tax imposed by KRS
5 141.020 or local occupational tax in the aggregate after they have been paid to the
6 state or local jurisdiction, no interest shall be paid by the state or by the local
7 jurisdiction on that reimbursement.

8 (11) No credit, or portion thereof, shall be allowed against any occupational license fee
9 imposed by or dedicated solely to the board of education in a local jurisdiction.

10 (12) An approved company imposing an assessment shall make its payroll, books, and
11 records available to the authority or the department upon request, and shall file with
12 the authority or department documentation pertaining to the assessment as the
13 authority or department may require.

14 (13) Any assessment of the wages of employees of an approved company in connection
15 with their employment at an economic development project shall permanently cease
16 at the expiration of the tax incentive agreement.

17 ➔Section 20. KRS 154.32-100 is amended to read as follows:

18 (1) (a) By October 1 of each year, the department shall certify to the authority, in the
19 form of an annual report, aggregate tax credits claimed on tax returns filed
20 during the fiscal year ending June 30 of that year and aggregate assessments
21 taken during the prior calendar year by approved companies with respect to
22 their economic development projects under this subchapter, and shall certify
23 to the authority, within ninety (90) days from the date an approved company
24 has filed its state income tax return, when an approved company has taken tax
25 credits or assessments equal to the total incentives available to the approved
26 company.

27 (b) For the refundable economic development credit, the department shall

1 report to the authority the total amount of the credit awarded for each
 2 taxable year by county with a location distinction of a heritage county or
 3 any other Kentucky county, the following:

4 1. Each approved company awarded a credit; and

5 2. The total amount of wages paid to a full-time employee by an
 6 approved company and included in the credit computation.

7 (2) By November 1, 2026, and annually thereafter, the cabinet shall prepare an
 8 annual report of the refundable economic development credit to be submitted to
 9 the Governor and the Legislative Research Commission for referral to the
 10 Interim Joint Committee on Appropriations and Revenue and made available on
 11 the cabinet's website. The annual report shall include the following:

12 (a) A summary of the refundable economic development credit received and
 13 relevant statistics relating to the actions taken by the cabinet, including the
 14 applicant, refundable economic development credit amount, the number of
 15 jobs created, amount of wages paid to a full-time employee by an approved
 16 company and included in the credit computation, and the annual maximum
 17 approved costs of the project;

18 (b) The annual balance of the refundable economic development credit
 19 received; and

20 (c) Recommendations for the legislation or policy actions needed to increase
 21 the number of economic development projects.

22 ➔Section 21. KRS 154.12-100 is amended to read as follows:

23 (1) "Economic development fund" means the fund authorized by the General Assembly
 24 for the purpose of promoting economic development within the state.

25 (2) The economic development fund shall be funded through the issuance of bonds by
 26 the State Property and Buildings Commission or other appropriation by the General
 27 Assembly.

- 1 (3) The economic development fund shall be administered by the secretary of the
2 Cabinet for Economic Development. The authority shall promulgate administrative
3 regulations in accordance with KRS Chapter 13A for project selection criteria and
4 administration of the economic development fund. The project selection criteria
5 shall include but not be limited to the following:
- 6 (a) Potential job creation or job retention;
 - 7 (b) Degree of public or private and local involvement;
 - 8 (c) Degree and conditions of project payback; and
 - 9 (d) Amount of investment.
- 10 (4) Prior to submission of an economic development fund project to the authority, the
11 secretary of the Cabinet for Economic Development shall receive a written
12 commitment from the public or private organization which has requested funds
13 outlining projected job creation and retention, an investment breakdown, and
14 overall project description. This shall be submitted by the secretary to the authority.
15 Subsequently, the secretary of the Cabinet for Economic Development shall execute
16 a written agreement with the public or private organizations involved expressing in
17 detail the respective obligations on the parties.
- 18 (5) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding
19 from the economic development fund program, unless expressly provided in a
20 branch budget bill. Airport construction and renovation projects, **including regional**
21 **airports that serve the Commonwealth,** shall be eligible for funding under this
22 section. The secretary of the Cabinet for Economic Development shall consult with
23 the secretary of the Finance and Administration Cabinet on the terms and conditions
24 relating to the use of funds pursuant to this section before any commitment is made
25 on any project to any public or private organization.
- 26 (6) Following the approval by the authority, the project shall be presented by the
27 secretary of the Cabinet for Economic Development or his or her designee with

1 supporting documentation for review and approval at the next regularly scheduled
2 meeting of the Capital Projects and Bond Oversight Committee pursuant to KRS
3 45.810 and at the next regularly scheduled meeting of the State Property and
4 Buildings Commission pursuant to KRS 56.450.

5 (7) Notwithstanding the provisions of KRS 56.872(3), the amount of economic
6 development funds issued during any biennium shall not exceed the balance of the
7 fund, and any funds authorized in the biennial budget shall carry forward and shall
8 not lapse.

9 (8) By November 1 of each year, the Cabinet for Economic Development shall prepare
10 and post an annual report to the cabinet's Web site as required in KRS 154.12-2035,
11 showing the economic development funds issued during the previous fiscal year,
12 funds disbursed, the amounts paid back, and the balance still owing with respect to
13 grants or loans made by the Cabinet for Economic Development with proceeds of
14 economic development funds during the previous five (5) fiscal years.

15 ➔Section 22. KRS 141.383 is amended to read as follows:

16 (1) As used in this section:

17 (a) "Above-the-line production crew" has the same meaning as in KRS 154.61-
18 010;

19 (b) "Approved company" has the same meaning as in KRS 154.61-010;

20 (c) "Below-the-line production crew" has the same meaning as in KRS 154.61-
21 010;

22 (d) "Continuous film production" has the same meaning as in KRS 154.61-010;

23 (e) "Council" means the Kentucky Film Leadership Council created in KRS
24 154.12-282;

25 (f) "Loan-out entity" has the same meaning as in KRS 154.61-010;

26 (g) "Qualifying expenditure" has the same meaning as in KRS 154.61-010;

27 (h) "Qualifying payroll expenditure" has the same meaning as in KRS 154.61-

1 010;

2 (i) "Secretary" has the same meaning as in KRS 154.61-010; and

3 (j) "Tax incentive agreement" has the same meaning as KRS 154.61-010.

4 (2) (a) There is hereby created a tax credit against the tax imposed under KRS
5 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in
6 KRS 141.0205.

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

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

9 2. A nonrefundable and nontransferable credit for applications approved on
10 or after April 27, 2018, but before January 1, 2022; and

11 3. A refundable credit for applications approved on or after January 1,
12 2022, if the provisions of paragraph (c) of this subsection are met.

13 (c) 1. The total tax incentive approved under KRS 154.61-020 shall be limited
14 to:

15 a. One hundred million dollars (\$100,000,000) for calendar year
16 2018 and each calendar year through the calendar year 2021;

17 b. Seventy-five million dollars (\$75,000,000) for the calendar year
18 2022 and each calendar year thereafter; and

19 c. Beginning with calendar year 2024, the amount in subdivision b.
20 of this subparagraph shall be allocated accordingly:

21 i. Twenty-five million dollars (\$25,000,000) shall be allocated
22 for all approved companies with a continuous film
23 production; and

24 ii. On the first day of April 2025, and on April 1 of each
25 calendar year thereafter, any unused balance allocated under
26 subpart i. of this subdivision for continuous film productions
27 shall be made available for all approved companies with a

- 1 motion picture or entertainment production.
- 2 2. To qualify for the refundable credit, all applicants shall:
- 3 a. Begin filming or production in Kentucky within six (6) months of
- 4 approval by the council; and
- 5 b. Complete filming or production in Kentucky within two (2) years
- 6 of their production start date.
- 7 (3) An approved company may receive a refundable tax credit if:
- 8 (a) The department has received notification from the council that the approved
- 9 company has satisfied all requirements of KRS 154.61-020 and 154.61-030;
- 10 and
- 11 (b) The approved company has provided a detailed cost report and sufficient
- 12 documentation to the council, which has been forwarded by the council to the
- 13 department, that:
- 14 1. The purchases of qualifying expenditures were made after the execution
- 15 of the tax incentive agreement; and
- 16 2. The approved company or loan-out entity has withheld income tax as
- 17 required by KRS 141.310 on all qualified payroll expenditures, and
- 18 remitted and certified the withheld amount to the department.
- 19 (4) Interest shall not be allowed or paid on any refundable credits provided under this
- 20 section.
- 21 (5) The department may promulgate administrative regulations under KRS Chapter
- 22 13A to administer this section.
- 23 (6) On or before September 1, 2010, and on or before each September 1 thereafter, for
- 24 the immediately preceding fiscal year, the department shall report to the council and
- 25 the Interim Joint Committee on Appropriations and Revenue the names of the
- 26 approved companies and the amounts of refundable income tax credit claimed.
- 27 (7) No later than September 1, 2021, and by November 1 every four (4) years

1 thereafter, the department and the Cabinet for Economic Development shall
2 cooperatively provide historical data related to the tax credit allowed in this section
3 and KRS 154.61-020 and 154.61-030, including data items beginning with tax
4 credits claimed for taxable years beginning on or after January 1, 2018:

- 5 (a) The name of the taxpayer claiming the tax credit;
- 6 (b) The date that the application was approved and the date the filming or
7 production was completed;
- 8 (c) The taxable year in which the taxpayer claimed the tax credit;
- 9 (d) The total amount of the tax credit, including any amount denied, any amount
10 applied against a tax liability, any amount refunded, and any amount
11 remaining that may be claimed on a return filed in the future;
- 12 (e) Whether the taxpayer is a Kentucky-based company as defined in KRS
13 154.61-010;
- 14 (f) Whether the taxpayer films or produces a:
- 15 1. Feature-length film, television program, or industrial film;
- 16 2. National touring production of a Broadway show; or
- 17 3. Documentary;
- 18 (g) Whether the filming or production was performed:
- 19 1. Entirely in a heritage~~[an enhanced]~~ county; or
- 20 2. In whole or in part in any Kentucky county other than in a heritage~~[an~~
21 ~~enhanced-incentive]~~ county;
- 22 (h) The amount of qualifying expenditures incurred by the taxpayer;
- 23 (i) The amount of qualifying payroll expenditures paid to:
- 24 1. Resident below-the-line crew; and
- 25 2. Nonresident below-the-line production crew;
- 26 including the number of crew members in each category;
- 27 (j) The amount of qualifying payroll expenditures paid to:

- 1 1. Resident above-the-line crew; and
- 2 2. Nonresident above-the-line crew;
- 3 including the number of crew members in each category; and
- 4 (k) A brief description of the type of motion picture or entertainment production
- 5 project.

6 (8) The information required to be reported under this section shall not be considered
7 confidential taxpayer information and shall not be subject to KRS Chapter 131 or
8 any other provisions of the Kentucky Revised Statutes prohibiting disclosure or
9 reporting of information.

10 ➔Section 23. KRS 154.61-010 is amended to read as follows:

11 As used in this subchapter:

- 12 (1) "Above-the-line production crew" means employees involved with the production
13 of a motion picture or entertainment production whose salaries are negotiated prior
14 to commencement of production, such as actors, directors, producers, and writers;
- 15 (2) "Animated production" means a nationally distributed feature-length film created
16 with the rapid display of a sequence of images using 2-D or 3-D graphics of
17 artwork or model positions in order to create an illusion of movement;
- 18 (3) "Approved company" means an eligible company approved for incentives provided
19 under KRS 141.383 and 154.61-020;
- 20 (4) "Below-the-line production crew" means employees involved with the production
21 of a motion picture or entertainment production except above-the-line production
22 crew. "Below-the-line production crew" includes but is not limited to:
 - 23 (a) Casting assistants;
 - 24 (b) Costume design;
 - 25 (c) Extras;
 - 26 (d) Gaffers;
 - 27 (e) Grips;

- 1 (f) Location managers;
- 2 (g) Production assistants;
- 3 (h) Set construction staff; and
- 4 (i) Set design staff;
- 5 (5) "Cabinet" means the Cabinet for Economic Development;
- 6 (6) "Commonwealth" means the Commonwealth of Kentucky;
- 7 (7) "Compensation" means compensation included in adjusted gross income as defined
- 8 in KRS 141.010;
- 9 (8) "Continuous film production" means a motion picture or entertainment production
- 10 that:
- 11 (a) 1. Has a projected budget of a minimum of ten million dollars
- 12 (\$10,000,000) per calendar year for qualifying expenditures and
- 13 qualifying payroll expenditures allocated to all qualifying motion picture
- 14 or entertainment productions to be filmed or produced in Kentucky, with
- 15 a minimum of one million five hundred thousand dollars (\$1,500,000)
- 16 per production in Kentucky; and
- 17 2. Has a minimum of fifty percent (50%) of the funds available and the
- 18 ability to raise the remaining funds necessary to complete the filming
- 19 and production, which may be verified by:
- 20 a. Bank statements or other financial documents; or
- 21 b. A fundraising plan at the request of the council;
- 22 (b) Demonstrates a distribution contract for each motion or entertainment
- 23 production;
- 24 (c) Films and produces a minimum of twelve (12) or more days per production
- 25 within the Commonwealth; and
- 26 (d) Maintains:
- 27 1. An apprenticeship program or on-the-job training program as defined in

- 1 KRS 343.010; or
- 2 2. Partners with a film studies program with an accredited institution of
- 3 postsecondary education located in the Commonwealth;
- 4 (9) "Council" means the Kentucky Film Leadership Council created in KRS 154.12-
- 5 282;
- 6 (10) "Documentary" means a production based upon factual information and not
- 7 subjective interjections;
- 8 (11) "Eligible company" means any person that intends to film or produce a motion
- 9 picture or entertainment production in the Commonwealth;
- 10 (12) "Employee" has the same meaning as in KRS 141.010, and, for purposes of this
- 11 subchapter, also may include the employees or independent contractors of an
- 12 approved company or the employees of a loan-out entity engaged by an approved
- 13 company if they meet the requirements of KRS 141.310;
- 14 (13) ~~["Enhanced incentive county" has the same meaning as in KRS 154.32-010;~~
- 15 ~~(14) ["Feature-length film" means a live-action or animated production that is:~~
- 16 (a) More than thirty (30) minutes in length; and
- 17 (b) Produced for distribution in theaters or via digital format, including but not
- 18 limited to DVD, Internet, or mobile electronic devices;
- 19 **(14) "Heritage county" has the same meaning as in Section 13 of this Act;**
- 20 (15) "Industrial film" means a business-to-business film that may be viewed by the
- 21 public, including but not limited to videos used for training or for viewing at a trade
- 22 show;
- 23 (16) "Kentucky-based company" has the same meaning as in KRS 164.6011;
- 24 (17) "Loan-out entity" means a corporation, partnership, limited liability company, or
- 25 other entity through which an artist or other person is loaned out to perform services
- 26 for the approved company. A loan-out entity shall be registered and in good
- 27 standing with the Kentucky Secretary of State. Notwithstanding the business

1 organization, the loan-out entity and all employees of and other persons performing
2 services for the loan-out entity shall be subject to all applicable provisions of the
3 Kentucky personal income tax and any applicable payroll or other tax provisions;

4 (18) (a) "Motion picture or entertainment production" means:

- 5 1. The following if filmed in whole or in part, or produced in whole or in
6 part, in the Commonwealth:
 - 7 a. A feature-length film;
 - 8 b. A television program;
 - 9 c. An industrial film; or
 - 10 d. A documentary; or
- 11 2. A national touring production of a Broadway show produced in
12 Kentucky.

13 (b) "Motion picture or entertainment production" does not include the filming or
14 production of obscene material or television coverage of news or athletic
15 events;

16 (19) "Obscene" has the same meaning as in KRS 531.010;

17 (20) "Person" has the same meaning as in KRS 141.010;

18 (21) (a) "Qualifying expenditure" means expenditures made in the Commonwealth for
19 the following if directly used in or for a motion picture or entertainment
20 production:

- 21 1. The production script and synopsis;
- 22 2. Set construction and operations, wardrobe, accessories, and related
23 services;
- 24 3. Lease or rental of real property in Kentucky as a set location;
- 25 4. Photography, sound synchronization, lighting, and related services;
- 26 5. Editing and related services;
- 27 6. Rental of facilities and equipment;

1 7. Vehicle leases;

2 8. Food; and

3 9. Accommodations.

4 (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by
5 the approved company on the qualifying expenditure;

6 (22) "Qualifying payroll expenditure" means compensation paid to above-the-line crew
7 and below-the line crew while working on a motion picture or entertainment
8 production in the Commonwealth if the compensation is for services performed in
9 the Commonwealth;

10 (23) "Resident" has the same meaning as in KRS 141.010;

11 (24) "Secretary" means the secretary of the Cabinet for Economic Development;

12 (25) "Tax incentive agreement" means the agreement entered into pursuant to KRS
13 154.61-030 between the council and the approved company; and

14 (26) "Television program" means any live-action or animated production or
15 documentary, including but not limited to:

16 (a) An episodic series;

17 (b) A miniseries;

18 (c) A television movie; or

19 (d) A television pilot;

20 that is produced for distribution on television via broadcast, cable, or any digital
21 format, including but not limited to cable, satellite, internet, or mobile electronic
22 devices.

23 ➔Section 24. KRS 154.61-020 is amended to read as follows:

24 (1) The purposes of KRS 141.383 and this subchapter are to encourage:

25 (a) The film and entertainment industry to choose locations in the
26 Commonwealth for the filming and production of motion picture or
27 entertainment productions;

- 1 (b) The development of a film and entertainment industry in Kentucky;
- 2 (c) Increased employment opportunities for the citizens of the Commonwealth
3 within the film and entertainment industry; and
- 4 (d) The development of a production and postproduction infrastructure in the
5 Commonwealth for film production and touring Broadway show production
6 facilities containing state-of-the-art technologies.
- 7 (2) The council, together with the Department of Revenue, shall administer the tax
8 credit established by KRS 141.383, this section, and KRS 154.61-030.
- 9 (3) To qualify for the tax incentive provided in subsection (5) of this section, the
10 following requirements shall be met:
- 11 (a) For an approved company that is also a Kentucky-based company that:
- 12 1. Films or produces a feature-length film, television program, or industrial
13 film in whole or in part in the Commonwealth, the minimum combined
14 total of qualifying expenditures and qualifying payroll expenditures
15 shall be one hundred twenty-five thousand dollars (\$125,000);
- 16 2. Produces a national touring production of a Broadway show in whole or
17 in part in the Commonwealth, the minimum combined total of
18 qualifying expenditures and qualifying payroll expenditures shall be
19 twenty thousand dollars (\$20,000); or
- 20 3. Films or produces a documentary in whole or in part in the
21 Commonwealth, the minimum combined total of qualifying
22 expenditures and qualifying payroll expenditures shall be ten thousand
23 dollars (\$10,000); and
- 24 (b) For an approved company that is not a Kentucky-based company that:
- 25 1. Films or produces a feature-length film, television program, or industrial
26 film in whole or in part in the Commonwealth, the minimum combined
27 total of qualifying expenditures and qualifying payroll expenditures

1 shall be two hundred fifty thousand dollars (\$250,000); or

2 2. Films or produces a documentary in whole or in part in the
3 Commonwealth or that produces a national touring production of a
4 Broadway show, the minimum combined total of qualifying
5 expenditures and qualifying payroll expenditures shall be twenty
6 thousand dollars (\$20,000).

7 (4) (a) Beginning on January 1, 2022, the total tax incentive approved under KRS
8 141.383 and this subchapter shall be limited to seventy-five million dollars
9 (\$75,000,000) for calendar year 2022 and each calendar year thereafter.

10 (b) Beginning with calendar year 2024:

11 1. Twenty-five million dollars (\$25,000,000) shall be allocated for all
12 approved companies with a continuous film production; and

13 2. On the first day of July of each calendar year, any unused balance of the
14 amount allocated under subparagraph 1. of this paragraph for continuous
15 film productions shall be made available for all approved companies
16 with motion picture or entertainment productions.

17 (5) (a) To qualify for the tax incentive available under KRS 141.383 and this
18 subchapter all applicants shall:

19 1. Begin filming or production in Kentucky within six (6) months of
20 approval by the council; and

21 2. Complete filming or production in Kentucky within two (2) years of the
22 filming or production start date.

23 (b) The tax credit shall be against the Kentucky income tax imposed under KRS
24 141.020 or 141.040, and the limited liability entity tax imposed under KRS
25 141.0401, and shall be refundable as provided in KRS 141.383.

26 (c) 1. For a motion picture or entertainment production or continuous film
27 production filmed or produced in its entirety in a heritage~~an enhanced~~

- 1 ~~incentive~~] county, the amount of the incentive shall be equal to thirty-
- 2 five percent (35%) of the approved company's:
- 3 a. Qualifying expenditures;
- 4 b. Qualifying payroll expenditures paid to resident and nonresident
- 5 below-the-line production crew; and
- 6 c. Qualifying payroll expenditures paid to resident and nonresident
- 7 above-the-line production crew not to exceed one million dollars
- 8 (\$1,000,000) in payroll expenditures per employee.
- 9 2. a. To the extent the approved company films or produces a motion
- 10 picture or entertainment production or continuous film production
- 11 in part in a heritage~~[an enhanced incentive]~~ county and in part a
- 12 Kentucky county that is not a heritage~~[an enhanced incentive]~~
- 13 county, the approved company shall be eligible to receive the
- 14 incentives provided in this paragraph for those expenditures
- 15 incurred in the heritage~~[enhanced incentive]~~ county and all other
- 16 expenditures shall be subject to the incentives provided in
- 17 paragraph (d) of this subsection.
- 18 b. The approved company shall track the requisite expenditures by
- 19 county. If the approved company can demonstrate to the
- 20 satisfaction of the cabinet that it is not practical to use a separate
- 21 accounting method to determine the expenditures by county, the
- 22 approved company shall determine the correct expenditures by
- 23 county using an alternative method approved by the cabinet.
- 24 (d) For a motion picture or entertainment production or continuous film
- 25 production filmed or produced in whole or in part in any Kentucky county
- 26 other than in a heritage~~[an enhanced incentive]~~ county, the amount of the
- 27 incentive shall be equal to:

- 1 1. Thirty percent (30%) of the approved company's:
 - 2 a. Qualifying expenditures;
 - 3 b. Qualifying payroll expenditures paid to below-the-line production
4 crew that are not residents; and
 - 5 c. Qualifying payroll expenditures paid to above-the-line production
6 crew that are not residents, not to exceed one million dollars
7 (\$1,000,000) in payroll expenditures per employee; and
- 8 2. Thirty-five percent (35%) of the approved company's:
 - 9 a. Qualifying payroll expenditures paid to resident below-the-line
10 production crew; and
 - 11 b. Qualifying payroll expenditures paid to resident above-the-line
12 production crew not to exceed one million dollars (\$1,000,000) in
13 payroll expenditures per employee.

14 ➔Section 25. KRS 148.851 is amended to read as follows:

15 As used in 148.851 to 148.860, unless the context clearly indicates otherwise:

- 16 (1) "Agreement" means the tourism development agreement entered into between the
17 authority and an approved company;
- 18 (2) "Approved company" means any eligible company that has received final approval
19 to receive incentives provided under KRS 148.853;
- 20 (3) "Approved costs" means the amount of eligible costs approved by the authority
21 upon completion of the project;
- 22 (4) "Authority" means the Kentucky Tourism Development Finance Authority as set
23 forth in KRS 148.850;
- 24 (5) "Cabinet" means the Tourism, Arts and Heritage Cabinet;
- 25 (6) "Crafts and products center" means a facility primarily devoted to the display,
26 promotion, and sale of Kentucky products, and at which a minimum of eighty
27 percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or

1 agricultural products;

2 (7) "Eligible company" means any corporation, limited liability company, partnership,
3 limited partnership, sole proprietorship, business trust, or any other entity operating
4 or intending to operate a tourism development project;

5 (8) "Eligible costs" means:

6 (a) Obligations incurred for labor and amounts paid to vendors, contractors,
7 subcontractors, builders, suppliers, deliverymen, and materialmen in
8 connection with the acquisition, construction, equipping, and installation of a
9 tourism development project;

10 (b) The costs of acquiring real property or rights include the acquisition of real
11 property by a leasehold interest with a minimum term of ten (10) years, and
12 any costs incidental thereto;

13 (c) The cost of contract bonds and of insurance of all kinds that may be required
14 or necessary during the course of the acquisition, construction, equipping, and
15 installation of a tourism development project which is not paid by the vendor,
16 supplier, deliveryman, contractor, or otherwise provided;

17 (d) All costs of architectural and engineering services, including but not limited to
18 estimates, plans and specifications, preliminary investigations, and
19 supervision of construction and installation, as well as for the performance of
20 all the duties required by or consequent to the acquisition, construction,
21 equipping, and installation of a tourism development project;

22 (e) All costs required to be paid under the terms of any contract for the
23 acquisition, construction, equipping, and installation of a tourism
24 development project;

25 (f) All costs required for the installation of utilities, including but not limited to
26 water, sewer, sewer treatment, gas, electricity and communications, and
27 including off-site construction of the facilities paid for by the approved

1 company; and

2 (g) All other costs comparable with those described in this subsection, excluding
3 costs subject to refund under KRS 154.20-202, 154.20-204, 154.20-206,
4 154.20-208, and 154.20-210 or Subchapter 31 of KRS Chapter 154;

5 ~~(9) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;~~

6 ~~(10)~~ "Entertainment destination center project" means a facility that meets the
7 requirements of KRS 148.853(2)(b);

8 ~~(10)~~~~(11)~~ "Final approval" means the action taken by the authority authorizing the
9 eligible company to receive incentives under KRS 139.536 and 148.851 to 148.860;

10 ~~(11)~~~~(12)~~ "Full-service lodging facility" means a facility that provides overnight
11 sleeping accommodations, including private bathrooms and all of the following:

12 (a) On-site dining facilities;

13 (b) Room service;

14 (c) Catering; and

15 (d) Meeting space;

16 ~~(12)~~~~(13)~~ **"Heritage county" has the same meaning as in Section 13 of this Act;**

17 ~~(13)~~ "Incentives" means the Kentucky sales tax refund as prescribed in KRS 139.536;

18 (14) "Kentucky sales tax" means the sales tax imposed by KRS 139.200;

19 (15) "Lodging facility project" means a full-service lodging facility that:

20 (a) 1. Is located on recreational property owned or leased by the
21 Commonwealth or the federal government;

22 2. Involves the restoration or rehabilitation of a structure that:

23 a. Is listed individually on the National Register of Historic Places;
24 or

25 b. Is located in the National Register Historic District; and
26 is certified by the Kentucky Heritage Council as contributing to the
27 historic significance of the district, and the rehabilitation or restoration

- 1 of the structure has been approved in advance by the Kentucky Heritage
2 Council;
- 3 3. Is an integral part of a major convention or sports facility;
- 4 4. Is located:
- 5 a. Within a fifty (50) mile radius of a property listed on the National
6 Register of Historic Places with a current function of recreation
7 and culture; and
- 8 b. In any of the one hundred (100) least-populated counties in the
9 Commonwealth, in terms of population density, according to the
10 most recent census;
- 11 5. Is located on property:
- 12 a. Owned by the Commonwealth, or leased by the Commonwealth
13 from the federal government;
- 14 b. Acquired for use in the state park system pursuant to KRS
15 148.028; and
- 16 c. Operated by the Kentucky Department of Parks pursuant to KRS
17 148.021 or the Kentucky Horse Park Commission pursuant to
18 KRS 148.258 to 148.320;
- 19 6. Is located on property:
- 20 a. Owned or leased by the federal government and under the control
21 of the Department of the Interior; or
- 22 b. Owned by the Commonwealth and in the custody of the State Fair
23 Board as provided in KRS 247.140;
- 24 7. Is part of a tourism attraction project, entertainment destination center
25 project, or theme restaurant destination attraction project and the full-
26 service lodging facility represents less than fifty percent (50%) of the
27 total eligible costs; or

- 1 8. Has not less than five hundred (500) guest rooms; or
- 2 (b) 1. Is located:
- 3 a. In any of the one hundred (100) least-populated counties in the
- 4 Commonwealth, in terms of population density, according to the
- 5 most recent decennial census;
- 6 b. In a county, the boundaries of which:
- 7 i. Include, in part, the boundaries of a designated national
- 8 forest; or
- 9 ii. Are adjacent to or include a portion of parallel reservoirs of
- 10 water surrounding a national recreation area;
- 11 c. Within a heritage~~[an enhanced incentive]~~ county and will create at
- 12 least fifty (50) new full-time jobs within that county; and
- 13 d. Within one-half (1/2) mile of a state resort park;
- 14 2. Has a capital investment of at least one hundred million dollars
- 15 (\$100,000,000); and
- 16 3. Contains accommodations for:
- 17 a. Lodging, with a minimum of one hundred (100) guest rooms,
- 18 cabins, or rental units;
- 19 b. Relaxation, including a spa;
- 20 c. More than one (1) on-site dining facility; and
- 21 d. More than one (1) meeting or event space;
- 22 (16) "Net positive fiscal impact" means the amount by which increased state tax
- 23 revenues will exceed the incentives given;
- 24 (17) "Preliminary approval" means the action taken by the authority conditionally
- 25 approving an eligible company for the incentives under KRS 139.536 and 148.851
- 26 to 148.860;
- 27 (18) "Recreational facility" means a structure or outdoor area that:

1 (a) Provides visitors recreational opportunities, including but not limited to
2 amusement parks, boating, hiking, horseback riding, hunting, fishing,
3 camping, wildlife viewing, live theater, rock climbing, and all-terrain vehicle
4 trails; and

5 (b) Serves as a likely destination where individuals who are not residents of the
6 Commonwealth would remain overnight in commercial lodging at or near the
7 recreational facility;

8 (19) "Theme restaurant destination attraction project" means a restaurant facility that
9 meets the requirements for incentives under KRS 148.853(2)(c);

10 (20) (a) "Tourism attraction project" means:

- 11 1. A cultural or historical site;
- 12 2. A recreational facility;
- 13 3. An entertainment facility;
- 14 4. An area of natural phenomenon or scenic beauty; or
- 15 5. A Kentucky crafts and products center;

16 (b) "Tourism attraction project" does not include facilities that are primarily
17 devoted to the retail sale of goods, other than a Kentucky crafts and products
18 center, or a tourism attraction where the sale of goods is a secondary and
19 subordinate component of the attraction; and

20 (21) "Tourism development project" means:

- 21 (a) A tourism attraction project;
- 22 (b) A theme restaurant destination attraction project;
- 23 (c) An entertainment destination center project; or
- 24 (d) A lodging facility project.

25 ➔Section 26. KRS 148.853 is amended to read as follows:

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

27 (a) The general welfare and material well-being of the citizens of the

1 Commonwealth depend in large measure upon the development of tourism in
2 the Commonwealth;

3 (b) It is in the best interest of the Commonwealth to provide incentives for the
4 creation of new tourism attractions and the expansion of existing tourism
5 attractions within the Commonwealth in order to advance the public purposes
6 of relieving unemployment by preserving and creating jobs that would not
7 exist if not for the incentives offered by the authority to approved companies,
8 and by preserving and creating sources of tax revenues for the support of
9 public services provided by the Commonwealth;

10 (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental
11 and public purposes for which public moneys may be expended; and

12 (d) That the creation or expansion of tourism development projects is of
13 paramount importance mandating that the provisions of KRS 139.536 and
14 KRS 148.851 to 148.860 be liberally construed and applied in order to
15 advance public purposes.

16 (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the
17 following requirements shall be met:

18 (a) For a tourism attraction project:

19 1. The total eligible costs shall exceed one million dollars (\$1,000,000),
20 except for a tourism attraction project located in a county designated as
21 a heritage~~[an enhanced incentive]~~ county at the time the eligible
22 company becomes an approved company as provided in KRS
23 148.857(6), the total eligible costs shall exceed five hundred thousand
24 dollars (\$500,000);

25 2. In any year, including the first year of operation, the tourism attraction
26 project shall be open to the public at least one hundred (100) days; and

27 3. In any year following the third year of operation, the tourism attraction

1 project shall attract at least twenty-five percent (25%) of its visitors
2 from among persons who are not residents of the Commonwealth;

3 (b) For an entertainment destination center project:

- 4 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 5 2. The facility shall contain a minimum of two hundred thousand
6 (200,000) square feet of building space adjacent or complementary to an
7 existing tourism attraction project or a major convention facility;
- 8 3. The incentives shall be dedicated to a public infrastructure purpose that
9 shall relate to the entertainment destination center project;
- 10 4. In any year, including the first year of operation, the entertainment
11 destination center project shall:
 - 12 a. Be open to the public at least one hundred (100) days per year;
 - 13 b. Maintain at least one (1) major theme restaurant and at least three
14 (3) additional entertainment venues, including but not limited to
15 live entertainment, multiplex theaters, large-format theater, motion
16 simulators, family entertainment centers, concert halls, virtual
17 reality or other interactive games, museums, exhibitions, or other
18 cultural and leisure-time activities; and
 - 19 c. Maintain a minimum occupancy of sixty percent (60%) of the total
20 gross area available for lease with entertainment and food and
21 drink options not including the retail sale of tangible personal
22 property; and
- 23 5. In any year following the third year of operation, the entertainment
24 destination center project shall attract at least twenty-five percent (25%)
25 of its visitors from among persons who are not residents of the
26 Commonwealth;

27 (c) For a theme restaurant destination attraction project:

- 1 1. The total eligible costs shall exceed five million dollars (\$5,000,000);
- 2 2. In any year, including the first year of operation, the attraction shall:
 - 3 a. Be open to the public at least three hundred (300) days per year
 - 4 and for at least eight (8) hours per day; and
 - 5 b. Generate no more than fifty percent (50%) of its revenue through
 - 6 the sale of alcoholic beverages;
- 7 3. In any year following the third year of operation, the theme restaurant
- 8 destination attraction project shall attract a minimum of fifty percent
- 9 (50%) of its visitors from among persons who are not residents of the
- 10 Commonwealth; and
- 11 4. The theme restaurant destination attraction project shall:
 - 12 a. At the time of final approval, offer a unique dining experience that
 - 13 is not available in the Commonwealth within a one hundred (100)
 - 14 mile radius of the attraction;
 - 15 b. In any year, including the first year of operation, maintain seating
 - 16 capacity of four hundred fifty (450) guests and offer live music or
 - 17 live musical and theatrical entertainment during the peak business
 - 18 hours that the facility is in operation and open to the public; or
 - 19 c. Within three (3) years of the completion date, the attraction shall
 - 20 obtain a top two (2) tier rating by a nationally accredited service
 - 21 and shall maintain a top two (2) tier rating through the term of the
 - 22 agreement;
- 23 (d) For a lodging facility project defined in KRS 148.851(15)(a):
 - 24 1. a. The eligible costs shall exceed five million dollars (\$5,000,000)
 - 25 unless the provisions of subdivision b. of this subparagraph apply.
 - 26 b. i. If the lodging facility is an integral part of a major
 - 27 convention or sports facility, the eligible costs shall exceed

- 1 six million dollars (\$6,000,000); and
- 2 ii. If the lodging facility includes five hundred (500) or more
- 3 guest rooms, the eligible costs shall exceed ten million
- 4 dollars (\$10,000,000); and
- 5 2. In any year, including the first year of operation, the lodging facility
- 6 shall:
- 7 a. Be open to the public at least one hundred (100) days; and
- 8 b. Attract at least twenty-five percent (25%) of its visitors from
- 9 among persons who are not residents of the Commonwealth;
- 10 (e) For a lodging facility project defined in KRS 148.851(15)(b):
- 11 1. The eligible costs shall exceed one hundred million dollars
- 12 (\$100,000,000); and
- 13 2. The lodging facility shall:
- 14 a. Be open to the public at least one hundred (100) days each year,
- 15 including the first year of operation; and
- 16 b. In any year following the third year of operation, attract a
- 17 minimum of twenty-five percent (25%) of its overnight visitors
- 18 from among persons who are not residents of the Commonwealth;
- 19 (f) Any tourism development project shall not be eligible for incentives if it
- 20 includes material determined to be lewd, offensive, or deemed to have a
- 21 negative impact on the tourism industry in the Commonwealth; and
- 22 (g) An expansion of any tourism development project shall in all cases be treated
- 23 as a new stand-alone project.
- 24 (3) (a) The incentives offered to an approved company under the Kentucky Tourism
- 25 Development Act may include a sales tax incentive based on the Kentucky
- 26 sales tax imposed on sales generated by or arising at the tourism development
- 27 project.

- 1 (b) 1. For a tourism development project other than a lodging facility project
2 described in subparagraph 4. or 5. of this paragraph:
- 3 a. A sales tax incentive shall be allowed to an approved company
4 over a period of ten (10) years, except as provided in
5 subparagraphs 7. and 8. of this paragraph; and
- 6 b. The sales tax incentive shall not exceed the lesser of the total
7 amount of the sales tax liability of the approved company and its
8 lessees or a percentage of the approved costs as specified by the
9 agreement, not to exceed twenty-five percent (25%).
- 10 2. For projects approved according to the application period established
11 under KRS 148.8531, a tourism attraction project located in a
12 heritage~~[an enhanced incentive]~~ county at the time the eligible company
13 becomes an approved company as provided in KRS 148.857(6):
- 14 a. A sales tax incentive shall be allowed to the approved company
15 over a period of ten (10) years; 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 thirty percent (30%).
- 20 3. For applications considered after June 27, 2025, including projects
21 related to property to which the title passed from a seller to a buyer on
22 or after March 1, 2025, a tourism attraction project located in a
23 heritage~~[an enhanced incentive]~~ county with a population equal to or
24 less than twenty thousand (20,000) based on the most recent decennial
25 census at the time the eligible company becomes an approved company
26 as provided in KRS 148.857(6):
- 27 a. A sales tax incentive shall be allowed to the approved company

- 1 over a period of twenty (20) years; and
- 2 b. The sales tax incentive shall not exceed the lesser of the total
3 amount of the sales tax liability of the approved company and its
4 lessees or a percentage of the approved costs as specified by the
5 agreement, not to exceed fifty percent (50%).
- 6 4. For a lodging facility project described in KRS 148.851(15)(a)5. or 6.:
- 7 a. A sales tax incentive shall be allowed to the approved company
8 over a period of twenty (20) years; and
- 9 b. The sales tax incentive shall not exceed the lesser of total amount
10 of the sales tax liability of the approved company and its lessees or
11 a percentage of the approved costs as specified by the agreement,
12 not to exceed fifty percent (50%).
- 13 5. For a lodging facility project described in KRS 148.851(15)(b), a sales
14 tax incentive that shall:
- 15 a. Be allowed to the approved company over a period of twenty (20)
16 years; and
- 17 b. Not exceed the lesser of the total amount of sales tax liability of
18 the approved company and its lessees or a percentage of the
19 approved costs as specified by the agreement, not to exceed fifty
20 percent (50%).
- 21 6. Any unused incentives from a previous year may be carried forward to
22 any succeeding year during the term of the agreement until the entire
23 specified percentage of the approved costs has been received through
24 sales tax incentives.
- 25 7. If the approved company is an entertainment destination center that has
26 dedicated at least thirty million dollars (\$30,000,000) of the incentives
27 provided under the agreement to a public infrastructure purpose, the

- 1 agreement may be amended to extend the term of the agreement up to
2 two (2) additional years if the approved company agrees to:
- 3 a. Reinvest in the original entertainment destination project one
4 hundred percent (100%) of any incentives received during the
5 extension that were outstanding at the end of the original term of
6 the agreement; and
 - 7 b. Report to the authority at the end of each fiscal year the amount of
8 incentives received during the extension and how the incentives
9 were reinvested in the original entertainment destination project.
- 10 8. The term of a tourism development agreement entered into with a
11 tourism attraction project that was in effect on January 1, 2020, shall be
12 extended for one (1) year if the tourism attraction project:
- 13 a. Has historically been open to the public on a seasonal basis
14 consisting of less than six (6) months;
 - 15 b. Has previously met the requirement of being open to the public at
16 least one hundred (100) days during the entire term of the tourism
17 development agreement as required under subsection (2)(a)2. of
18 this section;
 - 19 c. Failed to be open to the public at least one hundred (100) days
20 during the calendar year 2020 solely as a result of complying with
21 one (1) or more executive orders issued by the Governor under the
22 authority of KRS 39A.090 that prevented the tourism attraction
23 project from being open to the public for at least one hundred
24 (100) days during its normal operating season; and
 - 25 d. Applied for a sales tax incentive related to the calendar year 2020
26 operating season and was denied the sales tax incentive solely on
27 the basis that the tourism attraction project was not open to the

1 public for at least one hundred (100) days in calendar year 2020.

2 ➔Section 27. KRS 154.20-230 is amended to read as follows:

3 As used in KRS 154.20-230 to 154.20-240:

- 4 (1) "Application" means a document submitted by small businesses and investors, on a
5 form supplied by the authority, for the purpose of requesting certification to
6 participate in the program and to apply for a credit;
- 7 (2) "Authority" means the Kentucky Economic Development Finance Authority;
- 8 (3) "Commonwealth" means the Commonwealth of Kentucky;
- 9 (4) "Credit" means the nonrefundable angel investor tax credit established by KRS
10 141.396 and awarded by the authority pursuant to KRS 154.20-236;
- 11 (5) "Department" means the Department of Revenue;
- 12 ~~(6) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;~~
- 13 ~~(7)~~ (7) "Entity" means any corporation, limited liability company, business development
14 corporation, partnership, limited partnership, sole proprietorship, association, joint
15 stock company, receivership, trust, professional service organization, or other legal
16 entity through which business is conducted;
- 17 ~~(7)~~~~(8)~~ (8) "Fee" means a nonrefundable application fee in an amount set by the
18 authority, to be collected by the authority to offset the cost of administering KRS
19 154.20-230 to 154.20-240;
- 20 ~~(8)~~~~(9)~~ (9) "Full-time employee" means a person that is required to work a minimum of
21 thirty-five (35) hours per week and is subject to the tax imposed by KRS 141.020;
- 22 **(9) "Heritage county" has the same meaning as in Section 13 of this Act;**
- 23 (10) "Knowledge-based" has the same meaning as in KRS 164.6011;
- 24 (11) (a) "Qualified activity" means any knowledge-based activity related to the new
25 economy focus areas of the Office of Entrepreneurship and Innovation,
26 including but not limited to:
- 27 1. Bioscience;

- 1 2. Environmental and energy technology;
- 2 3. Health and human development;
- 3 4. Information technology and communications; and
- 4 5. Materials science and advanced manufacturing.

5 (b) A "qualified activity" does not include any activity principally engaged in by
6 financial institutions, commercial development companies, credit companies,
7 financial or investment advisors, brokerage or financial firms, other
8 investment funds or investment fund managers, charitable and religious
9 institutions, oil and gas exploration companies, insurance companies,
10 residential housing developers, retail establishments, or any activity that the
11 authority determines in its discretion to be against the public interest, against
12 the purposes of KRS 154.20-230 to 154.20-240, or in violation of any law.
13 Notwithstanding this paragraph, an entity involved in other technological
14 advances may be deemed to be engaged in qualified activity, as determined by
15 the executive director of the Office of Entrepreneurship and Innovation;

16 (12) "Qualified investment" means an investment meeting the requirements of KRS
17 154.20-234 for qualified investments, and certified pursuant to KRS 154.20-236;

18 (13) "Qualified investor" means an individual investor meeting the requirements of KRS
19 154.20-234 for qualified investors, and certified pursuant to KRS 154.20-236; and

20 (14) "Qualified small business" means an entity meeting the requirements of KRS
21 154.20-234 for qualified small businesses, and certified pursuant to KRS 154.20-
22 236.

23 ➔Section 28. KRS 154.20-236 is amended to read as follows:

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

26 (a) All qualified investors shall be no more than three million dollars
27 (\$3,000,000); and

- 1 (b) Any individual qualified investor shall be no more than two hundred thousand
2 dollars (\$200,000).
- 3 (2) (a) The total amount of credit that may be awarded by the authority to:
4 1. All qualified investors pursuant to KRS 154.20-230 to 154.20-240; and
5 2. All investors in all investment funds pursuant to KRS 154.20-250 to
6 154.20-284;
7 shall be no more than forty million dollars (\$40,000,000) in total for all years
8 prior to December 31, 2020.
- 9 (b) Beginning on or after January 1, 2021, the amount of credit that may be
10 awarded by the authority in each calendar year shall be equal to the amount
11 provided in subsection (1) of this section.
- 12 (c) The authority shall not grant preliminary or final approval for applications
13 received for the Kentucky Angel Investment Act on or after January 1, 2019,
14 but may resume approving applications received on or after January 1, 2021.
- 15 (3) The authority shall, by promulgation of an administrative regulation, develop a
16 standard procedure for:
17 (a) Small businesses and investors to request certification for participation in the
18 program;
19 (b) Qualified investors to request certification of a planned investment as being a
20 qualified investment, and to apply for a credit; and
21 (c) The award of credits to qualified investors making qualified investments.
- 22 (4) At a minimum, the procedure shall:
23 (a) Require small businesses and investors to demonstrate to the authority that
24 they, and any planned investment, satisfy all requirements provided in KRS
25 154.20-234;
26 (b) Provide small businesses and investors with a standard written application
27 form to request certification and apply for a credit;

- 1 (c) Require the payment of a fee; and
- 2 (d) Mandate a time period for the duration of certifications granted to small
3 businesses and investors, and the procedures for recertification thereof.
- 4 (5) The amount of credit awarded shall not exceed:
- 5 (a) Twenty-five percent (25%) of the amount of the qualified investment, if the
6 principal place of business of the qualified small business is outside a
7 heritage~~[an enhanced incentive]~~ county; or
- 8 (b) Forty percent (40%) of the amount of the qualified investment, if the principal
9 place of business of the qualified small business is in a heritage~~[an enhanced~~
10 ~~incentive]~~ county.
- 11 (6) Upon approval of a credit, the authority shall reduce the amount of available credit
12 by the amount of credit approved to the qualified investor.
- 13 (7) The authority may, in effectuating this section, contract with a science and
14 technology organization as defined in KRS 164.6011 to administer and manage the
15 certification and application procedure established by the authority. However, the
16 final approval of all credits shall be made solely by the authority.
- 17 ➔Section 29. KRS 154.34-010 is amended to read as follows:
- 18 As used in this subchapter:
- 19 (1) "Affiliate" has the same meaning as in KRS 154.32-010;
- 20 (2) "Agribusiness" has the same meaning as in KRS 154.32-010;
- 21 (3) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- 22 (4) "Approved company" means an eligible company approved under KRS 154.34-070
23 for a reinvestment project;
- 24 (5) "Approved costs" means the eligible equipment and related costs approved by the
25 authority that may be recovered by an approved company through the incentives
26 authorized by this subchapter;
- 27 (6) "Authority" means the Kentucky Economic Development Finance Authority

1 created by KRS 154.20-010;

2 (7) "Capital lease" has the same meaning as in KRS 154.32-010;

3 (8) "Carbon dioxide or hydrogen transmission pipeline" has the same meaning as in
4 KRS 154.32-010;

5 (9) "Coal severing and processing" means activities resulting in an eligible company
6 being subject to the tax imposed by KRS Chapter 143;

7 (10) "Commonwealth" means the Commonwealth of Kentucky;

8 (11) "Department" means the Department of Revenue;

9 (12) (a) "Eligible company" means any corporation, limited liability company,
10 partnership, limited partnership, sole proprietorship, business trust, or any
11 other entity:

12 1. Employing or intending to employ a minimum of twenty-five (25)
13 persons on a full-time bases; and

14 2. Engaged in or planning to engage in one (1) or more of the following
15 activities:

16 a. Headquarter operations;

17 b. Manufacturing;

18 c. Agribusiness;

19 d. Nonretail service or technology;

20 e. Coal severing and processing;

21 f. Alternative fuel, gasification, energy-efficient alternative fuel, or
22 renewable energy production;

23 g. Carbon dioxide or hydrogen transmission pipeline operations; or

24 h. Hospital operations;

25 at the same facility located and operating within the Commonwealth on
26 a permanent basis for a reasonable period of time preceding the request
27 for approval of a reinvestment project by the authority, including

1 facilities where operations have been temporarily suspended and which
2 meet the standards under KRS 154.34-070 and related administrative
3 regulations promulgated by the authority.

4 (b) "Eligible company" does not include any company for which the primary
5 activity to be conducted within the Commonwealth is:

- 6 1. Forestry;
- 7 2. Fishing;
- 8 3. The provision of utilities;
- 9 4. Construction;
- 10 5. Wholesale trade;
- 11 6. Retail trade;
- 12 7. Real estate;
- 13 8. Rental and leasing;
- 14 9. Educational services;
- 15 10. Accommodation and food services; or
- 16 11. Public administration services;

17 (13) (a) "Eligible equipment and related costs" means:

- 18 1. Obligations incurred for labor and to vendors, contractors,
19 subcontractors, builders, suppliers, deliverymen, and materialmen in
20 connection with the acquisition, construction, equipping, rehabilitation,
21 and installation of a reinvestment project;
- 22 2. The cost of contract bonds and of insurance of all kinds that may be
23 required or necessary during the course of acquisition, construction,
24 equipping, rehabilitation, and installation of a reinvestment project
25 which is not paid by the vendor, supplier, deliveryman, contractor, or
26 otherwise provided;
- 27 3. All costs of architectural and engineering services, including estimates,

1 plans and specifications, preliminary investigations, and supervision of
2 construction, rehabilitation and installation, as well as for the
3 performance of all the duties required by or consequent upon the
4 acquisition, construction, equipping, rehabilitation, and installation of a
5 reinvestment project;

6 4. All costs required to be paid under the terms of any contract for the
7 acquisition, construction, equipping, rehabilitation, and installation of a
8 reinvestment project;

9 5. All costs required for the installation of utilities, including but not
10 limited to water, sewer, sewer treatment, gas, electricity,
11 communications, and access to transportation, and including off-site
12 construction of the facilities paid for by the approved company; and

13 6. All other costs of a nature comparable to those described in this
14 paragraph.

15 (b) "Eligible equipment and related costs" does not include costs related to the
16 replacement or repair of existing machinery or equipment resulting from
17 normal wear and usage of the machinery or equipment;

18 (14) "Energy-efficient alternative fuel production" has the same meaning as in KRS
19 154.32-010;

20 ~~(15) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;~~

21 ~~(16)~~ "Equipment" means manufacturing machinery equipment, computers, furnishings,
22 fixtures, and other assets installed by the approved company as part of the
23 reinvestment project;

24 ~~(16)~~(17) "Final approval" means the action taken by the authority designating a
25 preliminarily approved eligible company as an approved company to receive
26 incentives under this subchapter;

27 ~~(17)~~(17) "Full-time employee" means a person who:

- 1 (a) Is required to work a minimum of thirty-five (35) hours per week; or
- 2 (b) Works remotely away from the reinvestment project if all the following
- 3 conditions are met:
- 4 1. Is a Kentucky resident;
- 5 2. Whose job was created or retained as a result of the reinvestment
- 6 project; and
- 7 3. Whose payroll is expensed to the reinvestment project;
- 8 ~~(18)~~~~(19)~~ "Gasification production" has the same meaning as in KRS 154.32-010;
- 9 ~~(19)~~~~(20)~~ "Headquarters" has the same meaning as in KRS 154.32-010;
- 10 **(20) "Heritage county" has the same meaning as in Section 13 of this Act;**
- 11 (21) "Hospital" has the same meaning as in KRS 154.32-010;
- 12 (22) "Incentives" means the Kentucky tax credit as prescribed in this subchapter;
- 13 (23) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- 14 (24) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- 15 (25) "Leased project" has the same meaning as in KRS 154.32-010;
- 16 (26) "Manufacturing" has the same meaning as in KRS 154.32-010;
- 17 (27) "Nonretail service or technology" has the same meaning as in KRS 154.32-010;
- 18 (28) "Personal protective equipment" has the same meaning as in KRS 154.32-010;
- 19 (29) "Preliminary approval" means the action taken by the authority designating an
- 20 eligible company as a preliminarily approved company;
- 21 (30) "Reinvestment agreement" means the agreement entered into pursuant to KRS
- 22 154.34-080 between the authority and an approved company with respect to a
- 23 reinvestment project;
- 24 (31) "Reinvestment project" means:
- 25 (a) A reinvestment in the facility of an eligible company and in the full-time
- 26 employees of an eligible company through the acquisition, construction, and
- 27 installation of new equipment and, with respect thereto, the construction,

1 rehabilitation, and installation of improvements to facilities necessary to
2 house the new equipment, including surveys; installation of utilities, including
3 water, sewer, sewage treatment, gas, electricity, communications, and similar
4 facilities; or off-site construction of utility extensions to the boundaries of the
5 real estate on which the facilities are located;

6 (b) The expenditure of at least one million dollars (\$1,000,000) in eligible
7 equipment and related costs for leased projects and at least two million five
8 hundred thousand dollars (\$2,500,000) in eligible equipment and related costs
9 for all other reinvestment projects; and

10 (c) A reinvestment in a facility in order to allow for the production of vital
11 medications, personal protective equipment, or equipment necessary to
12 produce personal protective equipment;

13 (32) "Renewable energy production" has the same meaning as in KRS 154.32-010; and

14 (33) "Vital medications" has the same meaning as in KRS 154.32-010.

15 ➔Section 30. KRS 131.190 is amended to read as follows:

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

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

27 (a) Information required in prosecutions for making false reports or returns of

- 1 property for taxation, or any other infraction of the tax laws;
- 2 (b) Any matter properly entered upon any assessment record, or in any way made
3 a matter of public record;
- 4 (c) Furnishing any taxpayer or his or her properly authorized agent with
5 information respecting his or her own return;
- 6 (d) Testimony provided by the commissioner or any employee of the department
7 in any court, or the introduction as evidence of returns or reports filed with the
8 department, in an action for violation of state or federal tax laws or in any
9 action challenging state or federal tax laws;
- 10 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
11 energy resources assessed under KRS 132.820, or owners of surface land
12 under which the unmined minerals lie, factual information about the owner's
13 property derived from third-party returns filed for that owner's property, under
14 the provisions of KRS 132.820, that is used to determine the owner's
15 assessment. This information shall be provided to the owner on a confidential
16 basis, and the owner shall be subject to the penalties provided in KRS
17 131.990(2). The third-party filer shall be given prior notice of any disclosure
18 of information to the owner that was provided by the third-party filer;
- 19 (f) Providing to a third-party purchaser pursuant to an order entered in a
20 foreclosure action filed in a court of competent jurisdiction, factual
21 information related to the owner or lessee of coal, oil, gas reserves, or any
22 other mineral resources assessed under KRS 132.820. The department may
23 promulgate an administrative regulation establishing a fee schedule for the
24 provision of the information described in this paragraph. Any fee imposed
25 shall not exceed the greater of the actual cost of providing the information or
26 ten dollars (\$10);
- 27 (g) Providing information to a licensing agency, the Transportation Cabinet, or

- 1 the Kentucky Supreme Court under KRS 131.1817;
- 2 (h) Statistics of gasoline and special fuels gallonage reported to the department
3 under KRS 138.210 to 138.448;
- 4 (i) Providing any utility gross receipts license tax return information that is
5 necessary to administer the provisions of KRS 160.613 to 160.617 to
6 applicable school districts on a confidential basis;
- 7 (j) Providing documents, data, or other information to a third party pursuant to an
8 order issued by a court of competent jurisdiction;
- 9 (k) Publishing administrative writings on its official website in accordance with
10 KRS 131.020(1)(b); or
- 11 (l) Providing information to the Legislative Research Commission under:
- 12 1. KRS 139.519 for purposes of the sales and use tax refund on building
13 materials used for disaster recovery;
- 14 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 15 3. KRS 141.437 for purposes of the ENERGY STAR home and the
16 ENERGY STAR manufactured home credits;
- 17 4. KRS 141.383 for purposes of the film industry incentives;
- 18 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
19 credit and the job assessment fees;
- 20 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 21 7. KRS 141.396 for purposes of the angel investor credit;
- 22 8. KRS 141.389 for purposes of the distilled spirits credit;
- 23 9. KRS 141.408 for purposes of the inventory credit;
- 24 10. KRS 141.390 for purposes of the recycling and composting credits;
- 25 11. KRS 141.3841 for purposes of the selling farmer credit;
- 26 12. KRS 141.4231 for purposes of the renewable chemical production
27 credit;

- 1 13. KRS 141.524 for purposes of the Education Opportunity Account
2 Program credit;
- 3 14. KRS 141.398 for purposes of the development area credit;
- 4 15. KRS 139.516 for purposes of the sales and use tax exemptions for the
5 commercial mining of cryptocurrency;
- 6 16. KRS 141.419 for purposes of the decontamination credit;
- 7 17. KRS 141.391 for purposes of the qualified broadband investment credit;
- 8 18. KRS 139.499 for purposes of the sales and use tax exemptions for a
9 qualified data center project;~~and~~
- 10 19. KRS 139.5325 for purposes of the sales and use tax incentive for a
11 qualifying attraction;and~~and~~

12 **20. Section 1 of this Act for purposes of the refundable economic**
13 **development credit.**

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

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

26 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
27 requirements of KRS Chapter 137 and statistics of natural gas production as

1 reported to the department under the natural resources severance tax requirements
2 of KRS Chapter 143A may be made public by the department by release to the
3 Energy and Environment Cabinet, Department for Natural Resources.

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

13 ➔Section 31. KRS 164.6021 is amended to read as follows:

14 (1) The Cabinet for Economic Development shall manage the Kentucky enterprise fund
15 to provide capital to small and medium-size, Kentucky-based companies to
16 undertake feasibility, concept development, research and development, or
17 commercialization work.

18 (2) The purpose of the Kentucky enterprise fund is to:

19 (a) Accelerate knowledge transfer and technological innovation, improve
20 economic competitiveness, and spur economic growth in Kentucky-based
21 companies;

22 (b) Support feasibility, concept development, research and development, or
23 commercialization activities that have clear potential to lead to commercially
24 successful products, processes, or services within a reasonable period of time;

25 (c) Stimulate growth-oriented enterprises within the Commonwealth;

26 (d) Encourage partnerships and collaborative projects between private enterprises,
27 Kentucky's colleges and universities, and research organizations;

- 1 (e) Promote research and development and commercialization activities that are
2 market-oriented; and
- 3 (f) Support small and medium-sized companies.
- 4 (3) The Kentucky enterprise fund shall be used to fund qualified companies in
5 accordance with this section as follows:
- 6 (a) Grants of up to fifty thousand dollars (\$50,000) for companies exploring the
7 feasibility of technology commercialization or projects related to feasibility
8 studies, such as incubator and accelerator programs;
- 9 (b) Funding of up to two hundred fifty thousand dollars (\$250,000) for companies
10 in the concept development phase of technology commercialization;
- 11 (c) Funding of up to five hundred thousand dollars (\$500,000) for companies
12 advancing and promoting the program goals, as outlined in subsection (2) of
13 this section; and
- 14 (d) For new investments made on or after July 1, 2021, no qualified company can
15 receive a total investment from the fund in excess of up to five hundred
16 thousand dollars (\$500,000).
- 17 (4) Beginning July 1, 2021, the cabinet shall allocate at least twenty percent (20%) of
18 the annual allotment of funds for the Kentucky enterprise fund to qualified
19 companies located in rural or ~~heritage~~~~[enhanced incentive]~~ counties, as **defined in**
20 **Section 13 of this Act**~~[certified under KRS 154.32-050]~~, and at least twenty percent
21 (20%) of the annual allotment of funds to qualified companies located in
22 Opportunity Zones, as designated by the Commonwealth and certified by the
23 Secretary of the United States Treasury.
- 24 (5) For all funding totaling more than thirty thousand dollars (\$30,000), the science and
25 technology organization or any entity designated by the executive director of the
26 Office of Entrepreneurship and Innovation shall receive an equity interest in the
27 qualified company, such as a general or limited partnership interest, limited liability

1 company interest, common or preferred stock with or without voting rights and
2 without regard to seniority position, forms of subordinate or convertible unsecured
3 debt, or both, with warrants, rights, or other means of equity conversion attached, a
4 near equity interest such as a simple agreement for future equity or "SAFE
5 agreement", or other convertible debt instruments that are determined to qualify as
6 an adequate investment interest by the executive director of the Office of
7 Entrepreneurship and Innovation.

8 ➔Section 32. Whereas the Cabinet for Economic Development's incentive
9 programs play a vital role in supporting economic development and job growth
10 throughout the Commonwealth, to ensure companies operating within the
11 Commonwealth's border counties are not negatively impacted by employees residing in
12 adjacent states and to encourage companies operating in adjacent states to hire Kentucky
13 residents, the Cabinet for Economic Development is encouraged to conduct a feasibility
14 and impact study on interstate reciprocity between states relating to economic
15 development programming. The study shall, at a minimum, identify any existing models,
16 identify the potential economic impacts of such an arrangement between Kentucky and
17 adjacent states, assess the feasibility and cost implications of implementing those models,
18 and provide recommendations. The Cabinet for Economic Development shall collaborate
19 with the Center for Economic and Entrepreneurial Development at Murray State
20 University to establish the scope of the study. If the Cabinet for Economic Development
21 completes a study pursuant to this subsection, it shall be submitted to the Interim Joint
22 Committee on Economic Development and Workforce Investment by December 1, 2028.

23 ➔Section 33. Whereas economic development is of vital importance to the quality
24 of life of all Kentuckians, an emergency is declared to exist, and this Act takes effect
25 upon its passage and approval by the Governor or upon its otherwise becoming a law.