

1 AN ACT relating to economic development.

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

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

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

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

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

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

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

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

19 *(3) The department shall:*

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

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

26 *(c) Report to the authority on the refundable credits claimed in accordance*
27 *with this section and include:*

- 1 1. The total amount of refundable credit awarded for each taxable year,
 2 by county, with location distinction of a rural county or any other
 3 Kentucky county;
 4 2. Each taxpayer claiming a credit; and
 5 3. The total amount of wages paid to a full-time employee by an
 6 approved company and included in credit computation.
 7 (4) The information required to be reported under subsection (3) of this section shall
 8 not be considered confidential taxpayer information and shall not be subject to
 9 KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes
 10 prohibiting disclosure or reporting of information.

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

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

- 15 (1) The nonrefundable business incentive credits against the tax imposed by KRS
 16 141.020 shall be taken in the following order:
- 17 (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - 18 (b) The economic development credits computed under KRS 141.347, 141.381,
 19 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
 20 154.12-2088;
 - 21 (c) The qualified farming operation credit permitted by KRS 141.412;
 - 22 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - 23 (e) The health insurance credit permitted by KRS 141.062;
 - 24 (f) The tax paid to other states credit permitted by KRS 141.070;
 - 25 (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - 26 (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - 27 (i) The ~~tax~~ credit for cash contributions in investment funds permitted by KRS

- 1 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
2 154.20-258;
- 3 (j) The research facilities credit permitted by KRS 141.395;
- 4 (k) The employer High School Equivalency Diploma program incentive credit
5 permitted under KRS 151B.402;
- 6 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 7 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 8 (n) The clean coal incentive credit permitted by KRS 141.428;
- 9 (o) The ethanol credit permitted by KRS 141.4242;
- 10 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 11 (q) The energy efficiency credits permitted by KRS 141.436;
- 12 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 13 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 14 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 15 (u) The distilled spirits credit permitted by KRS 141.389;
- 16 (v) The angel investor credit permitted by KRS 141.396;
- 17 (w) The film industry credit permitted by KRS 141.383 for applications approved
18 on or after April 27, 2018, but before January 1, 2022;
- 19 (x) The inventory credit permitted by KRS 141.408;
- 20 (y) The renewable chemical production credit permitted by KRS 141.4231; and
- 21 (z) The qualified broadband investment~~[tax]~~ credit permitted by KRS 141.391;
- 22 (2) After the application of the nonrefundable credits in subsection (1) of this section,
23 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
24 shall be taken in the following order:
- 25 (a) The individual credits permitted by KRS 141.020(3);
- 26 (b) The credit permitted by KRS 141.066;
- 27 (c) The tuition credit permitted by KRS 141.069;

- 1 (d) The household and dependent care credit permitted by KRS 141.067;
- 2 (e) The income gap credit permitted by KRS 141.066; and
- 3 (f) The Education Opportunity Account Program~~[-tax]~~ credit permitted by KRS
- 4 141.522;
- 5 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 6 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 7 taken in the following order:
- 8 (a) The individual withholding tax credit permitted by KRS 141.350;
- 9 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 10 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 11 171.397(1)(b);
- 12 (d) The film industry~~[-tax]~~ credit permitted by KRS 141.383 for applications
- 13 approved prior to April 27, 2018, or on or after January 1, 2022;
- 14 (e) The development area~~[-tax]~~ credit permitted by KRS 141.398;
- 15 (f) The decontamination~~[-tax]~~ credit permitted by KRS 141.419;~~[-and]~~
- 16 (g) The pass-through entity tax credit permitted by KRS 141.209;
- 17 **(h) The economic development credit permitted by Section 10 of this Act; and**
- 18 **(i) The economic development credit permitted by Section 14 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;
- 17 **(f) The economic development credit permitted by Section 10 of this Act; and**
- 18 **(g) The economic development tax credit permitted by Section 14 of this Act.**

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

20 154 IS CREATED TO READ AS FOLLOWS:

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

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

1 government, or industrial development authority located in a heritage
2 county;

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

9 (f) "Full-time employee" means a job held by a person who:
10 1. Is required to work a minimum of thirty-five (35) hours per week; and
11 2. Is subject to the Kentucky individual income tax imposed by KRS
12 141.020;

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

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

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

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

25 (3) The cabinet shall determine the terms and conditions of the agreements, monitor
26 performance of the economic development projects, secure reasonable collateral,
27 establish minimum debt coverage ratios requirements, and require demonstration

1 of the economic development project's capacity to fund all operations and
 2 obligations of the project.

3 (4) The cabinet may provide financing under this section up to one hundred
 4 thousand dollars (\$100,000) per new full-time employee of an approved economic
 5 development project, not to exceed two million five hundred thousand dollars
 6 (\$2,500,000) per project.

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

9 (b) The cabinet shall administer the fund.

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

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

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

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

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

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

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

21 (3) "Applicant" means a business or industry that has made application for a grant-in-
 22 aid or skills training investment credit as authorized by KRS 154.12-205 to 154.12-
 23 208;

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

- 1 154.12-205 to 154.12-208;
- 2 (5) "Approved costs" means costs confirmed as eligible by the corporation, including:
- 3 (a) Fees or salaries required to be paid to instructors who are employees of the
- 4 approved company, instructors who are full-time, part-time, or adjunct
- 5 instructors with an educational institution, and instructors who are consultants
- 6 on contract with an approved company in connection with an occupational
- 7 upgrade training program or skills upgrade training program sponsored by an
- 8 approved company;
- 9 (b) The cost of supplies, equipment, and materials used exclusively in an
- 10 occupational upgrade training program or skills upgrade training program
- 11 sponsored by an approved company;
- 12 (c) Employee wages to be paid in connection with an occupational upgrade
- 13 training program or skills upgrade training program sponsored by an approved
- 14 company; and
- 15 (d) All other costs of a nature comparable to those described in this subsection;
- 16 (6) "Board" means the board of directors of the Bluegrass State Skills Corporation;
- 17 (7) "Carbon dioxide or hydrogen transmission pipeline" has the same meaning as in
- 18 KRS 154.32-010;
- 19 (8) "Coal severing and processing" has the same meaning as in KRS 154.32-010;
- 20 (9) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
- 21 (10) "Educational institution" means a public or nonpublic secondary or postsecondary
- 22 institution or an independent provider within the Commonwealth authorized by law
- 23 to provide a program of skills training or education beyond the secondary school
- 24 level or to adult persons without a high school diploma or its equivalent;
- 25 (11) "Employee" means any person:
- 26 (a) Who is currently a permanent full-time employee of the qualified company;
- 27 (b) Who is subject to the Kentucky individual income tax imposed by KRS

- 1 ~~141.020~~ ~~Who is a resident of Kentucky, as that term is defined in KRS~~
2 ~~141.010~~; and
- 3 (c) Who is paid the minimum base hourly wage plus employee benefits equal to
4 or greater than fifteen percent (15%) of the minimum base hourly wage. If the
5 qualified company does not provide employee benefits equal to at least fifteen
6 percent (15%) of the minimum base hourly wage, the qualified company may
7 still qualify if it provides the full-time employee total hourly compensation
8 equal to or greater than one hundred fifteen percent (115%) of the minimum
9 base hourly wage through increased hourly wages combined with at least one
10 (1) company-paid employee benefit;
- 11 (12) "Energy-efficient alternative fuel production" has the same meaning as in KRS
12 154.32-010;
- 13 (13) "Gasification production" has the same meaning as in KRS 154.32-010;
- 14 (14) "Grant-in-aid" means funding that is provided to qualified companies by the BSSC
15 for the development or expansion of a program as provided in this chapter;
- 16 (15) "Headquarters" has the same meaning as in KRS 154.32-010;
- 17 **(16) "Heritage county" has the same meaning as in Section 13 of this Act;**
- 18 ~~(17)~~ ~~(16)~~ "Hospital" has the same meaning as in KRS 154.32-010;
- 19 ~~(18)~~ ~~(17)~~ "Manufacturing" has the same meaning as in KRS 154.32-010;
- 20 ~~(19)~~ ~~(18)~~ "Minimum base hourly wage" means the minimum wage amount paid to an
21 employee by a qualified company, which shall not be less than **two hundred**
22 **percent (200%)** ~~one hundred fifty percent (150%)~~ of the federal minimum wage
23 **for a company located in a heritage county or three hundred percent (300%) of**
24 **the federal minimum wage for a company located in any other county;**
- 25 ~~(20)~~ ~~(19)~~ "Nonretail service or technology" means the same as in KRS 154.32-010;
- 26 ~~(21)~~ ~~(20)~~ "Occupational upgrade training" means employee training sponsored by a
27 qualified company that is designed to qualify the employee for a promotional

1 opportunity with the qualified company;

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

5 Such instruction may include:

6 (a) Classroom instruction;

7 (b) Classroom-related field, shop, factory, office, or laboratory work; and

8 (c) Basic skills, entry level training, job upgrading, retraining, and advance
9 training;

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

15 1. Manufacturing;

16 2. Agribusiness;

17 3. Nonretail service or technology;

18 4. Headquarter operations, regardless of the underlying business activity of
19 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 (b) "Qualified company" does not include companies where the primary activity
26 to be conducted within the Commonwealth is forestry, fishing, the provision
27 of utilities, construction, wholesale trade, retail trade, real estate, rental and

1 leasing, accommodation and food services, or public administration services;

2 ~~(24)~~~~(23)~~ "Renewable energy production" means the same as in KRS 154.32-010;

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

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

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

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

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

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

1 exceed fifty percent (50%) of the amount of approved costs incurred by the
2 approved company in connection with its program of occupational upgrade training
3 or skills upgrade training, the credit amount not to exceed five thousand dollars
4 (\$5,000)~~two thousand dollars (\$2,000)~~ per trainee for an approved company in a
5 heritage company and four thousand dollars (\$4,000) per trainee for an approved
6 company in any other county, and, in the aggregate, not to exceed five hundred
7 thousand dollars (\$500,000) for each approved company per fiscal year. The
8 corporation shall only approve one (1) application per fiscal year for each approved
9 company.

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

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

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

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

1 upgrade training, and education which is needed by a qualified company and
2 for which a shortage of qualified individuals exists within the
3 Commonwealth; and

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

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

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

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

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

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

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

- 1 (3) "Eligible grant recipient" means a grant applicant that is a local government or an
2 economic development authority in an economic development district in this
3 Commonwealth that is engaged in an eligible project;
- 4 (4) "Eligible project":
- 5 (a) Means an economic development project initiated on a property that meets the
6 availability requirements in KRS 154.21-035(3); and
- 7 (b) Requires local matching funds based on the county population ranking;
- 8 (5) "Eligible use":
- 9 (a) Means the authorized purpose for which an awarded grant may be used
10 depending on the source of funds from the Commonwealth; and
- 11 (b) May include expenditures in any of the following categories or some
12 combination thereof:
- 13 1. Due diligence study;
- 14 2. Property acquisition;
- 15 3. Infrastructure extension or improvement;
- 16 4. Site preparation work;
- 17 5. Building construction or renovation; or
- 18 6. Road improvement;
- 19 (6) **"Heritage county" has the same meaning as in Section 13 of this Act;**
- 20 **(Z)** "Population density":
- 21 (a) Means the number of persons per square mile of a county;
- 22 (b) Is calculated by dividing the total county population by the square miles in the
23 county;
- 24 (c) Is determined by using the population estimate from the most recent available
25 five (5) year American Community Survey as published by the United States
26 Census Bureau; and
- 27 (d) Is used to rank each county in descending order, with the county having the

1 largest population density receiving a rank of one (1) and the county with the
2 smallest population density receiving a rank of one hundred twenty (120);

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

6 ~~(9)~~~~(8)~~ "Ten (10) year percentage change in population":

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

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

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

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

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

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

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

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

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

27 (e) Verifying that the proposed grant recipient seeks grant money for an eligible

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

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

1 Revenue, within five (5) days of the disbursement. The report shall
2 include the name and county location of the eligible project approved,
3 the amount of the grant awarded, the amount of the funding disbursed
4 for due diligence and the extenuating circumstances related to the due
5 diligence study.

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

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

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

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

1 Economic Development and the cabinet shall be used.

2 (e) The maximum funding available for an approved development project is two
3 million five hundred thousand (\$2,500,000) in a heritage county and two
4 million dollars (\$2,000,000) per county in all other counties, except as
5 permitted by subsection (4) of this section.

6 (f) If there are funds available after the first round of grant awards of the
7 Kentucky Product Development Initiative of 2024, the cabinet shall initiate
8 additional rounds of grant awards.

9 (4) (a) For selected eligible grant recipients that are involved in a regional project,
10 the cabinet may pool the potential allocation of funds available for each
11 county represented by the eligible grant recipients for the grant amount
12 awarded.

13 (b) A county that is an eligible grant recipient involved in a regional project shall
14 provide that county's local matching funds based on the county population
15 ranking determined under subsection (3) of this section and each county's
16 local matching funds may be pooled as described in paragraph (a) of this
17 subsection.

18 (5) Beginning no later than November 1, 2024, and annually thereafter until the
19 authorized appropriation is spent or returned, the cabinet shall compile and submit a
20 report for each application approved by the Kentucky Economic Development
21 Finance Authority for the Kentucky Product Development Initiative of 2024. The
22 report shall be electronically delivered to the Legislative Research Commission and
23 the Interim Joint Committee on Appropriations and Revenue and contain the
24 following information:

25 (a) The name of the applicant, a description of the eligible project, and the
26 location of each proposed project for which an application was approved;

27 (b) The date the application was approved by the Kentucky Economic

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

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

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

- 1 developable. Property shall be deemed developable if:
- 2 (a) The acreage intended for development is clearly defined by either:
- 3 1. The grant applicant; or
- 4 2. An engineering partner during or after a site visit, if the applicant is
- 5 unable to define the developable acreage; and
- 6 (b) The property is free of impediments to development, or a known impediment
- 7 can be mitigated by a grant applicant. A property is free of impediments if it:
- 8 1. Is located outside of the one hundred (100) year and five hundred (500)
- 9 year flood zone;
- 10 2. Is free of recognized environmental conditions;
- 11 3. Is free of wetlands;
- 12 4. Is free of state and federally threatened and endangered species;
- 13 5. Is free of areas of archaeological or historical significance; and
- 14 6. Possesses soils compatible with the grant applicant's intended
- 15 development.
- 16 (5) The property that the eligible project occupies or is proposed to occupy shall be
- 17 appropriately zoned for the intended use or shall be able to be rezoned within ninety
- 18 (90) calendar days. The properties surrounding the grant applicant's project site
- 19 shall be zoned so they are compatible with the grant applicant's intended
- 20 development and use of the project site.
- 21 (6) The property that the eligible project occupies or is proposed to occupy shall be
- 22 directly served by a road or roads that are compatible with the intended use of the
- 23 property. Additionally, if the property is marketed as rail-served, the property shall
- 24 be deemed rail-served if:
- 25 (a) The grant applicant provides documentation from the rail provider that
- 26 evinces that rail infrastructure exists and the rail provider actually provides
- 27 rail service; or

1 (b) If the rail service does not exist at the time of the grant application, the grant
2 applicant provides documentation from the rail provider that evinces that the
3 project site will be able to be rail-served within twelve (12) months.

4 (7) The property that the eligible project occupies or is proposed to occupy shall have
5 access to adequate utilities and shall be served or able to be served by the
6 following:

7 (a) Electric infrastructure;

8 (b) Natural gas ***or propane***;

9 (c) Water infrastructure and a public water system;

10 (d) Wastewater infrastructure and a public wastewater treatment plant, excluding
11 a septic wastewater treatment system; and

12 (e) Fiber telecommunications infrastructure.

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

14 As used in this subchapter:

15 (1) "Activation date" means a date selected by an approved company and set forth in
16 the jobs retention agreement at any time within a three (3) year period after the date
17 of final approval of the agreement by the authority upon which the required
18 investment shall be made and the jobs retention project completed;

19 (2) "Agreement" means a jobs retention agreement entered into pursuant to KRS
20 154.25-030 on behalf of the authority and an approved company with respect to a
21 jobs retention project;

22 (3) "Agribusiness" has the same meaning as in KRS 154.32-010;

23 (4) "Approved company" means any eligible company approved by the authority
24 pursuant to KRS 154.25-030 for a jobs retention project;

25 (5) "Approved costs" means that portion of the eligible costs approved by the authority
26 that an approved company may recover through the inducements authorized by
27 KRS 154.25-030, being a percentage of eligible costs as approved by the authority;

- 1 (6) "Assessment" means the wage assessment fee authorized by KRS 154.25-040;
- 2 (7) "Authority" means the Kentucky Economic Development Finance Authority
3 created by KRS 154.20-010;
- 4 (8) "Commonwealth" means the Commonwealth of Kentucky;
- 5 (9) "Eligible company" means any corporation, limited liability company, partnership,
6 limited partnership, sole proprietorship, business trust, or any other entity that has
7 been operating within the Commonwealth on a continuous basis for at least sixty
8 (60) months preceding the request for approval by the authority of the project which
9 meets the standards set forth in KRS 154.25-020, has been previously approved for
10 economic development incentives from the Commonwealth related to one (1) or
11 more of its facilities, and employs a minimum of **two hundred fifty (250) full-time**
12 **persons for a project located in a heritage county or** one thousand (1,000) full-
13 time persons **for a project located in any other county** engaged in one (1) or more
14 of the following activities:
- 15 (a) Manufacturing;
- 16 (b) Agribusiness;
- 17 (c) Nonretail service or technology; or
- 18 (d) Headquarters operations, regardless of the underlying business activity of the
19 company.
- 20 "Eligible company" does not include companies where the primary activity to be
21 conducted within the Commonwealth is forestry, fishing, mining, coal or mineral
22 processing, the provision of utilities, construction, wholesale trade, retail trade, real
23 estate, rental and leasing, educational services, accommodation and food services,
24 or public administration services;
- 25 (10) "Eligible costs" means:
- 26 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
27 builders, suppliers, deliverymen, and materialmen in connection with the

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

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

11 ~~(16)~~~~(15)~~ "Kentucky gross profits" means Kentucky gross profits as defined in KRS
12 141.0401;

13 ~~(17)~~~~(16)~~ "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
14 141.0401;

15 ~~(18)~~~~(17)~~ "Manufacturing" has the same meaning as in KRS 154.32-010;

16 ~~(19)~~~~(18)~~ "Nonretail service or technology" has the same meaning as in KRS 154.32-
17 010;

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

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

26 ~~(22)~~~~(21)~~ "Transferred credits" means unused approved costs as determined by the
27 Department of Revenue from a previously approved, independent, active project

1 under a different incentive program governed by the Cabinet for Economic
2 Development that may be transferred to a jobs retention project and used by the
3 approved company pursuant to a jobs retention agreement.

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

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

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

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

1 the discretion of the authority;

2 (e) A provision that gives the authority discretion to suspend or terminate the
3 authorized inducements for any failure to comply with the terms of the
4 agreement; and

5 (f) 1. A provision that provides the term shall not be longer than the earlier of:
6 a.~~[1.]~~The date on which the approved company has received
7 inducements or withheld assessments equal to the amount that the
8 company may recover under paragraph (a) of this subsection; or
9 b.~~[2.]~~Ten (10) years from the activation date.

10 2. ~~[However,]~~The term *in subparagraph 1. of this subsection* may be
11 extended to a period longer than ten (10) years upon:

12 a. *The approved company demonstrating that less than seventy-five*
13 *percent (75%) of the incentives awarded under the agreement*
14 *will be claimed during the term of the agreement; or*

15 b. The addition of a supplemental project as negotiated and approved
16 by the authority.

17 *An extension of a project under subparagraph 2.a. of this paragraph*
18 *shall not amend any provision of the agreement impacting the scope of*
19 *the project or the maximum amount of incentives awarded under the*
20 *tax incentive agreement.*

21 (2) In consideration of the execution of the agreement, during the time the agreement is
22 in effect, which time shall commence on the date of the agreement, the approved
23 company may be permitted the following inducements:

24 (a) Beginning on the effective date of the jobs retention agreement, which shall
25 also be the date of final approval, if the approved company has a balance of
26 unused approved costs on a previously existing and active incentive
27 agreement approved by the authority pursuant to KRS Chapter 154, the

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

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

14 (b) After the activation date:

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

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

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

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

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

1 local board of education; and

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

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

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

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

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

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

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

19 (a) Up to eighty percent (80%) of the individual income tax rate imposed by KRS
 20 141.020 if the project is located in a local jurisdiction where:

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

- 1 license fee for the affected employees; or
- 2 3. a. A local occupational license fee less than twenty percent (20%) of
- 3 the individual income tax rate in KRS 141.020 is imposed; and
- 4 b. The local jurisdiction agrees to forgo the total amount of the local
- 5 occupational license fee as the local wage assessment; or
- 6 (b) Up to four (4) times the forgone local wage assessment rate if the project is
- 7 located in a local jurisdiction where:
- 8 1. 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 an amount of the local
- 12 occupational license fee that is less than twenty percent (20%) of
- 13 the individual income tax rate imposed by KRS 141.020 as the
- 14 local wage assessment; or
- 15 2. 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 only a portion of the total
- 18 amount of the local occupational license fee as the local wage
- 19 assessment.
- 20 (2) Each assessed employee shall be entitled to a credit against the Kentucky income
- 21 tax required to be withheld under KRS 141.310 in the form of a simultaneous
- 22 adjustment equal to the Commonwealth's assessment outlined in subsection (1) of
- 23 this section.
- 24 (3) Each employee assessed under subsection (1) of this section also shall be entitled to
- 25 a credit against the local occupational license fee in the form of a simultaneous
- 26 adjustment of the local occupational license fee withholding equal to the local wage
- 27 assessment outlined in subsection (1) of this section.

- 1 (4) If an approved company elects to impose the assessment as a condition of
2 employment or the retention of employment, the approved company shall deduct
3 the assessment from each paycheck of each employee subject to the provisions of
4 subsections (2) and (3) of this section.
- 5 (5) Any approved company collecting an assessment shall make its payroll books and
6 records available to the authority at such reasonable times as the authority shall
7 request and shall file with the authority the documentation respecting the
8 assessment the authority may require.
- 9 (6) Any assessment of the wages of the employees of an approved company shall
10 permanently lapse upon expiration or termination of the agreement unless the
11 agreement has been amended to extend the termination as a result of a supplemental
12 project.
- 13 (7) (a) By October 1 of each year, the Department of Revenue shall certify to the
14 authority, in the form of an annual report, aggregate tax credits claimed on tax
15 returns filed during the taxable year ending June 30 of that year and wage
16 assessment fees taken during the prior calendar year by approved companies
17 with respect to their jobs retention projects under this subchapter, and shall
18 certify to the authority, within one hundred eighty (180) days from the date an
19 approved company has filed its state tax return, when an approved company
20 has taken tax credits equal to its total inducements.
- 21 (b) For the refundable economic development credit, the department shall
22 report to the authority the total amount of the refundable credit awarded for
23 each taxable year, by county, with location distinction of a heritage county
24 or any other Kentucky county, the following:
- 25 1. Each approved company awarded credit; and
26 2. The total amount of wages paid to a full-time employee by an
27 approved company and included in the wage computation.

1 (8) By November 1, 2027, and annually thereafter, the cabinet shall prepare an
2 annual report of the refundable economic development credit to be submitted to
3 the Governor and the Legislative Research Commission for referral to the
4 Interim Joint Committee on Appropriations and Revenue and made available on
5 the cabinet's website. The annual report shall include the following:

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

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

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

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

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

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

1 agreement shall include the following provisions:

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

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

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

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

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

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

1 For both owned and leased economic development projects, "confirmed approved
2 costs" may be less than approved costs, but shall not be more than approved costs;

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

4 (16) "Economic development project" means:

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

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

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

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

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

16 1. Manufacturing;

17 2. Agribusiness;

18 3. Nonretail service or technology;

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

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

23 6. Carbon dioxide or hydrogen transmission pipeline;

24 7. Coal severing and processing; or

25 8. Hospital operations.

26 (b) "Eligible company" does not include companies where the primary activity to
27 be conducted within the Commonwealth is forestry, fishing, the provision of

1 utilities, construction, wholesale trade, retail trade, real estate, rental and
2 leasing, educational services, accommodation and food services, or public
3 administration services;

4 (18) "Eligible costs" means:

5 (a) For owned economic development projects:

- 6 1. Start-up costs;
- 7 2. Nonrecurring obligations incurred for labor and nonrecurring payments
8 to contractors, subcontractors, builders, and materialmen in connection
9 with the economic development project;
- 10 3. The cost of acquiring land or rights in land and any cost incidental
11 thereto, including recording fees;
- 12 4. The cost of contract bonds and of insurance of all kinds that may be
13 required or necessary for completion of an economic development
14 project which is not paid by a contractor or otherwise provided for;
- 15 5. All costs of architectural and engineering services, including test
16 borings, surveys, estimated plans and specifications, preliminary
17 investigations, and supervision of construction, as well as for the
18 performance of all the duties required for construction of the economic
19 development project;
- 20 6. All costs which are required to be paid under the terms of any contract
21 for the economic development project;
- 22 7. All costs incurred for construction activities, including site tests and
23 inspections; subsurface site work; excavation; removal of structures,
24 roadways, cemeteries, and other surface obstructions; filling, grading,
25 and providing drainage and storm water retention; installation of utilities
26 such as water, sewer, sewage treatment, gas, electric, communications,
27 and similar facilities; off-site construction of utility extensions to the

1 boundaries of the real estate; construction and installation of railroad
 2 spurs as needed to connect the economic development project to existing
 3 railways; or similar activities as the authority may determine necessary
 4 for construction of the economic development project; and

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

6 (b) For leased economic development projects:

7 1. Start-up costs;

8 2. Building/leasehold improvements; and

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

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

15 (19) "Employee benefits" means payments by an approved company for its full-time
 16 employees for health insurance, life insurance, dental insurance, vision insurance,
 17 defined benefits, 401(k), or similar plans;

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

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

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

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

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

27 ~~(23) ["Final approval" means the action taken by the authority authorizing the eligible~~

1 company to receive incentives under this subchapter;

2 ~~(23)~~~~(24)~~ (a) "Full-time job" means a job held by a person who:

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

4 2. a. Is subject to the Kentucky individual income tax imposed by KRS
5 141.020; or

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

8 i. Is held by a Kentucky resident;

9 ii. Was created as a result of the economic development project;
10 and

11 iii. The payroll of this job is expensed to the economic
12 development project.

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

16 ~~(24)~~~~(25)~~ "Gasification process" means a process that converts any carbon-containing
17 material into a synthesis gas composed primarily of carbon monoxide and
18 hydrogen;

19 ~~(25)~~~~(26)~~ "Gasification production" means a Kentucky operation that primarily
20 produces for sale:

21 (a) Alternative transportation fuels;

22 (b) Synthetic natural gas;

23 (c) Chemicals;

24 (d) Chemical feedstocks; or

25 (e) Liquid fuels;

26 from coal, waste coal, coal-processing waste, or biomass resources, through a
27 gasification process. The gasification production may produce electricity as a by-

1 product if the primary function of the operations remains the production and sale of
2 alternative transportation fuels, synthetic natural gas, chemicals, chemical
3 feedstocks, or liquid fuels;

4 ~~(26)~~~~(27)~~ "Headquarters" means the principal office where the principal executives of
5 the entity are located and from which other personnel, branches, affiliates, offices,
6 or entities are controlled;

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

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

12 (29) "Incentives" means the incentives available under this subchapter, as listed in KRS
13 154.32-020(3);

14 (30) "Job target" means the annual average number of new full-time jobs that the
15 approved company commits to create and maintain at the economic development
16 project, which shall not be less than ten (10) new full-time jobs;

17 (31) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

18 (32) "Kentucky gross profits" has the same meaning as in KRS 141.0401;

19 (33) "Lease agreement" means an agreement between an approved company and an
20 unrelated entity conveying the right to use a facility, the terms of which reflect an
21 arms' length transaction, **or between a related entity where the facility to be**
22 **occupied by the approved company was conveyed by an unrelated entity after**
23 **approved company receiving preliminary approval.** "Lease agreement" does not

24 include a capital lease;

25 (34) "Leased project" means an economic development project site occupied by an
26 approved company pursuant to a lease agreement;

27 (35) "Manufacturing" means any activity involving:

- 1 (a) Processing, assembling, or production of any property, including the
2 processing resulting in a change in the conditions of the property and any
3 activity related to the processing, assembling, or production of property,
4 together with the storage, warehousing, distribution, and related office
5 facilities; or
- 6 (b) Production of vital medications, personal protective equipment, or equipment
7 necessary to produce personal protective equipment;
- 8 (36) (a) "Nonretail service or technology" means any activity where service or
9 technology is provided predominantly outside the Commonwealth and
10 designed to serve a multistate, national, or international market.
- 11 (b) "Nonretail service or technology" includes but is not limited to call centers,
12 centralized administrative or processing centers, telephone or Internet sales
13 order or processing centers, distribution or fulfillment centers, data processing
14 centers, research and development facilities, and other similar activities;
- 15 (37) "Owned project" means an economic development project owned in fee simple by
16 the approved company or an affiliate, or possessed by the approved company or an
17 affiliate pursuant to a capital lease;
- 18 (38) "Personal protective equipment" means protective clothing, helmets, gloves, face
19 shields, goggles, face masks, respirators, and other equipment designed to protect
20 the user from injury or the spread of infection or illness;
- 21 (39) "Preliminary approval" means the action taken by the authority preliminarily
22 approving an eligible company for incentives under this subchapter;
- 23 (40) "Renewable energy production" means a Kentucky operation that utilizes wind
24 power, biomass resources, landfill methane gas, hydropower, solar power, or other
25 similar renewable resources to generate electricity for sale to unrelated entities;
- 26 (41) "Rent" means the actual annual rent or fee paid by an approved company under a
27 lease agreement;

- 1 (42) "Start-up costs" means nonrecurring costs, with the exception of paragraphs (d)
2 and (e) of this subsection, incurred to furnish and equip a facility for an economic
3 development project, including costs incurred for:
- 4 (a) Computers, furnishings, office equipment, manufacturing equipment, and
5 fixtures;
- 6 (b) The relocation of out-of-state equipment;~~and~~
- 7 (c) Recurring software subscription or licensing fees covering a period not to
8 exceed one (1) year from activation of the project;
- 9 (d) The initial software and licensing costs associated with each new full-time
10 job created; and
- 11 (e) Cost of fixed telecommunications equipment;
12 as certified to the authority in accordance with KRS 154.32-030;
- 13 (43) "Synthetic natural gas" means the same thing as in KRS 152.715;
- 14 (44) "Tax incentive agreement" means the agreement entered into pursuant to KRS
15 154.32-040 between the authority and an approved company;
- 16 (45) "Term," except as provided in Section 18 of this Act, means the period of time for
17 which a tax incentive agreement may be in effect, which shall not exceed fifteen
18 (15) years for an economic development project located in a heritage~~an enhanced~~
19 ~~incentive~~ county, or ten (10) years for an economic development project not
20 located in any other county;
- 21 (46) "Vital medications" means any drug or biologic used to prevent or treat a serious
22 life-threatening disease or medical condition for which there is no other available
23 source with sufficient supply of that drug or biologic or alternative drug or biologic;
- 24 (47) "Wage" means the per hour earnings of a full-time employee, including wages, tips,
25 overtime, bonuses, and commissions, as reflected on the employee's federal form
26 W-2 wage and tax statement, but excludes employee benefits; and
- 27 (48) "Wage target" means the average total hourly compensation amount, including the

1 minimum wage and employee benefits, that the approved company commits to
 2 meet for all new full-time jobs created and maintained as a result of the economic
 3 development project, which shall not be less than:

- 4 (a) **Two hundred percent (200%)**~~[One hundred twenty five percent (125%)]~~ of
 5 the federal minimum wage in **heritage**~~[enhanced incentive]~~ counties; or
 6 (b) **Three hundred percent (300%)**~~[One hundred fifty percent (150%)]~~ of the
 7 federal minimum wage in all other counties.

8 ➔Section 14. KRS 154.32-020 is amended to read as follows:

9 (1) The purposes of this subchapter are:

10 (a) To provide incentives for eligible companies and to encourage the location or
 11 expansion of manufacturing facilities, agribusiness operations, nonretail
 12 service or technology facilities, headquarters operations, alternative fuel
 13 production facilities, gasification production facilities, energy-efficient
 14 alternative fuel production facilities, renewable energy production facilities,
 15 carbon dioxide or hydrogen transmission pipelines, coal severing and
 16 processing, and hospital operations in the Commonwealth to advance the
 17 public purposes of:

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

26 (b) To provide **more balanced**~~[enhanced]~~ incentives for companies that locate in
 27 **heritage**~~[enhanced incentive]~~ counties in recognition of the depressed

1 economic conditions in those counties and the increased need for the growth
2 and development caused by the depressed economic conditions.

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

5 (a) Incur eligible costs of at least one hundred thousand dollars (\$100,000);

6 (b) Create at least ten (10) new full-time jobs and maintain an annual average
7 number of at least ten (10) new full-time jobs; and

8 (c) 1. Pay at least ninety percent (90%) of all new full-time employees whose
9 jobs were created as a result of the economic development project a
10 minimum wage of at least **two hundred percent (200%)**~~one hundred~~
11 ~~twenty five percent (125%)~~ of the federal minimum wage in
12 **heritage**~~enhanced incentive~~ counties, and **three hundred percent**
13 **(300%)**~~one hundred fifty percent (150%)~~ of the federal minimum wage
14 in other counties throughout the term of the economic development
15 project; and

16 2. Provide employee benefits for all new full-time jobs equal to at least
17 fifteen percent (15%) of the minimum wage requirement established by
18 subparagraph 1. of this paragraph. If the eligible company does not
19 provide employee benefits equal to at least fifteen percent (15%) of the
20 minimum wage requirement established by subparagraph 1. of this
21 paragraph, the eligible company may still qualify for incentives if it
22 provides the full-time employees hired as a result of the economic
23 development project total hourly compensation equal to or greater than
24 one hundred fifteen percent (115%) of the minimum wage requirement
25 established in subparagraph 1. of this paragraph through increased
26 hourly wages combined with employee benefits; or

27 (d) Produce vital medications, personal protective equipment, or equipment

1 necessary to produce personal protective equipment.

2 (3) The incentives available under this subchapter are as follows:

3 (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax
4 imposed under KRS 141.020 or 141.040 and the limited liability entity tax
5 imposed under KRS 141.0401 on the income, Kentucky gross profits, or
6 Kentucky gross receipts of the approved company generated by or arising
7 from the economic development project, as set forth in KRS 141.415 and
8 154.32-070;

9 (b) Authorization for the approved company to impose a wage assessment against
10 the gross wages of each new employee subject to the Kentucky income tax as
11 provided in KRS 154.32-090; ~~and~~

12 (c) 1. An approved company receiving preliminary approval after July 1,
13 2026, may apply to the authority for, in addition to the inducements
14 provided for in paragraphs (a) and (b) of this subsection, a credit up to
15 one and three-fourths percent (1.75%) of wages paid to all new full-
16 time employees for an approved company with an economic
17 development project located in a Tier II county, up to two percent (2%)
18 of the wages paid to all new full-time employees for an approved
19 company with an economic development project located in a Tier III
20 county, up to two and one-fourth percent (2.25%) of the wages paid to
21 all new full-time employees for an approved company with an
22 economic development project located in a Tier IV county, and up to
23 one and one-half percent (1.5%) of the wages paid to all new full-time
24 employees for an approved company with an economic development
25 project located in any other county.
26 2. The tax credit in subparagraph 1. of this paragraph shall be allowed
27 against the tax imposed by KRS 141.020 or KRS 141.040 and KRS

1 *141.0401, and shall be nontransferable and refundable as provided in*
 2 *Section 1 of this Act.*

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

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

13 (4) The General Assembly hereby finds and declares that the authority granted in this
 14 subchapter and the purposes accomplished hereby are proper governmental and
 15 public purposes for which public moneys may be expended, and that the
 16 inducement of the location of economic development projects within the
 17 Commonwealth is of paramount importance to the economic well-being of the
 18 Commonwealth.

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

20 (1) The application, approval, and review process under this subchapter shall be as
 21 follows:

22 (a) An eligible company with a proposed economic development project may
 23 submit an application to the authority. The application shall include the
 24 information required by subsection (3) of this section;

25 (b) Upon review of the application and any additional information submitted, the
 26 authority may, by resolution, give preliminary approval to an eligible
 27 company and authorize the negotiation and execution of a memorandum of

1 agreement. The memorandum of agreement shall establish a preliminary job
2 target, minimum wage target, including employee benefits, and maximum
3 total approved cost for the economic development project, and shall only
4 allow the recovery of eligible costs incurred ninety (90) days prior to
5 receiving~~after~~ preliminary approval. Upon preliminary approval, the
6 preliminarily approved company may undertake the project in accordance
7 with the memorandum of agreement, and may begin to hire employees that
8 may be counted toward the minimum full-time job requirements established
9 by the memorandum of agreement;

10 (c) After preliminary approval but before final approval, the authority shall post
11 the preliminarily approved company's name, the location of the economic
12 development project, and the incentives that have been preliminarily approved
13 on the Cabinet for Economic Development's website~~Web site~~;

14 (d) The preliminarily approved company shall submit any documentation
15 required by the authority upon request of the authority;

16 (e) To obtain final approval, the preliminarily approved company shall submit:

- 17 1. Documentation required by the authority to confirm that the
18 requirements established by the memorandum of agreement have been
19 met; and
- 20 2. Documentation of official action taken by a local governmental entity
21 detailing the manner and level of local contribution, if applicable.

22 Upon review and confirmation of the documentation, the authority may, by
23 resolution, give final approval to the preliminarily approved company, and
24 authorize the execution of a tax incentive agreement between the authority
25 and the approved company pursuant to KRS 154.32-040. The tax incentive
26 agreement shall establish an activation date, which shall be within two (2)
27 years of final approval;

- 1 annually, and the approved company shall submit all documentation
2 necessary for the authority to monitor the agreement.
- 3 2. The authority shall, based on the documentation provided, confirm that
4 the approved company is in continued compliance with the provisions of
5 the tax incentive agreement and, therefore, eligible for incentives.
- 6 3. Upon annual review, if the approved company meets the minimum job
7 and wage requirements, including employee benefits, established by
8 KRS 154.32-020, but fails to meet the job target and minimum wage
9 target, including employee benefits, established in the tax incentive
10 agreement, then the provisions of subsection (4) of this section shall
11 apply in determining the incentives for which the approved company
12 qualifies in any year.
- 13 4. Upon final approval, the authority shall notify the department that an
14 approved company is eligible for incentives and shall provide the
15 department with the information necessary to monitor the use of
16 incentives by the approved company. If, at any time during the term of
17 the tax incentive agreement, an approved company becomes ineligible
18 for incentives, the authority shall notify the department, and the
19 department shall discontinue the availability of incentives for the
20 approved company.
- 21 (2) (a) The authority may establish procedures and standards for the review and
22 approval of eligible companies and their economic development projects
23 through the promulgation of administrative regulations in accordance with
24 KRS Chapter 13A.
- 25 (b) Standards to be used by the authority in reviewing and approving an eligible
26 company and its economic development project shall include but not be
27 limited to:

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

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

- 9 (a) The name of the applicant and identification of any affiliates of the applicant
- 10 who will have some relation to the economic development project;
- 11 (b) A description of the economic development project, including its location, the
- 12 total investment in the economic development project, and total proposed
- 13 eligible costs;
- 14 (c) The projected number of new full-time jobs to be created as a result of the
- 15 economic development project and identification of any affiliates who may
- 16 employ persons hired to fill those jobs;
- 17 (d) The number of existing full-time jobs at the site of the economic development
- 18 project on the date of the application and a description and breakdown of the
- 19 relevant affiliated employers;
- 20 (e) Proposed wage and employee benefit amounts for the new full-time jobs to be
- 21 created as a result of the proposed economic development project;
- 22 (f) For proposed economic development projects new to the Commonwealth,
- 23 certification by the eligible company that the economic development project
- 24 could reasonably and efficiently locate outside of the Commonwealth and,
- 25 without the incentives offered by the authority, the eligible company would
- 26 likely locate outside the Commonwealth;
- 27 (g) For eligible companies with an existing location in the Commonwealth

- 1 considering an expansion, certification that the tax incentives are necessary
2 for the expansion to occur;
- 3 (h) A letter of support from a local governmental entity in the city or county
4 where the economic development project will be located; and
- 5 (i) Any other information the authority may require.
- 6 (4) (a) An approved company that meets the minimum job and wage requirements,
7 including employee benefits established by KRS 154.32-020, but fails to meet
8 the job target and minimum wage target, including employee benefits
9 established by the tax incentive agreement, shall be eligible to receive the
10 incentives authorized by the tax incentive agreement as provided in this
11 subsection.
- 12 (b) If, upon activation or annual review, an approved company achieves at least
13 ninety percent (90%) of both the job target and minimum wage target,
14 including employee benefits established by the tax incentive agreement, and
15 no other default has occurred, then the approved company shall be eligible to
16 receive full incentives as provided in the tax incentive agreement.
- 17 (c) If, upon activation or annual review, an approved company achieves less than
18 ninety percent (90%) of either the job target or minimum wage target,
19 including employee benefits established in the tax incentive agreement, and
20 no other default has occurred, then the incentives available to the approved
21 company for the following year shall be reduced by a percentage equal to the
22 percentage representing the difference between the job target or minimum
23 wage target, including employee benefits established in the tax incentive
24 agreement, and the actual average number of full-time jobs or average wage,
25 including employee benefits, paid. If both the number of actual average full-
26 time jobs and average wages paid, including employee benefits, are below
27 ninety percent (90%) of the targets on the same measurement date, then the

1 greater percentage reduction of the two (2) shall be applied rather than
2 reducing the incentives available by the sum of the two (2).

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

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

9 The authority, upon final approval of a company, may enter into a tax incentive
10 agreement with the approved company. The terms and conditions of the tax incentive
11 agreement shall be negotiated between the authority and the approved company. The
12 terms of the tax incentive agreement shall include but not be limited to the following
13 provisions:

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

16 (2) That the approved company shall provide the authority with all documentation
17 requested in a manner acceptable to the authority;

18 (3) Identification of the contribution of the local government to the economic
19 development project, if any;

20 (4) The activation date, which shall be within two (2) years of final approval;

21 (5) That the approved company shall implement the activation date by notifying the
22 authority;

23 (6) That the approved company shall provide documentation satisfactory to the
24 authority within the timeframes required by the authority that it has met the
25 minimum employment, minimum investment, and minimum wage requirements,
26 including employee benefits, established by KRS 154.32-020;

27 (7) That failure of the approved company to meet any of the minimum job, minimum

1 investment, or minimum wage requirements, including employee benefits,
 2 established by KRS 154.32-020, on the activation date shall result in cancellation of
 3 the tax incentive agreement;

4 (8) The term of the agreement, which shall not exceed fifteen (15) years for an
 5 economic development project located in a heritage~~[an enhanced incentive]~~ county,
 6 or ten (10) years for an economic development project located in another county;

7 (9) Notwithstanding subsection (8) of this section, an approved company receiving
 8 preliminary approval for an economic development project prior to January 1,
 9 2023, in which wage assessments were provided pursuant to Section 19 of this Act
 10 may request a one (1) time extension for up to five (5) years under the following
 11 conditions:

12 (a) At the time the extension is granted, the approved company has received less
 13 than seventy-five percent (75%) of the incentives awarded under the tax
 14 incentive agreement; and

15 (b) The extension does not amend any provision of the agreement impacting the
 16 scope of the project or the maximum amount of incentives awarded under
 17 the tax incentive agreement;

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

21 (11)~~[(10)]~~ If the economic development project is a leased project, that future rent
 22 payments that are included in eligible costs shall be included as confirmed approved
 23 costs upon submission of a valid lease agreement executed after preliminary
 24 approval;

25 (12)~~[(11)]~~ Establishment of a job target and minimum wage target, including employee
 26 benefits;

27 (13)~~[(12)]~~ A requirement that the job target and minimum wage target, including

1 employee benefits, be measured:

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

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

7 ~~(14)~~~~(13)~~ A provision requiring the approved company to notify the authority
8 immediately if the approved company sells or otherwise transfers or disposes of the
9 land on which an economic development project is located, if a lease relating to the
10 economic development project is terminated or lapses, or if the approved company
11 ceases or fundamentally alters operations at the economic development project;

12 ~~(15)~~~~(14)~~ A provision detailing the reductions in incentives that will occur pursuant to
13 KRS 154.32-030(4) if an approved company fails to meet its job target or minimum
14 wage target, including employee benefits;

15 ~~(16)~~~~(15)~~ That the agreement may be assigned by the approved company upon the
16 adoption of a resolution by the authority to that effect;

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

21 ~~(18)~~~~(17)~~ That the authority may share information with the department for the purposes
22 of monitoring and enforcing the terms of the tax incentive agreement;

23 ~~(19)~~~~(18)~~ That, if an approved company fails to comply with its obligations under the
24 tax incentive agreement other than the jobs target or minimum wage target, the
25 authority may take any or all of the following actions:

26 (a) Suspend the incentives available to the approved company;

27 (b) Terminate the incentives available to the approved company; or

1 (c) Pursue any other remedy set forth in the tax incentive agreement or to which it
2 may be entitled by law; and

3 ~~(20)~~~~[(19)]~~ Any other provisions not inconsistent with this subchapter and determined to
4 be necessary or appropriate by the parties to the tax incentive agreement.

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

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

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

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

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

13 1. ***a.*** A countywide unemployment rate that exceeds the statewide
14 unemployment rate in the most recent five (5) consecutive
15 calendar years; or

16 ***b.***~~2.~~ An average countywide rate of unemployment exceeding the
17 statewide unemployment rate by two hundred percent (200%) in
18 the most recent calendar year; and

19 ***2. The county population ranking under Section 7 of this Act***~~(c)~~

20 ~~— Certify the counties identified in paragraph (b) of this subsection~~
21 ~~as enhanced incentive counties.~~

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

24 ***(a) A county's unemployment rate; and***

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

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

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

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

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

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

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

14 ~~(a) The average countywide rate of unemployment in the most recent three (3)~~
 15 ~~consecutive calendar years, using the information obtained under subsection~~
 16 ~~(2)(a) of this section;~~

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

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

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

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

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

1 4.— A four (4) lane principal arterial access to an interstate highway;

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

3 6.— None of the preceding road types].

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

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

12 ~~(6)~~~~(5)~~ (a) As used in this subsection, "industrial park" means a regional industrial
13 park as defined in KRS 42.4588, or an industrial park created pursuant to an
14 interlocal agreement in which revenues are shared as provided in KRS 65.210
15 to 65.300.

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

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

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

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

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

27 **(d) The five (5) year average county population ranking**~~[(6) — A county not~~

1 ~~certified under subsection (2) or (3) of this section may be certified by the~~
2 ~~authority as an enhanced incentive county if the county has been declared a~~
3 ~~disaster relief area by any state or federal agency on or after December 1,~~
4 ~~2021. The enhanced county certification shall be effective for a period of two~~
5 ~~(2) years from the date of certification by the authority. Following the two (2)~~
6 ~~year period, if a county certified under this subsection does not meet the~~
7 ~~criteria under subsections (2) and (3) of this section to be certified as an~~
8 ~~enhanced incentive county, the county shall be decertified in accordance with~~
9 ~~subsection (4) of this section].~~

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

- 11 (1) For taxable years beginning after December 31, 2009, an approved company may
12 be eligible for a credit of up to one hundred percent (100%) of the Kentucky
13 income tax imposed under KRS 141.020 or 141.040, and the limited liability entity
14 tax imposed under KRS 141.0401, that would otherwise be owed by the approved
15 company to the Commonwealth for the approved company's taxable year, on the
16 income, Kentucky gross profits, or Kentucky gross receipts of the approved
17 company generated by or arising from the economic development project.
- 18 (2) The credit allowed the approved company shall be applied against both the income
19 tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
20 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for
21 the taxable year for which the tax return of the approved company is filed, subject
22 to the annual maximum set forth in the tax incentive agreement. Any credit not used
23 in the year in which it was first available may be carried forward to subsequent
24 years, provided that no credit may be carried forward beyond the term of the tax
25 incentive agreement.
- 26 (3) The approved company shall not be required to pay estimated tax payments under
27 KRS 141.044 on the Kentucky taxable income, Kentucky gross receipts, or

1 Kentucky gross profits generated by or arising from the eligible project.

2 (4) The credit provided by this section shall be determined as provided in KRS
3 141.415.

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

11 (6) (a) An approved company receiving preliminary approval after July 1, 2026,
12 may receive, in addition to the tax incentives allowed under subsections (1)
13 to (4) of this section, a credit up to one and three-fourths percent (1.75%) of
14 wages paid to all new full-time employees of an approved company with an
15 economic development project located in a Tier II county, up to two percent
16 (2%) of wages paid to all new full-time employees of an approved company
17 with an economic development project located in a Tier III county, up to
18 two and one-fourth percent (2.25%) of the wages paid to all new full-time
19 employees of an approved company with an economic development project
20 located in a Tier IV county, and up to one and one-half percent (1.5%) of
21 the wages paid to all new full-time employees of an approved company with
22 an economic development project located in any other county.

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

26 (c) For any year of the agreement, in no event shall the cumulative credits
27 awarded to the approved company under this section exceed the annual

1 maximum approved costs of the project as provided in the tax incentive
2 agreement.

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

- 4 (1) An approved company or, with the authority's consent, an affiliate of an approved
5 company may impose wage assessments against employees as provided in this
6 section if a wage assessment is included in the incentives awarded to the approved
7 company in the tax incentive agreement. The level of wage assessment shall be
8 negotiated as part of the tax incentive agreement.
- 9 (2) If an economic development project is located in a heritage~~[an enhanced incentive]~~
10 county, the approved company or, with the authority's consent, an affiliate of the
11 approved company may require that each employee subject to the tax imposed by
12 KRS 141.020, whose job is determined by the authority to be created as a result of
13 the economic development project, as a condition of employment, agree to an
14 assessment of up to one hundred percent (100%) of the individual income tax rate
15 imposed by KRS 141.020, and that assessment shall operate as the
16 Commonwealth's wage assessment. Although not required for an economic
17 development project located in a heritage~~[an enhanced incentive]~~ county, a local
18 jurisdiction may agree to forgo all or a portion of its local occupational license fee
19 as a local wage assessment.
- 20 (3) (a) If the economic development project is not located in a heritage~~[an enhanced~~
21 ~~incentive]~~ county, and is located in a local jurisdiction where:
- 22 1. No local occupational license fee is imposed;
 - 23 2. a. A local occupational license fee greater than or equal to twenty
24 percent (20%) of the individual income tax rate in KRS 141.020 is
25 imposed; and
 - 26 b. The local jurisdiction agrees to forgo, as the local wage
27 assessment, at least twenty percent (20%) of the individual income

- 1 tax rate imposed by KRS 141.020 via credits against the local
 2 occupational license fee for the affected employees; or
- 3 3. a. A local occupational license fee less than twenty percent (20%) of
 4 the individual income tax rate in KRS 141.020 is imposed; and
- 5 b. The local jurisdiction agrees to forgo the total amount of the local
 6 occupational license fee as the local wage assessment; then
- 7 (b) An approved company or, with the authority's consent, an affiliate of an
 8 approved company may require that each employee subject to tax imposed by
 9 KRS 141.020, whose job is determined by the authority to be created as a
 10 result of the economic development project, as a condition of employment,
 11 agree to pay an assessment of up to sixty percent (60%) of the individual
 12 income tax rate imposed by KRS 141.020 and that assessment shall operate as
 13 the Commonwealth's wage assessment.
- 14 (4) (a) If the economic development project is not located in a heritage~~[an enhanced~~
 15 ~~incentive]~~ county, and is located in a local jurisdiction where:
- 16 1. a. A local occupational license fee greater than or equal to twenty
 17 percent (20%) of the individual income tax rate in KRS 141.020 is
 18 imposed; and
- 19 b. The local jurisdiction agrees to forgo an amount of the local
 20 occupational license fee that is less than twenty percent (20%) of
 21 the individual income tax rate in KRS 141.020 as the local wage
 22 assessment; or
- 23 2. a. A local occupational license fee of lesser than twenty percent
 24 (20%) of the individual income tax rate in KRS 141.020 is
 25 imposed; and
- 26 b. The local jurisdiction agrees to forgo only a portion of the total
 27 amount of the local occupational license fee as the local wage

1 assessment; then

2 (b) An approved company or, with the authority's consent, an affiliate of an
3 approved company may require that each employee subject to tax imposed by
4 KRS 141.020, whose job is determined by the authority to be created as a
5 result of the economic development project, as a condition of employment,
6 agree to pay an assessment equal to three (3) times the forgone local wage
7 assessment rate and that assessment shall operate as the Commonwealth's
8 wage assessment.

9 (5) If the project is not located in a heritage~~[an enhanced incentive]~~ county, and:

10 (a) Is located in a local jurisdiction that does not impose a local occupational
11 license fee, the local jurisdiction shall be required to provide some alternative
12 inducement satisfactory to the authority at the local level in order for a
13 preliminarily approved company to receive final approval. However, the
14 authority may waive this requirement if there are reasonable circumstances
15 that prevent the local jurisdiction from providing a reasonable inducement; or

16 (b) Is located in a local jurisdiction that does impose a local occupational license
17 fee, the jurisdiction may request that the authority waive the local
18 occupational license fee requirements established by subsection (3) or (4) of
19 this section if the local jurisdiction offers alternative inducements of similar
20 value satisfactory to the authority. The authority shall review all requests for a
21 waiver, and may waive the local occupational license fee requirements and
22 instead require the local jurisdiction to provide alternative inducements of
23 similar value if the authority determines that the circumstances warrant an
24 alternative contribution by the local jurisdiction.

25 (6) Each employee paying the assessment shall simultaneously be entitled to a credit
26 against the Kentucky individual income tax required to be withheld under KRS
27 141.310 equal to the state portion of the assessment and shall be entitled to a credit

1 against the local occupational license tax equal to the local portion of the
2 assessment.

3 (7) If more than one (1) local jurisdiction imposes an occupational license fee, the local
4 jurisdiction portion of the assessment shall be prorated proportionately among the
5 taxes imposed by the local jurisdictions unless one (1) local jurisdiction agrees to
6 forgo the receipt of these taxes in an amount equal to the local jurisdiction portion
7 of the wage assessment, in which case no proration shall be made.

8 (8) If a full-time employee subject to state tax imposed by KRS 141.020 is already
9 employed by the approved company at a site other than the site of the economic
10 development project, that full-time employee's job shall be deemed to have been
11 created when the full-time employee is transferred to the site of the economic
12 development project if the full-time employee's existing job is filled with a new
13 full-time employee.

14 (9) If an approved company elects to impose the assessment as a condition of
15 employment, it shall be authorized to deduct the assessment from each payment of
16 wages to the employee.

17 (10) Notwithstanding any other provision of the Kentucky Revised Statutes, if an
18 approved company elects not to deduct the assessment from each payment of wages
19 to the employee, but rather requests a reimbursement of state tax imposed by KRS
20 141.020 or local occupational tax in the aggregate after they have been paid to the
21 state or local jurisdiction, no interest shall be paid by the state or by the local
22 jurisdiction on that reimbursement.

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

25 (12) An approved company imposing an assessment shall make its payroll, books, and
26 records available to the authority or the department upon request, and shall file with
27 the authority or department documentation pertaining to the assessment as the

1 authority or department may require.

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

5 →Section 20. KRS 154.32-100 is amended to read as follows:

6 (1) (a) By October 1 of each year, the department shall certify to the authority, in the
7 form of an annual report, aggregate tax credits claimed on tax returns filed
8 during the fiscal year ending June 30 of that year and aggregate assessments
9 taken during the prior calendar year by approved companies with respect to
10 their economic development projects under this subchapter, and shall certify
11 to the authority, within ninety (90) days from the date an approved company
12 has filed its state income tax return, when an approved company has taken tax
13 credits or assessments equal to the total incentives available to the approved
14 company.

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

19 1. Each approved company awarded a credit; and

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

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

27 (a) A summary of the refundable economic development credit received and

1 relevant statistics relating to the actions taken by the cabinet, including the
2 applicant, refundable economic development credit amount, the number of
3 jobs created, amount of wages paid to a full-time employee by an approved
4 company and included in the credit computation, and the annual maximum
5 approved costs of the project;

6 (b) The annual balance of the refundable economic development credit
7 received; and

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

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

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

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

16 (3) The economic development fund shall be administered by the secretary of the
17 Cabinet for Economic Development. The authority shall promulgate administrative
18 regulations in accordance with KRS Chapter 13A for project selection criteria and
19 administration of the economic development fund. The project selection criteria
20 shall include but not be limited to the following:

21 (a) Potential job creation or job retention;

22 (b) Degree of public or private and local involvement;

23 (c) Degree and conditions of project payback; and

24 (d) Amount of investment.

25 (4) Prior to submission of an economic development fund project to the authority, the
26 secretary of the Cabinet for Economic Development shall receive a written
27 commitment from the public or private organization which has requested funds

1 outlining projected job creation and retention, an investment breakdown, and
2 overall project description. This shall be submitted by the secretary to the authority.
3 Subsequently, the secretary of the Cabinet for Economic Development shall execute
4 a written agreement with the public or private organizations involved expressing in
5 detail the respective obligations on the parties.

6 (5) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding
7 from the economic development fund program, unless expressly provided in a
8 branch budget bill. Airport construction and renovation projects, ***including regional***
9 ***airports that serve the Commonwealth,*** shall be eligible for funding under this
10 section. The secretary of the Cabinet for Economic Development shall consult with
11 the secretary of the Finance and Administration Cabinet on the terms and conditions
12 relating to the use of funds pursuant to this section before any commitment is made
13 on any project to any public or private organization.

14 (6) Following the approval by the authority, the project shall be presented by the
15 secretary of the Cabinet for Economic Development or his or her designee with
16 supporting documentation for review and approval at the next regularly scheduled
17 meeting of the Capital Projects and Bond Oversight Committee pursuant to KRS
18 45.810 and at the next regularly scheduled meeting of the State Property and
19 Buildings Commission pursuant to KRS 56.450.

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

24 (8) By November 1 of each year, the Cabinet for Economic Development shall prepare
25 and post an annual report to the cabinet's Web site as required in KRS 154.12-2035,
26 showing the economic development funds issued during the previous fiscal year,
27 funds disbursed, the amounts paid back, and the balance still owing with respect to

1 grants or loans made by the Cabinet for Economic Development with proceeds of
2 economic development funds during the previous five (5) fiscal years.

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

4 (1) As used in this section:

5 (a) "Above-the-line production crew" has the same meaning as in KRS 154.61-
6 010;

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

8 (c) "Below-the-line production crew" has the same meaning as in KRS 154.61-
9 010;

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

11 (e) "Council" means the Kentucky Film Leadership Council created in KRS
12 154.12-282;

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

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

15 (h) "Qualifying payroll expenditure" has the same meaning as in KRS 154.61-
16 010;

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

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

19 (2) (a) There is hereby created a tax credit against the tax imposed under KRS
20 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in
21 KRS 141.0205.

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

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

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

26 3. A refundable credit for applications approved on or after January 1,
27 2022, if the provisions of paragraph (c) of this subsection are met.

- 1 (c) 1. The total tax incentive approved under KRS 154.61-020 shall be limited
2 to:
3 a. One hundred million dollars (\$100,000,000) for calendar year
4 2018 and each calendar year through the calendar year 2021;
5 b. Seventy-five million dollars (\$75,000,000) for the calendar year
6 2022 and each calendar year thereafter; and
7 c. Beginning with calendar year 2024, the amount in subdivision b.
8 of this subparagraph shall be allocated accordingly:
9 i. Twenty-five million dollars (\$25,000,000) shall be allocated
10 for all approved companies with a continuous film
11 production; and
12 ii. On the first day of April 2025, and on April 1 of each
13 calendar year thereafter, any unused balance allocated under
14 subpart i. of this subdivision for continuous film productions
15 shall be made available for all approved companies with a
16 motion picture or entertainment production.
- 17 2. To qualify for the refundable credit, all applicants shall:
18 a. Begin filming or production in Kentucky within six (6) months of
19 approval by the council; and
20 b. Complete filming or production in Kentucky within two (2) years
21 of their production start date.
- 22 (3) An approved company may receive a refundable tax credit if:
23 (a) The department has received notification from the council that the approved
24 company has satisfied all requirements of KRS 154.61-020 and 154.61-030;
25 and
26 (b) The approved company has provided a detailed cost report and sufficient
27 documentation to the council, which has been forwarded by the council to the

1 department, that:

2 1. The purchases of qualifying expenditures were made after the execution
3 of the tax incentive agreement; and

4 2. The approved company or loan-out entity has withheld income tax as
5 required by KRS 141.310 on all qualified payroll expenditures, and
6 remitted and certified the withheld amount to the department.

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

9 (5) The department may promulgate administrative regulations under KRS Chapter
10 13A to administer this section.

11 (6) On or before September 1, 2010, and on or before each September 1 thereafter, for
12 the immediately preceding fiscal year, the department shall report to the council and
13 the Interim Joint Committee on Appropriations and Revenue the names of the
14 approved companies and the amounts of refundable income tax credit claimed.

15 (7) No later than September 1, 2021, and by November 1 every four (4) years
16 thereafter, the department and the Cabinet for Economic Development shall
17 cooperatively provide historical data related to the tax credit allowed in this section
18 and KRS 154.61-020 and 154.61-030, including data items beginning with tax
19 credits claimed for taxable years beginning on or after January 1, 2018:

20 (a) The name of the taxpayer claiming the tax credit;

21 (b) The date that the application was approved and the date the filming or
22 production was completed;

23 (c) The taxable year in which the taxpayer claimed the tax credit;

24 (d) The total amount of the tax credit, including any amount denied, any amount
25 applied against a tax liability, any amount refunded, and any amount
26 remaining that may be claimed on a return filed in the future;

27 (e) Whether the taxpayer is a Kentucky-based company as defined in KRS

1 154.61-010;

2 (f) Whether the taxpayer films or produces a:

- 3 1. Feature-length film, television program, or industrial film;
- 4 2. National touring production of a Broadway show; or
- 5 3. Documentary;

6 (g) Whether the filming or production was performed:

- 7 1. Entirely in a heritage~~[an enhanced]~~ county; or
- 8 2. In whole or in part in any Kentucky county other than in a heritage~~[an~~
9 ~~enhanced incentive]~~ county;

10 (h) The amount of qualifying expenditures incurred by the taxpayer;

11 (i) The amount of qualifying payroll expenditures paid to:

- 12 1. Resident below-the-line crew; and
 - 13 2. Nonresident below-the-line production crew;
- 14 including the number of crew members in each category;

15 (j) The amount of qualifying payroll expenditures paid to:

- 16 1. Resident above-the-line crew; and
 - 17 2. Nonresident above-the-line crew;
- 18 including the number of crew members in each category; and

19 (k) A brief description of the type of motion picture or entertainment production
20 project.

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

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

26 As used in this subchapter:

27 (1) "Above-the-line production crew" means employees involved with the production

- 1 of a motion picture or entertainment production whose salaries are negotiated prior
2 to commencement of production, such as actors, directors, producers, and writers;
- 3 (2) "Animated production" means a nationally distributed feature-length film created
4 with the rapid display of a sequence of images using 2-D or 3-D graphics of
5 artwork or model positions in order to create an illusion of movement;
- 6 (3) "Approved company" means an eligible company approved for incentives provided
7 under KRS 141.383 and 154.61-020;
- 8 (4) "Below-the-line production crew" means employees involved with the production
9 of a motion picture or entertainment production except above-the-line production
10 crew. "Below-the-line production crew" includes but is not limited to:
- 11 (a) Casting assistants;
- 12 (b) Costume design;
- 13 (c) Extras;
- 14 (d) Gaffers;
- 15 (e) Grips;
- 16 (f) Location managers;
- 17 (g) Production assistants;
- 18 (h) Set construction staff; and
- 19 (i) Set design staff;
- 20 (5) "Cabinet" means the Cabinet for Economic Development;
- 21 (6) "Commonwealth" means the Commonwealth of Kentucky;
- 22 (7) "Compensation" means compensation included in adjusted gross income as defined
23 in KRS 141.010;
- 24 (8) "Continuous film production" means a motion picture or entertainment production
25 that:
- 26 (a) 1. Has a projected budget of a minimum of ten million dollars
27 (\$10,000,000) per calendar year for qualifying expenditures and

- 1 qualifying payroll expenditures allocated to all qualifying motion picture
2 or entertainment productions to be filmed or produced in Kentucky, with
3 a minimum of one million five hundred thousand dollars (\$1,500,000)
4 per production in Kentucky; and
- 5 2. Has a minimum of fifty percent (50%) of the funds available and the
6 ability to raise the remaining funds necessary to complete the filming
7 and production, which may be verified by:
- 8 a. Bank statements or other financial documents; or
9 b. A fundraising plan at the request of the council;
- 10 (b) Demonstrates a distribution contract for each motion or entertainment
11 production;
- 12 (c) Films and produces a minimum of twelve (12) or more days per production
13 within the Commonwealth; and
- 14 (d) Maintains:
- 15 1. An apprenticeship program or on-the-job training program as defined in
16 KRS 343.010; or
- 17 2. Partners with a film studies program with an accredited institution of
18 postsecondary education located in the Commonwealth;
- 19 (9) "Council" means the Kentucky Film Leadership Council created in KRS 154.12-
20 282;
- 21 (10) "Documentary" means a production based upon factual information and not
22 subjective interjections;
- 23 (11) "Eligible company" means any person that intends to film or produce a motion
24 picture or entertainment production in the Commonwealth;
- 25 (12) "Employee" has the same meaning as in KRS 141.010, and, for purposes of this
26 subchapter, also may include the employees or independent contractors of an
27 approved company or the employees of a loan-out entity engaged by an approved

1 company if they meet the requirements of KRS 141.310;

2 (13) ~~["Enhanced incentive county" has the same meaning as in KRS 154.32-010;~~

3 ~~(14)]"Feature-length film" means a live-action or animated production that is:~~

4 (a) More than thirty (30) minutes in length; and

5 (b) Produced for distribution in theaters or via digital format, including but not
6 limited to DVD, Internet, or mobile electronic devices;

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

8 (15) "Industrial film" means a business-to-business film that may be viewed by the
9 public, including but not limited to videos used for training or for viewing at a trade
10 show;

11 (16) "Kentucky-based company" has the same meaning as in KRS 164.6011;

12 (17) "Loan-out entity" means a corporation, partnership, limited liability company, or
13 other entity through which an artist or other person is loaned out to perform services
14 for the approved company. A loan-out entity shall be registered and in good
15 standing with the Kentucky Secretary of State. Notwithstanding the business
16 organization, the loan-out entity and all employees of and other persons performing
17 services for the loan-out entity shall be subject to all applicable provisions of the
18 Kentucky personal income tax and any applicable payroll or other tax provisions;

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

20 1. The following if filmed in whole or in part, or produced in whole or in
21 part, in the Commonwealth:

22 a. A feature-length film;

23 b. A television program;

24 c. An industrial film; or

25 d. A documentary; or

26 2. A national touring production of a Broadway show produced in
27 Kentucky.

- 1 (b) "Motion picture or entertainment production" does not include the filming or
2 production of obscene material or television coverage of news or athletic
3 events;
- 4 (19) "Obscene" has the same meaning as in KRS 531.010;
- 5 (20) "Person" has the same meaning as in KRS 141.010;
- 6 (21) (a) "Qualifying expenditure" means expenditures made in the Commonwealth for
7 the following if directly used in or for a motion picture or entertainment
8 production:
- 9 1. The production script and synopsis;
 - 10 2. Set construction and operations, wardrobe, accessories, and related
11 services;
 - 12 3. Lease or rental of real property in Kentucky as a set location;
 - 13 4. Photography, sound synchronization, lighting, and related services;
 - 14 5. Editing and related services;
 - 15 6. Rental of facilities and equipment;
 - 16 7. Vehicle leases;
 - 17 8. Food; and
 - 18 9. Accommodations.
- 19 (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by
20 the approved company on the qualifying expenditure;
- 21 (22) "Qualifying payroll expenditure" means compensation paid to above-the-line crew
22 and below-the line crew while working on a motion picture or entertainment
23 production in the Commonwealth if the compensation is for services performed in
24 the Commonwealth;
- 25 (23) "Resident" has the same meaning as in KRS 141.010;
- 26 (24) "Secretary" means the secretary of the Cabinet for Economic Development;
- 27 (25) "Tax incentive agreement" means the agreement entered into pursuant to KRS

1 154.61-030 between the council and the approved company; and

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

4 (a) An episodic series;

5 (b) A miniseries;

6 (c) A television movie; or

7 (d) A television pilot;

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

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

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

13 (a) The film and entertainment industry to choose locations in the
14 Commonwealth for the filming and production of motion picture or
15 entertainment productions;

16 (b) The development of a film and entertainment industry in Kentucky;

17 (c) Increased employment opportunities for the citizens of the Commonwealth
18 within the film and entertainment industry; and

19 (d) The development of a production and postproduction infrastructure in the
20 Commonwealth for film production and touring Broadway show production
21 facilities containing state-of-the-art technologies.

22 (2) The council, together with the Department of Revenue, shall administer the tax
23 credit established by KRS 141.383, this section, and KRS 154.61-030.

24 (3) To qualify for the tax incentive provided in subsection (5) of this section, the
25 following requirements shall be met:

26 (a) For an approved company that is also a Kentucky-based company that:

27 1. Films or produces a feature-length film, television program, or industrial

- 1 film in whole or in part in the Commonwealth, the minimum combined
2 total of qualifying expenditures and qualifying payroll expenditures
3 shall be one hundred twenty-five thousand dollars (\$125,000);
- 4 2. Produces a national touring production of a Broadway show in whole or
5 in part in the Commonwealth, the minimum combined total of
6 qualifying expenditures and qualifying payroll expenditures shall be
7 twenty thousand dollars (\$20,000); or
- 8 3. Films or produces a documentary in whole or in part in the
9 Commonwealth, the minimum combined total of qualifying
10 expenditures and qualifying payroll expenditures shall be ten thousand
11 dollars (\$10,000); and
- 12 (b) For an approved company that is not a Kentucky-based company that:
- 13 1. Films or produces a feature-length film, television program, or industrial
14 film in whole or in part in the Commonwealth, the minimum combined
15 total of qualifying expenditures and qualifying payroll expenditures
16 shall be two hundred fifty thousand dollars (\$250,000); or
- 17 2. Films or produces a documentary in whole or in part in the
18 Commonwealth or that produces a national touring production of a
19 Broadway show, the minimum combined total of qualifying
20 expenditures and qualifying payroll expenditures shall be twenty
21 thousand dollars (\$20,000).
- 22 (4) (a) Beginning on January 1, 2022, the total tax incentive approved under KRS
23 141.383 and this subchapter shall be limited to seventy-five million dollars
24 (\$75,000,000) for calendar year 2022 and each calendar year thereafter.
- 25 (b) Beginning with calendar year 2024:
- 26 1. Twenty-five million dollars (\$25,000,000) shall be allocated for all
27 approved companies with a continuous film production; and

- 1 2. On the first day of July of each calendar year, any unused balance of the
2 amount allocated under subparagraph 1. of this paragraph for continuous
3 film productions shall be made available for all approved companies
4 with motion picture or entertainment productions.
- 5 (5) (a) To qualify for the tax incentive available under KRS 141.383 and this
6 subchapter all applicants shall:
- 7 1. Begin filming or production in Kentucky within six (6) months of
8 approval by the council; and
- 9 2. Complete filming or production in Kentucky within two (2) years of the
10 filming or production start date.
- 11 (b) The tax credit shall be against the Kentucky income tax imposed under KRS
12 141.020 or 141.040, and the limited liability entity tax imposed under KRS
13 141.0401, and shall be refundable as provided in KRS 141.383.
- 14 (c) 1. For a motion picture or entertainment production or continuous film
15 production filmed or produced in its entirety in a heritage~~[an enhanced~~
16 ~~incentive]~~ county, the amount of the incentive shall be equal to thirty-
17 five percent (35%) of the approved company's:
- 18 a. Qualifying expenditures;
- 19 b. Qualifying payroll expenditures paid to resident and nonresident
20 below-the-line production crew; and
- 21 c. Qualifying payroll expenditures paid to resident and nonresident
22 above-the-line production crew not to exceed one million dollars
23 (\$1,000,000) in payroll expenditures per employee.
- 24 2. a. To the extent the approved company films or produces a motion
25 picture or entertainment production or continuous film production
26 in part in a heritage~~[an enhanced incentive]~~ county and in part a
27 Kentucky county that is not a heritage~~[an enhanced incentive]~~

1 county, the approved company shall be eligible to receive the
2 incentives provided in this paragraph for those expenditures
3 incurred in the heritage~~[enhanced]~~ incentive county and all other
4 expenditures shall be subject to the incentives provided in
5 paragraph (d) of this subsection.

6 b. The approved company shall track the requisite expenditures by
7 county. If the approved company can demonstrate to the
8 satisfaction of the cabinet that it is not practical to use a separate
9 accounting method to determine the expenditures by county, the
10 approved company shall determine the correct expenditures by
11 county using an alternative method approved by the cabinet.

12 (d) For a motion picture or entertainment production or continuous film
13 production filmed or produced in whole or in part in any Kentucky county
14 other than in a heritage~~[an enhanced incentive]~~ county, the amount of the
15 incentive shall be equal to:

- 16 1. Thirty percent (30%) of the approved company's:
- 17 a. Qualifying expenditures;
- 18 b. Qualifying payroll expenditures paid to below-the-line production
19 crew that are not residents; and
- 20 c. Qualifying payroll expenditures paid to above-the-line production
21 crew that are not residents, not to exceed one million dollars
22 (\$1,000,000) in payroll expenditures per employee; and
- 23 2. Thirty-five percent (35%) of the approved company's:
- 24 a. Qualifying payroll expenditures paid to resident below-the-line
25 production crew; and
- 26 b. Qualifying payroll expenditures paid to resident above-the-line
27 production crew not to exceed one million dollars (\$1,000,000) in

1 payroll expenditures per employee.

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

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

- 4 (1) "Agreement" means the tourism development agreement entered into between the
5 authority and an approved company;
- 6 (2) "Approved company" means any eligible company that has received final approval
7 to receive incentives provided under KRS 148.853;
- 8 (3) "Approved costs" means the amount of eligible costs approved by the authority
9 upon completion of the project;
- 10 (4) "Authority" means the Kentucky Tourism Development Finance Authority as set
11 forth in KRS 148.850;
- 12 (5) "Cabinet" means the Tourism, Arts and Heritage Cabinet;
- 13 (6) "Crafts and products center" means a facility primarily devoted to the display,
14 promotion, and sale of Kentucky products, and at which a minimum of eighty
15 percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or
16 agricultural products;
- 17 (7) "Eligible company" means any corporation, limited liability company, partnership,
18 limited partnership, sole proprietorship, business trust, or any other entity operating
19 or intending to operate a tourism development project;
- 20 (8) "Eligible costs" means:
- 21 (a) Obligations incurred for labor and amounts paid to vendors, contractors,
22 subcontractors, builders, suppliers, deliverymen, and materialmen in
23 connection with the acquisition, construction, equipping, and installation of a
24 tourism development project;
- 25 (b) The costs of acquiring real property or rights include the acquisition of real
26 property by a leasehold interest with a minimum term of ten (10) years, and
27 any costs incidental thereto;

- 1 (c) The cost of contract bonds and of insurance of all kinds that may be required
2 or necessary during the course of the acquisition, construction, equipping, and
3 installation of a tourism development project which is not paid by the vendor,
4 supplier, deliveryman, contractor, or otherwise provided;
- 5 (d) All costs of architectural and engineering services, including but not limited to
6 estimates, plans and specifications, preliminary investigations, and
7 supervision of construction and installation, as well as for the performance of
8 all the duties required by or consequent to the acquisition, construction,
9 equipping, and installation of a tourism development project;
- 10 (e) All costs required to be paid under the terms of any contract for the
11 acquisition, construction, equipping, and installation of a tourism
12 development project;
- 13 (f) All costs required for the installation of utilities, including but not limited to
14 water, sewer, sewer treatment, gas, electricity and communications, and
15 including off-site construction of the facilities paid for by the approved
16 company; and
- 17 (g) All other costs comparable with those described in this subsection, excluding
18 costs subject to refund under KRS 154.20-202, 154.20-204, 154.20-206,
19 154.20-208, and 154.20-210 or Subchapter 31 of KRS Chapter 154;
- 20 ~~(9) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;~~
- 21 ~~(10)~~ "Entertainment destination center project" means a facility that meets the
22 requirements of KRS 148.853(2)(b);
- 23 (10)~~(11)~~ "Final approval" means the action taken by the authority authorizing the
24 eligible company to receive incentives under KRS 139.536 and 148.851 to 148.860;
- 25 (11)~~(12)~~ "Full-service lodging facility" means a facility that provides overnight
26 sleeping accommodations, including private bathrooms and all of the following:
- 27 (a) On-site dining facilities;

1 (b) Room service;

2 (c) Catering; and

3 (d) Meeting space;

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

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

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

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

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

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

11 a. Is listed individually on the National Register of Historic Places;
12 or

13 b. Is located in the National Register Historic District; and
14 is certified by the Kentucky Heritage Council as contributing to the
15 historic significance of the district, and the rehabilitation or restoration
16 of the structure has been approved in advance by the Kentucky Heritage
17 Council;

18 3. Is an integral part of a major convention or sports facility;

19 4. Is located:

20 a. Within a fifty (50) mile radius of a property listed on the National
21 Register of Historic Places with a current function of recreation
22 and culture; and

23 b. In any of the one hundred (100) least-populated counties in the
24 Commonwealth, in terms of population density, according to the
25 most recent census;

26 5. Is located on property:

27 a. Owned by the Commonwealth, or leased by the Commonwealth

- 1 from the federal government;
- 2 b. Acquired for use in the state park system pursuant to KRS
3 148.028; and
- 4 c. Operated by the Kentucky Department of Parks pursuant to KRS
5 148.021 or the Kentucky Horse Park Commission pursuant to
6 KRS 148.258 to 148.320;
- 7 6. Is located on property:
- 8 a. Owned or leased by the federal government and under the control
9 of the Department of the Interior; or
- 10 b. Owned by the Commonwealth and in the custody of the State Fair
11 Board as provided in KRS 247.140;
- 12 7. Is part of a tourism attraction project, entertainment destination center
13 project, or theme restaurant destination attraction project and the full-
14 service lodging facility represents less than fifty percent (50%) of the
15 total eligible costs; or
- 16 8. Has not less than five hundred (500) guest rooms; or
- 17 (b) 1. Is located:
- 18 a. In any of the one hundred (100) least-populated counties in the
19 Commonwealth, in terms of population density, according to the
20 most recent decennial census;
- 21 b. In a county, the boundaries of which:
- 22 i. Include, in part, the boundaries of a designated national
23 forest; or
- 24 ii. Are adjacent to or include a portion of parallel reservoirs of
25 water surrounding a national recreation area;
- 26 c. Within a heritage~~[an enhanced incentive]~~ county and will create at
27 least fifty (50) new full-time jobs within that county; and

- 1 d. Within one-half (1/2) mile of a state resort park;
- 2 2. Has a capital investment of at least one hundred million dollars
- 3 (\$100,000,000); and
- 4 3. Contains accommodations for:
- 5 a. Lodging, with a minimum of one hundred (100) guest rooms,
- 6 cabins, or rental units;
- 7 b. Relaxation, including a spa;
- 8 c. More than one (1) on-site dining facility; and
- 9 d. More than one (1) meeting or event space;
- 10 (16) "Net positive fiscal impact" means the amount by which increased state tax
- 11 revenues will exceed the incentives given;
- 12 (17) "Preliminary approval" means the action taken by the authority conditionally
- 13 approving an eligible company for the incentives under KRS 139.536 and 148.851
- 14 to 148.860;
- 15 (18) "Recreational facility" means a structure or outdoor area that:
- 16 (a) Provides visitors recreational opportunities, including but not limited to
- 17 amusement parks, boating, hiking, horseback riding, hunting, fishing,
- 18 camping, wildlife viewing, live theater, rock climbing, and all-terrain vehicle
- 19 trails; and
- 20 (b) Serves as a likely destination where individuals who are not residents of the
- 21 Commonwealth would remain overnight in commercial lodging at or near the
- 22 recreational facility;
- 23 (19) "Theme restaurant destination attraction project" means a restaurant facility that
- 24 meets the requirements for incentives under KRS 148.853(2)(c);
- 25 (20) (a) "Tourism attraction project" means:
- 26 1. A cultural or historical site;
- 27 2. A recreational facility;

- 1 3. An entertainment facility;
- 2 4. An area of natural phenomenon or scenic beauty; or
- 3 5. A Kentucky crafts and products center;
- 4 (b) "Tourism attraction project" does not include facilities that are primarily
- 5 devoted to the retail sale of goods, other than a Kentucky crafts and products
- 6 center, or a tourism attraction where the sale of goods is a secondary and
- 7 subordinate component of the attraction; and

8 (21) "Tourism development project" means:

- 9 (a) A tourism attraction project;
- 10 (b) A theme restaurant destination attraction project;
- 11 (c) An entertainment destination center project; or
- 12 (d) A lodging facility project.

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

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

- 15 (a) The general welfare and material well-being of the citizens of the
- 16 Commonwealth depend in large measure upon the development of tourism in
- 17 the Commonwealth;
- 18 (b) It is in the best interest of the Commonwealth to provide incentives for the
- 19 creation of new tourism attractions and the expansion of existing tourism
- 20 attractions within the Commonwealth in order to advance the public purposes
- 21 of relieving unemployment by preserving and creating jobs that would not
- 22 exist if not for the incentives offered by the authority to approved companies,
- 23 and by preserving and creating sources of tax revenues for the support of
- 24 public services provided by the Commonwealth;
- 25 (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental
- 26 and public purposes for which public moneys may be expended; and
- 27 (d) That the creation or expansion of tourism development projects is of

1 paramount importance mandating that the provisions of KRS 139.536 and
2 KRS 148.851 to 148.860 be liberally construed and applied in order to
3 advance public purposes.

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

6 (a) For a tourism attraction project:

7 1. The total eligible costs shall exceed one million dollars (\$1,000,000),
8 except for a tourism attraction project located in a county designated as
9 a heritage~~[an enhanced incentive]~~ county at the time the eligible
10 company becomes an approved company as provided in KRS
11 148.857(6), the total eligible costs shall exceed five hundred thousand
12 dollars (\$500,000);

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

15 3. In any year following the third year of operation, the tourism attraction
16 project shall attract at least twenty-five percent (25%) of its visitors
17 from among persons who are not residents of the Commonwealth;

18 (b) For an entertainment destination center project:

19 1. The total eligible costs shall exceed five million dollars (\$5,000,000);

20 2. The facility shall contain a minimum of two hundred thousand
21 (200,000) square feet of building space adjacent or complementary to an
22 existing tourism attraction project or a major convention facility;

23 3. The incentives shall be dedicated to a public infrastructure purpose that
24 shall relate to the entertainment destination center project;

25 4. In any year, including the first year of operation, the entertainment
26 destination center project shall:

27 a. Be open to the public at least one hundred (100) days per year;

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

- 1 is not available in the Commonwealth within a one hundred (100)
2 mile radius of the attraction;
- 3 b. In any year, including the first year of operation, maintain seating
4 capacity of four hundred fifty (450) guests and offer live music or
5 live musical and theatrical entertainment during the peak business
6 hours that the facility is in operation and open to the public; or
- 7 c. Within three (3) years of the completion date, the attraction shall
8 obtain a top two (2) tier rating by a nationally accredited service
9 and shall maintain a top two (2) tier rating through the term of the
10 agreement;
- 11 (d) For a lodging facility project defined in KRS 148.851(15)(a):
- 12 1. a. The eligible costs shall exceed five million dollars (\$5,000,000)
13 unless the provisions of subdivision b. of this subparagraph apply.
- 14 b. i. If the lodging facility is an integral part of a major
15 convention or sports facility, the eligible costs shall exceed
16 six million dollars (\$6,000,000); and
- 17 ii. If the lodging facility includes five hundred (500) or more
18 guest rooms, the eligible costs shall exceed ten million
19 dollars (\$10,000,000); and
- 20 2. In any year, including the first year of operation, the lodging facility
21 shall:
- 22 a. Be open to the public at least one hundred (100) days; and
23 b. Attract at least twenty-five percent (25%) of its visitors from
24 among persons who are not residents of the Commonwealth;
- 25 (e) For a lodging facility project defined in KRS 148.851(15)(b):
- 26 1. The eligible costs shall exceed one hundred million dollars
27 (\$100,000,000); and

- 1 2. The lodging facility shall:
- 2 a. Be open to the public at least one hundred (100) days each year,
- 3 including the first year of operation; and
- 4 b. In any year following the third year of operation, attract a
- 5 minimum of twenty-five percent (25%) of its overnight visitors
- 6 from among persons who are not residents of the Commonwealth;
- 7 (f) Any tourism development project shall not be eligible for incentives if it
- 8 includes material determined to be lewd, offensive, or deemed to have a
- 9 negative impact on the tourism industry in the Commonwealth; and
- 10 (g) An expansion of any tourism development project shall in all cases be treated
- 11 as a new stand-alone project.
- 12 (3) (a) The incentives offered to an approved company under the Kentucky Tourism
- 13 Development Act may include a sales tax incentive based on the Kentucky
- 14 sales tax imposed on sales generated by or arising at the tourism development
- 15 project.
- 16 (b) 1. For a tourism development project other than a lodging facility project
- 17 described in subparagraph 4. or 5. of this paragraph:
- 18 a. A sales tax incentive shall be allowed to an approved company
- 19 over a period of ten (10) years, except as provided in
- 20 subparagraphs 7. and 8. of this paragraph; and
- 21 b. The sales tax incentive shall not exceed the lesser of the total
- 22 amount of the sales tax liability of the approved company and its
- 23 lessees or a percentage of the approved costs as specified by the
- 24 agreement, not to exceed twenty-five percent (25%).
- 25 2. For projects approved according to the application period established
- 26 under KRS 148.8531, a tourism attraction project located in a
- 27 heritage~~[an enhanced incentive]~~ county at the time the eligible company

- 1 becomes an approved company as provided in KRS 148.857(6):
- 2 a. A sales tax incentive shall be allowed to the approved company
- 3 over a period of ten (10) years; and
- 4 b. The sales tax incentive shall not exceed the lesser of the total
- 5 amount of the sales tax liability of the approved company and its
- 6 lessees or a percentage of the approved costs as specified by the
- 7 agreement, not to exceed thirty percent (30%).
- 8 3. For applications considered after June 27, 2025, including projects
- 9 related to property to which the title passed from a seller to a buyer on
- 10 or after March 1, 2025, a tourism attraction project located in a
- 11 heritage~~[an enhanced incentive]~~ county with a population equal to or
- 12 less than twenty thousand (20,000) based on the most recent decennial
- 13 census at the time the eligible company becomes an approved company
- 14 as provided in KRS 148.857(6):
- 15 a. A sales tax incentive shall be allowed to the approved company
- 16 over a period of twenty (20) years; and
- 17 b. The sales tax incentive shall not exceed the lesser of the total
- 18 amount of the sales tax liability of the approved company and its
- 19 lessees or a percentage of the approved costs as specified by the
- 20 agreement, not to exceed fifty percent (50%).
- 21 4. For a lodging facility project described in KRS 148.851(15)(a)5. or 6.:
- 22 a. A sales tax incentive shall be allowed to the approved company
- 23 over a period of twenty (20) years; and
- 24 b. The sales tax incentive shall not exceed the lesser of total amount
- 25 of the sales tax liability of the approved company and its lessees or
- 26 a percentage of the approved costs as specified by the agreement,
- 27 not to exceed fifty percent (50%).

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

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

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

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

- 19 (1) "Application" means a document submitted by small businesses and investors, on a
20 form supplied by the authority, for the purpose of requesting certification to
21 participate in the program and to apply for a credit;
- 22 (2) "Authority" means the Kentucky Economic Development Finance Authority;
- 23 (3) "Commonwealth" means the Commonwealth of Kentucky;
- 24 (4) "Credit" means the nonrefundable angel investor tax credit established by KRS
25 141.396 and awarded by the authority pursuant to KRS 154.20-236;
- 26 (5) "Department" means the Department of Revenue;
- 27 (6) ~~"Enhanced incentive counties" has the same meaning as in KRS 154.32-010;~~

1 ~~(7)~~ "Entity" means any corporation, limited liability company, business development
2 corporation, partnership, limited partnership, sole proprietorship, association, joint
3 stock company, receivership, trust, professional service organization, or other legal
4 entity through which business is conducted;

5 ~~(Z)~~~~(8)~~ "Fee" means a nonrefundable application fee in an amount set by the
6 authority, to be collected by the authority to offset the cost of administering KRS
7 154.20-230 to 154.20-240;

8 ~~(8)~~~~(9)~~ "Full-time employee" means a person that is required to work a minimum of
9 thirty-five (35) hours per week and is subject to the tax imposed by KRS 141.020;

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

11 (10) "Knowledge-based" has the same meaning as in KRS 164.6011;

12 (11) (a) "Qualified activity" means any knowledge-based activity related to the new
13 economy focus areas of the Office of Entrepreneurship and Innovation,
14 including but not limited to:

- 15 1. Bioscience;
- 16 2. Environmental and energy technology;
- 17 3. Health and human development;
- 18 4. Information technology and communications; and
- 19 5. Materials science and advanced manufacturing.

20 (b) A "qualified activity" does not include any activity principally engaged in by
21 financial institutions, commercial development companies, credit companies,
22 financial or investment advisors, brokerage or financial firms, other
23 investment funds or investment fund managers, charitable and religious
24 institutions, oil and gas exploration companies, insurance companies,
25 residential housing developers, retail establishments, or any activity that the
26 authority determines in its discretion to be against the public interest, against
27 the purposes of KRS 154.20-230 to 154.20-240, or in violation of any law.

1 Notwithstanding this paragraph, an entity involved in other technological
2 advances may be deemed to be engaged in qualified activity, as determined by
3 the executive director of the Office of Entrepreneurship and Innovation;

4 (12) "Qualified investment" means an investment meeting the requirements of KRS
5 154.20-234 for qualified investments, and certified pursuant to KRS 154.20-236;

6 (13) "Qualified investor" means an individual investor meeting the requirements of KRS
7 154.20-234 for qualified investors, and certified pursuant to KRS 154.20-236; and

8 (14) "Qualified small business" means an entity meeting the requirements of KRS
9 154.20-234 for qualified small businesses, and certified pursuant to KRS 154.20-
10 236.

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

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

14 (a) All qualified investors shall be no more than three million dollars
15 (\$3,000,000); and

16 (b) Any individual qualified investor shall be no more than two hundred thousand
17 dollars (\$200,000).

18 (2) (a) The total amount of credit that may be awarded by the authority to:

19 1. All qualified investors pursuant to KRS 154.20-230 to 154.20-240; and

20 2. All investors in all investment funds pursuant to KRS 154.20-250 to
21 154.20-284;

22 shall be no more than forty million dollars (\$40,000,000) in total for all years
23 prior to December 31, 2020.

24 (b) Beginning on or after January 1, 2021, the amount of credit that may be
25 awarded by the authority in each calendar year shall be equal to the amount
26 provided in subsection (1) of this section.

27 (c) The authority shall not grant preliminary or final approval for applications

- 1 received for the Kentucky Angel Investment Act on or after January 1, 2019,
2 but may resume approving applications received on or after January 1, 2021.
- 3 (3) The authority shall, by promulgation of an administrative regulation, develop a
4 standard procedure for:
- 5 (a) Small businesses and investors to request certification for participation in the
6 program;
 - 7 (b) Qualified investors to request certification of a planned investment as being a
8 qualified investment, and to apply for a credit; and
 - 9 (c) The award of credits to qualified investors making qualified investments.
- 10 (4) At a minimum, the procedure shall:
- 11 (a) Require small businesses and investors to demonstrate to the authority that
12 they, and any planned investment, satisfy all requirements provided in KRS
13 154.20-234;
 - 14 (b) Provide small businesses and investors with a standard written application
15 form to request certification and apply for a credit;
 - 16 (c) Require the payment of a fee; and
 - 17 (d) Mandate a time period for the duration of certifications granted to small
18 businesses and investors, and the procedures for recertification thereof.
- 19 (5) The amount of credit awarded shall not exceed:
- 20 (a) Twenty-five percent (25%) of the amount of the qualified investment, if the
21 principal place of business of the qualified small business is outside a
22 heritage~~[an enhanced incentive]~~ county; or
 - 23 (b) Forty percent (40%) of the amount of the qualified investment, if the principal
24 place of business of the qualified small business is in a heritage~~[an enhanced~~
25 ~~incentive]~~ county.
- 26 (6) Upon approval of a credit, the authority shall reduce the amount of available credit
27 by the amount of credit approved to the qualified investor.

1 (7) The authority may, in effectuating this section, contract with a science and
2 technology organization as defined in KRS 164.6011 to administer and manage the
3 certification and application procedure established by the authority. However, the
4 final approval of all credits shall be made solely by the authority.

5 ➔Section 29. KRS 154.34-010 is amended to read as follows:

6 As used in this subchapter:

- 7 (1) "Affiliate" has the same meaning as in KRS 154.32-010;
- 8 (2) "Agribusiness" has the same meaning as in KRS 154.32-010;
- 9 (3) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- 10 (4) "Approved company" means an eligible company approved under KRS 154.34-070
11 for a reinvestment project;
- 12 (5) "Approved costs" means the eligible equipment and related costs approved by the
13 authority that may be recovered by an approved company through the incentives
14 authorized by this subchapter;
- 15 (6) "Authority" means the Kentucky Economic Development Finance Authority
16 created by KRS 154.20-010;
- 17 (7) "Capital lease" has the same meaning as in KRS 154.32-010;
- 18 (8) "Carbon dioxide or hydrogen transmission pipeline" has the same meaning as in
19 KRS 154.32-010;
- 20 (9) "Coal severing and processing" means activities resulting in an eligible company
21 being subject to the tax imposed by KRS Chapter 143;
- 22 (10) "Commonwealth" means the Commonwealth of Kentucky;
- 23 (11) "Department" means the Department of Revenue;
- 24 (12) (a) "Eligible company" means any corporation, limited liability company,
25 partnership, limited partnership, sole proprietorship, business trust, or any
26 other entity:
- 27 1. Employing or intending to employ a minimum of twenty-five (25)

- 1 persons on a full-time bases; and
- 2 2. Engaged in or planning to engage in one (1) or more of the following
- 3 activities:
- 4 a. Headquarter operations;
- 5 b. Manufacturing;
- 6 c. Agribusiness;
- 7 d. Nonretail service or technology;
- 8 e. Coal severing and processing;
- 9 f. Alternative fuel, gasification, energy-efficient alternative fuel, or
- 10 renewable energy production;
- 11 g. Carbon dioxide or hydrogen transmission pipeline operations; or
- 12 h. Hospital operations;
- 13 at the same facility located and operating within the Commonwealth on
- 14 a permanent basis for a reasonable period of time preceding the request
- 15 for approval of a reinvestment project by the authority, including
- 16 facilities where operations have been temporarily suspended and which
- 17 meet the standards under KRS 154.34-070 and related administrative
- 18 regulations promulgated by the authority.
- 19 (b) "Eligible company" does not include any company for which the primary
- 20 activity to be conducted within the Commonwealth is:
- 21 1. Forestry;
- 22 2. Fishing;
- 23 3. The provision of utilities;
- 24 4. Construction;
- 25 5. Wholesale trade;
- 26 6. Retail trade;
- 27 7. Real estate;

- 1 8. Rental and leasing;
- 2 9. Educational services;
- 3 10. Accommodation and food services; or
- 4 11. Public administration services;

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

- 6 1. Obligations incurred for labor and to vendors, contractors,
7 subcontractors, builders, suppliers, deliverymen, and materialmen in
8 connection with the acquisition, construction, equipping, rehabilitation,
9 and installation of a reinvestment project;
- 10 2. The cost of contract bonds and of insurance of all kinds that may be
11 required or necessary during the course of acquisition, construction,
12 equipping, rehabilitation, and installation of a reinvestment project
13 which is not paid by the vendor, supplier, deliveryman, contractor, or
14 otherwise provided;
- 15 3. All costs of architectural and engineering services, including estimates,
16 plans and specifications, preliminary investigations, and supervision of
17 construction, rehabilitation and installation, as well as for the
18 performance of all the duties required by or consequent upon the
19 acquisition, construction, equipping, rehabilitation, and installation of a
20 reinvestment project;
- 21 4. All costs required to be paid under the terms of any contract for the
22 acquisition, construction, equipping, rehabilitation, and installation of a
23 reinvestment project;
- 24 5. All costs required for the installation of utilities, including but not
25 limited to water, sewer, sewer treatment, gas, electricity,
26 communications, and access to transportation, and including off-site
27 construction of the facilities paid for by the approved company; and

1 6. All other costs of a nature comparable to those described in this
2 paragraph.

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

6 (14) "Energy-efficient alternative fuel production" has the same meaning as in KRS
7 154.32-010;

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

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

12 (16)~~(17)~~ "Final approval" means the action taken by the authority designating a
13 preliminarily approved eligible company as an approved company to receive
14 incentives under this subchapter;

15 (17)~~(18)~~ "Full-time employee" means a person who:

16 (a) Is required to work a minimum of thirty-five (35) hours per week; or

17 (b) Works remotely away from the reinvestment project if all the following
18 conditions are met:

19 1. Is a Kentucky resident;

20 2. Whose job was created or retained as a result of the reinvestment
21 project; and

22 3. Whose payroll is expensed to the reinvestment project;

23 (18)~~(19)~~ "Gasification production" has the same meaning as in KRS 154.32-010;

24 (19)~~(20)~~ "Headquarters" has the same meaning as in KRS 154.32-010;

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

26 (21) "Hospital" has the same meaning as in KRS 154.32-010;

27 (22) "Incentives" means the Kentucky tax credit as prescribed in this subchapter;

- 1 (23) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- 2 (24) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- 3 (25) "Leased project" has the same meaning as in KRS 154.32-010;
- 4 (26) "Manufacturing" has the same meaning as in KRS 154.32-010;
- 5 (27) "Nonretail service or technology" has the same meaning as in KRS 154.32-010;
- 6 (28) "Personal protective equipment" has the same meaning as in KRS 154.32-010;
- 7 (29) "Preliminary approval" means the action taken by the authority designating an
8 eligible company as a preliminarily approved company;
- 9 (30) "Reinvestment agreement" means the agreement entered into pursuant to KRS
10 154.34-080 between the authority and an approved company with respect to a
11 reinvestment project;
- 12 (31) "Reinvestment project" means:
- 13 (a) A reinvestment in the facility of an eligible company and in the full-time
14 employees of an eligible company through the acquisition, construction, and
15 installation of new equipment and, with respect thereto, the construction,
16 rehabilitation, and installation of improvements to facilities necessary to
17 house the new equipment, including surveys; installation of utilities, including
18 water, sewer, sewage treatment, gas, electricity, communications, and similar
19 facilities; or off-site construction of utility extensions to the boundaries of the
20 real estate on which the facilities are located;
- 21 (b) The expenditure of at least one million dollars (\$1,000,000) in eligible
22 equipment and related costs for leased projects and at least two million five
23 hundred thousand dollars (\$2,500,000) in eligible equipment and related costs
24 for all other reinvestment projects; and
- 25 (c) A reinvestment in a facility in order to allow for the production of vital
26 medications, personal protective equipment, or equipment necessary to
27 produce personal protective equipment;

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

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

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

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

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

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

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

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

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

25 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
26 energy resources assessed under KRS 132.820, or owners of surface land
27 under which the unmined minerals lie, factual information about the owner's

1 property derived from third-party returns filed for that owner's property, under
2 the provisions of KRS 132.820, that is used to determine the owner's
3 assessment. This information shall be provided to the owner on a confidential
4 basis, and the owner shall be subject to the penalties provided in KRS
5 131.990(2). The third-party filer shall be given prior notice of any disclosure
6 of information to the owner that was provided by the third-party filer;

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

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

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

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

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

24 (k) Publishing administrative writings on its official website in accordance with
25 KRS 131.020(1)(b); or

26 (l) Providing information to the Legislative Research Commission under:

27 1. KRS 139.519 for purposes of the sales and use tax refund on building

- 1 materials used for disaster recovery;
- 2 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 3 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 4 ENERGY STAR manufactured home credits;
- 5 4. KRS 141.383 for purposes of the film industry incentives;
- 6 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 7 credit and the job assessment fees;
- 8 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 9 7. KRS 141.396 for purposes of the angel investor credit;
- 10 8. KRS 141.389 for purposes of the distilled spirits credit;
- 11 9. KRS 141.408 for purposes of the inventory credit;
- 12 10. KRS 141.390 for purposes of the recycling and composting credits;
- 13 11. KRS 141.3841 for purposes of the selling farmer credit;
- 14 12. KRS 141.4231 for purposes of the renewable chemical production
- 15 credit;
- 16 13. KRS 141.524 for purposes of the Education Opportunity Account
- 17 Program credit;
- 18 14. KRS 141.398 for purposes of the development area credit;
- 19 15. KRS 139.516 for purposes of the sales and use tax exemptions for the
- 20 commercial mining of cryptocurrency;
- 21 16. KRS 141.419 for purposes of the decontamination credit;
- 22 17. KRS 141.391 for purposes of the qualified broadband investment credit;
- 23 18. KRS 139.499 for purposes of the sales and use tax exemptions for a
- 24 qualified data center project;~~and~~
- 25 19. KRS 139.5325 for purposes of the sales and use tax incentive for a
- 26 qualifying attraction;~~and~~
- 27 **20. Section 1 of this Act for purposes of the refundable economic**

1 *development credit.*

- 2 (3) The commissioner shall make available any information for official use only and on
3 a confidential basis to the proper officer, agency, board or commission of this state,
4 any Kentucky county, any Kentucky city, any other state, or the federal
5 government, under reciprocal agreements whereby the department shall receive
6 similar or useful information in return.
- 7 (4) Access to and inspection of information received from the Internal Revenue Service
8 is for department use only, and is restricted to tax administration purposes.
9 Information received from the Internal Revenue Service shall not be made available
10 to any other agency of state government, or any county, city, or other state, and
11 shall not be inspected intentionally and without authorization by any present
12 secretary or employee of the Finance and Administration Cabinet, commissioner or
13 employee of the department, or any other person.
- 14 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
15 requirements of KRS Chapter 137 and statistics of natural gas production as
16 reported to the department under the natural resources severance tax requirements
17 of KRS Chapter 143A may be made public by the department by release to the
18 Energy and Environment Cabinet, Department for Natural Resources.
- 19 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
20 submissions for the 1989 tax year, the department may make public or divulge only
21 those portions of mine maps submitted by taxpayers to the department pursuant to
22 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
23 out parcel areas. These electronic maps shall not be relied upon to determine actual
24 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
25 required under KRS Chapters 350 and 352 shall not be construed to constitute land
26 surveying or boundary surveys as defined by KRS 322.010 and any administrative
27 regulations promulgated thereto.

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

- 2 (1) The Cabinet for Economic Development shall manage the Kentucky enterprise fund
3 to provide capital to small and medium-size, Kentucky-based companies to
4 undertake feasibility, concept development, research and development, or
5 commercialization work.
- 6 (2) The purpose of the Kentucky enterprise fund is to:
- 7 (a) Accelerate knowledge transfer and technological innovation, improve
8 economic competitiveness, and spur economic growth in Kentucky-based
9 companies;
- 10 (b) Support feasibility, concept development, research and development, or
11 commercialization activities that have clear potential to lead to commercially
12 successful products, processes, or services within a reasonable period of time;
- 13 (c) Stimulate growth-oriented enterprises within the Commonwealth;
- 14 (d) Encourage partnerships and collaborative projects between private enterprises,
15 Kentucky's colleges and universities, and research organizations;
- 16 (e) Promote research and development and commercialization activities that are
17 market-oriented; and
- 18 (f) Support small and medium-sized companies.
- 19 (3) The Kentucky enterprise fund shall be used to fund qualified companies in
20 accordance with this section as follows:
- 21 (a) Grants of up to fifty thousand dollars (\$50,000) for companies exploring the
22 feasibility of technology commercialization or projects related to feasibility
23 studies, such as incubator and accelerator programs;
- 24 (b) Funding of up to two hundred fifty thousand dollars (\$250,000) for companies
25 in the concept development phase of technology commercialization;
- 26 (c) Funding of up to five hundred thousand dollars (\$500,000) for companies
27 advancing and promoting the program goals, as outlined in subsection (2) of

1 this section; and

2 (d) For new investments made on or after July 1, 2021, no qualified company can
3 receive a total investment from the fund in excess of up to five hundred
4 thousand dollars (\$500,000).

5 (4) Beginning July 1, 2021, the cabinet shall allocate at least twenty percent (20%) of
6 the annual allotment of funds for the Kentucky enterprise fund to qualified
7 companies located in rural or heritage~~[enhanced incentive]~~ counties, as defined in
8 Section 13 of this Act~~[certified under KRS 154.32-050]~~, and at least twenty percent
9 (20%) of the annual allotment of funds to qualified companies located in
10 Opportunity Zones, as designated by the Commonwealth and certified by the
11 Secretary of the United States Treasury.

12 (5) For all funding totaling more than thirty thousand dollars (\$30,000), the science and
13 technology organization or any entity designated by the executive director of the
14 Office of Entrepreneurship and Innovation shall receive an equity interest in the
15 qualified company, such as a general or limited partnership interest, limited liability
16 company interest, common or preferred stock with or without voting rights and
17 without regard to seniority position, forms of subordinate or convertible unsecured
18 debt, or both, with warrants, rights, or other means of equity conversion attached, a
19 near equity interest such as a simple agreement for future equity or "SAFE
20 agreement", or other convertible debt instruments that are determined to qualify as
21 an adequate investment interest by the executive director of the Office of
22 Entrepreneurship and Innovation.

23 ➔Section 32. Whereas the Cabinet for Economic Development's incentive
24 programs play a vital role in supporting economic development and job growth
25 throughout the Commonwealth, to ensure companies operating within the
26 Commonwealth's border counties are not negatively impacted by employees residing in
27 adjacent states and to encourage companies operating in adjacent states to hire Kentucky

1 residents, the Cabinet for Economic Development is encouraged to conduct a feasibility
2 and impact study on interstate reciprocity between states relating to economic
3 development programming. The study shall, at a minimum, identify any existing models,
4 identify the potential economic impacts of such an arrangement between Kentucky and
5 adjacent states, assess the feasibility and cost implications of implementing those models,
6 and provide recommendations. The Cabinet for Economic Development shall collaborate
7 with the Center for Economic and Entrepreneurial Development at Murray State
8 University to establish the scope of the study. If the Cabinet for Economic Development
9 completes a study pursuant to this subsection, it shall be submitted to the Interim Joint
10 Committee on Economic Development and Workforce Investment by December 1, 2028.

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