

1 AN ACT relating to revenue measures and declaring an emergency.

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

3 ➔Section 1. KRS 139.450 is amended to read as follows:

4 (1) It shall be presumed that:

5 (a) Tangible personal property shipped or brought to this state by the purchaser; ~~†~~
6 ~~or~~†

7 (b) Digital property delivered or transferred electronically into this state; or

8 (c) A service provided to a purchaser in this state;

9 was purchased from a retailer for storage, use, or other consumption in this state.

10 (2) (a) A marketplace provider that makes retail sales on its own behalf or facilitates
11 retail sales of tangible personal property, digital property, or services that are
12 delivered, ~~for~~ transferred electronically, or provided to a purchaser in this
13 state for one (1) or more marketplace retailers that in any sales combination
14 exceeds one hundred thousand dollars (\$100,000) ~~for reaches two hundred~~
15 ~~(200) or more separate transactions in the immediately preceding calendar~~
16 ~~year or current calendar year~~ shall be subject to this section.

17 (b) The marketplace provider shall:

18 1. Register for a sales and use tax permit number to report and remit the
19 tax due; and

20 2. Collect tax imposed under this chapter;
21 no later than the first day of the calendar month that is at the most sixty (60)
22 days after the ~~either~~ threshold in paragraph (a) of this subsection is reached.

23 (c) The marketplace provider may register for:

24 1. A single sales and use tax permit number to report and remit all the tax
25 due on the marketplace provider's direct sales and sales the marketplace
26 provider facilitates for one (1) or more marketplace retailers; or

27 2. a. One (1) sales and use tax permit number to report and remit the tax

- 1 due on the marketplace provider's direct sales; and
- 2 b. One (1) additional sales and use tax permit number to report and
- 3 remit the tax due on all sales the marketplace provider facilitates
- 4 for one (1) or more marketplace retailers.
- 5 (d) 1. If the marketplace provider elects to report and remit the tax due on a
- 6 single sales and use tax permit number as provided in paragraph (c)1. of
- 7 this subsection, the marketplace provider shall, upon request of the
- 8 department, provide a separate breakdown of receipts from the
- 9 marketplace provider's direct sales and the sales the marketplace
- 10 provider facilitates for the preceding fiscal year ending June 30.
- 11 2. The department may request the breakdown of receipts no more than
- 12 once annually.
- 13 (e) The marketplace provider shall collect Kentucky tax on the entire sales price
- 14 or purchase price paid by a purchaser on each retail sale subject to tax under
- 15 this chapter that is made on its own behalf or that is facilitated by the
- 16 marketplace provider, regardless of whether the seller would have been
- 17 required to collect the tax had the retail sale not been facilitated by the
- 18 marketplace provider.
- 19 (3) Nothing in this section shall be construed to relieve the marketplace provider of
- 20 liability for collecting but failing to remit the taxes imposed under this chapter.
- 21 (4) (a) The marketplace provider shall be subject to audit on all sales made on its
- 22 own behalf and on all sales facilitated by the marketplace provider.
- 23 (b) The marketplace retailer shall be relieved of all liability for the collection and
- 24 remittance of the sales or use tax on sales facilitated by the marketplace
- 25 provider.
- 26 (5) No class action may be brought against a marketplace provider on behalf of
- 27 purchasers arising from or in any way related to an overpayment of tax collected by

1 the marketplace provider.

2 ➔Section 2. KRS 131.183 is amended to read as follows:

- 3 (1) (a) Except for the addition to tax required when an underpayment of estimated
4 tax occurs under KRS 141.044 and 141.305, all taxes payable to the
5 Commonwealth not paid at the time prescribed by statute shall accrue interest
6 at the tax interest rate.
- 7 (b) 1. a. Except as provided by subparagraph 2 of this paragraph, the tax
8 interest rate shall be equal to the adjusted prime rate charged by
9 banks rounded to the nearest full percent as adjusted by subsection
10 (2) of this section.
- 11 b. The commissioner of revenue shall adjust the tax interest rate not
12 later than November 15 of each year if the adjusted prime rate
13 charged by banks during September of that year, rounded to the
14 nearest full percent, is at least one (1) percentage point more or
15 less than the tax interest rate which is then in effect. The adjusted
16 tax interest rate shall become effective on January 1 of the
17 immediately succeeding year.
- 18 2. For additional tax billed in accordance with KRS 136.180(2), the tax
19 interest rate shall be equal to the federal short-term rate applicable to
20 each quarter of the period that begins on the date the protest was filed by
21 the taxpayer under KRS 131.110 and ends on the due date of the tax as
22 stated on the final tax bill. The federal short-term rate for each quarter
23 shall be the federal short-term rate determined by the Secretary of the
24 Treasury under Section 6621(b) of the Internal Revenue Code of 1986
25 or equivalent section in case of amendment. The two percent (2%)
26 adjustment provided by subsection (2)(a) of this section shall not apply
27 to the interest rate determined under this subparagraph.

- 1 (2) (a) ~~1. All taxes payable to the Commonwealth that have not been paid at the~~
 2 ~~time prescribed by statute shall accrue interest at the tax interest rate as~~
 3 ~~determined in accordance with subsection (1) of this section until May 1,~~
 4 ~~2008.~~
- 5 ~~2. Beginning on May 1, 2008,]~~All taxes payable to the Commonwealth
 6 that have not been paid at the time prescribed by statute shall accrue
 7 interest at the tax interest rate as determined in accordance with
 8 subsection (1) of this section plus two percent (2%).
- 9 (b) 1. ~~Interest shall be allowed and paid upon any overpayment as defined in~~
 10 ~~KRS 134.580 in respect of any of the taxes provided for in Chapters~~
 11 ~~131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of~~
 12 ~~the Kentucky Revised Statutes and KRS 160.613 and 160.614 at the rate~~
 13 ~~provided in subsection (1) of this section until May 1, 2008.~~
- 14 ~~2. Beginning on May 1, 2008,]~~Interest shall be allowed and paid upon any
 15 overpayment as defined in KRS 134.580 at the rate provided in
 16 subsection (1) of this section minus two percent (2%).
- 17 ~~2. [3.] [Effective for refunds issued after April 24, 2008,]~~Except for the
 18 provisions of KRS 138.351, 141.044(2), ***and*** 141.235(3)~~],]~~ and
 19 subsection (3) of this section, interest authorized under this subsection
 20 shall begin to accrue sixty (60) days after the latest of:
- 21 a. The due date of the return;
 22 b. The date the return was filed;
 23 c. The date the tax was paid;
 24 d. The last day prescribed by law for filing the return; or
 25 e. The date an amended return claiming a refund is filed.
- 26 (c) In no case shall interest be paid in an amount less than five dollars (\$5).
- 27 (d) ~~A [No]~~ refund shall ***not*** be made of any estimated tax paid unless:

- 1 do not apply to the taxes imposed under KRS 141.040 and 141.0401;
- 2 (c) The addition to tax identified by 26 U.S.C. sec. 6655(a) shall instead be
3 considered a penalty under KRS 131.180;
- 4 (d) The tax interest rate identified under KRS 131.183 shall be used to determine
5 the underpayment rate instead of the rate under 26 U.S.C. sec. 6621;
- 6 (e) Any waiver of penalties shall be performed as provided in KRS 131.175; and
- 7 (f) 1. A refund of taxes collected under this section shall include interest at the
8 tax interest rate as defined in KRS 131.010~~[(6)]~~.
- 9 2. Interest shall not begin to accrue until ninety (90) days after the latest of:
- 10 a. The due date of the return;
- 11 b. The date the return was filed;
- 12 c. The date the tax was paid;
- 13 d. The last day prescribed by law for filing the return; or
- 14 e. The date an amended return claiming a refund is filed.
- 15 3. ~~A~~~~No~~ refund shall ***not*** be made of any estimated tax paid unless:
- 16 ***a. i. Application is made by the taxpayer or officer authorized to***
17 ***make the request on a form prescribed by the department;***
18 ***and***
19 ***ii. It is determined that the estimated tax was paid to the***
20 ***department in error; or***
- 21 ***b.*** A return is filed as required by this chapter.
- 22 (3) The department may promulgate administrative regulations ***in accordance with***
23 ***KRS Chapter 13A*** to implement this section.
- 24 ➔Section 4. KRS 96.895 is amended to read as follows:
- 25 (1) As used in this section, unless the context requires otherwise:
- 26 (a) "Book value" means original cost unadjusted for depreciation as reflected in
27 the TVA's books of account;

- 1 (b) "Fund" means the regional development agency assistance fund established in
2 subsection (4) of this section;
- 3 (c) "Fund-eligible county" means one (1) of Adair, Allen, Ballard, Barren, Bell,
4 Butler, Caldwell, Calloway, Carlisle, Christian, Clinton, Cumberland,
5 Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman,
6 Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe,
7 Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren,
8 Wayne, Webster, or Whitley Counties;
- 9 (d) "Regional development agency" or "agency" means a special purpose
10 governmental entity as defined in KRS 65A.010(9) that is designated by a
11 fiscal court to receive a payment pursuant to this section;
- 12 (e) "TVA" means the Tennessee Valley Authority; and
- 13 (f) "TVA property" means land owned by the United States and in the custody of
14 the TVA, together with improvements that have a fixed situs on the land,
15 including work in progress but excluding temporary construction facilities, if
16 these improvements either:
- 17 1. Were in existence when title to the land on which they are situated was
18 acquired by the United States; or
 - 19 2. Are allocated by the TVA or determined by it to be allocable to power.
20 However, manufacturing machinery as interpreted by the Department of
21 Revenue for franchise tax determination; ash disposal systems; and coal
22 handling facilities, including railroads, cranes and hoists, and crushing
23 and conveying equipment, shall be excluded.
- 24 (2) Book value shall be determined, for purposes of applying this section, as of the June
25 30 used by the TVA in computing the annual payment to the Commonwealth that is
26 subject to redistribution by the Commonwealth.
- 27 (3) Except for payments made directly by the TVA to counties, the total fiscal year

1 payment received by the Commonwealth of Kentucky from the TVA, as authorized
2 by Section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated
3 thirty percent (30%) to the general fund of the Commonwealth and seventy percent
4 (70%) among counties, cities, and school districts, as provided in subsections (6)
5 and (7) of this section.

6 (4) (a) The regional development agency assistance fund is hereby established in the
7 State Treasury.

8 (b) The fund shall be administered by the Department for Local Government for
9 the purpose of providing funding to agencies that are designated to receive
10 funding in a given fiscal year by the fiscal court of each fund-eligible county
11 through the Regional Development Agency Assistance Program established in
12 KRS 96.905.

13 (c) The fund shall only receive the moneys transferred from the general fund
14 pursuant to subsection (5) of this section.

15 (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close
16 of the fiscal year shall not lapse but shall be carried forward into the
17 succeeding fiscal year. Any interest earnings of the fund shall become a part
18 of the fund and shall not lapse.

19 (5) (a) For fiscal years beginning on or after July 1, 2020, a portion of the total fiscal
20 year payment received by the Commonwealth that is allocated to the general
21 fund shall be transferred from the general fund to the regional development
22 agency assistance fund established in subsection (4) of this section.

23 (b) This portion shall be equal to six million dollars (\$6,000,000).

24 (c) Distribution of these moneys shall be made by dividing the amount in
25 paragraph (b) of this subsection equally among each fund-eligible county.

26 (6) The payment to each county, city, and school district shall be determined by the
27 proportion that the book value of TVA property in such taxing district, multiplied

1 by the current tax rate, bears to the total of the book values of TVA property in all
2 such taxing districts in the Commonwealth, multiplied by their respective tax rates.
3 However, for purposes of this calculation, each public school district shall have its
4 tax rate increased by thirty cents (\$0.30).

5 (7) (a) As soon as practicable after the amount of payment to be made to the
6 Commonwealth is finally determined by the TVA, the Department of
7 Revenue shall determine the book value of TVA property in each county, city,
8 and school district and shall prorate the payments allocated to counties, cities,
9 and school districts under subsection (3) of this section among the distributees
10 as provided in subsection (6) of this section.

11 (b) The Department of Revenue shall:

- 12 1. Certify the payment due each county, city, and school district, including
13 the amount distributed to the county under subsection (5) of this section,
14 to the Finance and Administration Cabinet; and
- 15 2. Notify the Department for Local Government of that certification.

16 (c) Upon certification by the Department of Revenue, the Finance and
17 Administration Cabinet shall make the payment to such district.

18 (8) In each fiscal year, after the Department of Revenue has calculated the prorated
19 payment amount that is due to each county, city, and school district under
20 subsections (6) and (7) of this section, the Department for Local Government shall
21 notify in writing the fiscal court of each fund-eligible county regarding the amount
22 that the county, city, and school district shall receive for the fiscal year, including
23 the amount distributed to the county under subsection (5) of this section.

24 (9) No amount shall be taken from the fund to pay administrative expenses by the
25 Department for Local Government.

26 (10) All agencies receiving funds under this section shall provide a written report
27 annually, no later than October 1, to the fiscal court that designated it for payment

1 and to the Department for Local Government~~Interim Joint Committee on~~
 2 ~~Appropriations and Revenue~~. The report shall describe how the funds were
 3 expended and the results of the use of funds in terms of economic development and
 4 job creation.

5 **(11) No later than December 1 of each year, the Department for Local Government**
 6 **shall report to the Legislative Research Commission for referral to the Interim**
 7 **Joint Committee on Appropriations and Revenue the total amount of funds**
 8 **distributed to each agency for the fiscal year, how each agency expended the**
 9 **funds, and the results of the use of funds in terms of economic development and**
 10 **job creation.**

11 ➔Section 5. KRS 154.30-030 is amended to read as follows:

12 (1) **(a)** The Commonwealth shall offer three (3) tax increment financing participation
 13 programs. The first program, the criteria and details of which are set forth in
 14 KRS 154.30-040, relates to a pledge of state real property ad valorem taxes
 15 only. The second program, the criteria and details of which are set forth in
 16 KRS 154.30-050, is the Signature Projects Program. The third program, the
 17 criteria and details of which are set forth in KRS 154.30-060, relates to the
 18 pledge of state tax revenues to support mixed-use development in blighted
 19 urban areas.

20 **(b) 1. The programs under paragraph (a) of this subsection shall sunset on**
 21 **the effective date of this section, and new applications shall not be**
 22 **submitted or considered for approval after this date.**

23 **2. Projects approved prior to the effective date of this section shall**
 24 **continue to be governed in accordance with the tax incentive**
 25 **agreement's terms and conditions as set forth in KRS 154.30-070.**

26 **3. Tax incentive agreements related to the programs under paragraph (a)**
 27 **of this subsection shall not be amended or have activation date**

1 extensions approved by the Commonwealth after the effective date of
2 this section.

3 (2) (a) A city or county that has established a development area pursuant to KRS
4 65.7049, 65.7051, and 65.7053, or an agency designated as the entity
5 managing a development area established pursuant to KRS 65.7049, 65.7051,
6 and 65.7053, may submit an application to the authority requesting that the
7 Commonwealth participate in a project, before the effective date of this
8 section.

9 1. The application shall identify the specific program under which state
10 participation is being requested and shall include the following
11 attachments, in addition to any requirements developed by the authority
12 pursuant to paragraph (b) of this subsection:

13 a. A copy of the ordinance adopted by the city or county establishing
14 the development area;

15 b. A copy of the local participation agreement; and

16 c. Data and information supporting the determinations and findings
17 required by KRS 65.7049.

18 2. The staff of the authority shall review the application to determine if the
19 applicant has met all of the statutory and regulatory requirements
20 established by this subchapter and shall notify the applicant in writing of
21 its determination. This review shall be preliminary in nature and shall
22 not constitute approval of the request. All applications for participation
23 by the Commonwealth shall be reviewed by the authority for approval.

24 3. a. Applications meeting all statutory and regulatory requirements
25 requesting participation by the Commonwealth pursuant to KRS
26 154.30-040, along with any supporting materials, shall be referred
27 by the staff of the authority to the authority for consideration.

- 1 b. i. Applicants meeting all statutory and regulatory requirements
2 requesting participation by the Commonwealth pursuant to
3 KRS 154.30-050(3)(b) or 154.30-060 shall be required to
4 submit a report prepared by an independent consultant or
5 financial adviser as described in subsection (6) of this section
6 for the application to be complete. The staff of the authority
7 shall notify the applicants of the report requirements and
8 shall provide information regarding the contents and
9 requirements for the report at the same time it notifies the
10 applicant of the results of its preliminary review.
- 11 ii. Upon receipt and review of the report, the staff of the
12 authority shall refer the application and supporting
13 information to the authority for consideration.
- 14 (b) Additional standards and requirements for the application process shall be
15 established by the authority through the promulgation of administrative
16 regulations in accordance with KRS Chapter 13A.
- 17 (3) (a) The authority may request any materials and make any inquiries concerning
18 an application that the authority deems necessary.
- 19 (b) The authority shall, through the promulgation of administrative regulations in
20 accordance with KRS Chapter 13A, establish commercially reasonable
21 limitations on the financing costs that may be recovered under the provisions
22 of KRS 154.30-050.
- 23 (4) Upon review of an application and other information available, the authority may
24 pledge all or a portion of the state real property ad valorem tax incremental revenue
25 of the Commonwealth or state tax revenues attributable to the footprint of the
26 project, as limited by KRS 154.30-040, 154.30-050, or 154.30-060, whichever is
27 applicable.

- 1 (a) If incremental revenues are pledged from less than one hundred percent
2 (100%) of the footprint of the project, a description of the included portion of
3 the development area shall be provided.
- 4 (b) State tax revenues from the development area that have not been pledged to
5 projects within the development area may be used to support other economic
6 development projects or tourism projects approved under KRS 139.536 and
7 148.851 to 148.860, provided that state tax revenues shall not be pledged
8 more than once during the existence of the development area. Thus, state tax
9 revenues pledged to support increment bonds issued for the development area,
10 or a project in the development area shall not be pledged to support any other
11 development area, project, program, development, or undertaking during the
12 life of the development area. If less than one hundred percent (100%) of
13 incremental revenues are pledged pursuant to the provisions of this
14 subchapter, the remaining incremental revenues shall not be used to support
15 other economic development projects or tourism projects approved under
16 KRS 139.536 and 148.851 to 148.860.
- 17 (5) The pledge of incremental state real property ad valorem tax revenues or state tax
18 revenues of the Commonwealth by the authority shall be implemented through the
19 execution of a tax incentive agreement between the Commonwealth and the agency,
20 city, or county, as the case may be, in accordance with KRS 154.30-070.
- 21 (6) (a) The authority shall engage the services of a qualified independent outside
22 consultant or financial adviser to analyze the data related to the project and
23 the development area and prepare the report required by subsection (2) of this
24 section. The report shall include the following:
- 25 1. The estimated approved public infrastructure costs for the project and, if
26 relevant, approved signature project costs, financing costs, and costs
27 associated with land preparation, demolition, and clearance;

- 1 2. The feasibility of the project, taking into account the scope and location
2 of the project;
- 3 3. The estimated amount of local tax revenues and state tax revenues, as
4 applicable, that would be generated by the project over the period,
5 which may be up to twenty (20) years or thirty (30) years, as applicable,
6 from the activation date;
- 7 4. The estimated amount of local tax revenues and state tax revenues, as
8 applicable, that would be displaced within the Commonwealth, for the
9 purpose of quantifying economic activity which is being shifted over the
10 same period as that set forth in subparagraph 3. of this paragraph. The
11 projections for displaced activity shall include economic activity that is
12 lost to the Commonwealth as a result of the project, as well as economic
13 activity that is diverted to the project that formerly took place at existing
14 establishments within the Commonwealth prior to the commencement
15 date of the project;
- 16 5. The estimated amount of local and state old revenues that would have
17 been generated in the footprint of the project in the absence of the
18 project, computed over the same time period as set forth in subparagraph
19 3. of this paragraph;
- 20 6. In the process of estimating the revenues and impacts prescribed in
21 subparagraphs 3. and 4. of this paragraph, the independent outside
22 consultant shall not consider any of the following:
 - 23 a. Revenues or economic impacts associated with any projects within
24 the development area where the new project will be located; and
 - 25 b. Revenues or economic impacts associated with economic
26 development projects and approved Kentucky Tourism
27 Development Act projects under KRS Chapter 148;

- 1 7. The relationship of the estimated incremental revenues to the financing
2 needs, including any increment bonds, of the project;
- 3 8. When estimating the fiscal impact of the project, the consultant shall
4 evaluate the amount of revenue estimated in subparagraph 3. of this
5 paragraph and shall deduct the amounts estimated in subparagraphs 4.
6 and 5. of this paragraph. The resulting difference shall be compared to
7 the estimated incremental revenues to determine the presence or absence
8 of a positive fiscal impact; and
- 9 9. A determination that the project will not occur if not for the designation
10 of the development area, the granting of incremental revenues by the
11 taxing district or districts, other than the Commonwealth, and the
12 granting of the state tax incremental revenues.
- 13 (b) 1. The independent consultant or financial advisor shall consult with the
14 Office of State Budget Director, and the Finance and Administration
15 Cabinet in the development of the report.
- 16 2. The Office of State Budget Director and the staff of the authority, in
17 collaboration with the independent consultant or financial advisor, shall
18 agree on a methodology to be used and assumptions to be made by the
19 independent consultant or financial consultant in preparing its report.
- 20 3. On the basis of the independent consultant's report and the other
21 materials provided, prior to any approval of a project by the authority,
22 the Office of State Budget Director and the Finance and Administration
23 Cabinet shall certify to the authority whether there is a projected net
24 positive economic impact to the Commonwealth and the expected
25 amount of state tax incremental revenues from the project.
- 26 4. The city, county, or agency making the application shall pay all costs
27 associated with the independent consultant's or financial advisor's report.

1 ➔Section 6. KRS 141.010 is amended to read as follows:

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

3 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means
4 the amount calculated in KRS 141.019;

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

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

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

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

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

17 b. Ten percent (10%), if the corporation occupies property owned,
18 constructively owned, or controlled by the real estate investment
19 trust.

20 The total ownership interest of a corporation shall be determined by
21 aggregating all interests owned or constructively owned by a
22 corporation; and

23 2. For the purposes of this paragraph:

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

- 1 b. "Owned or constructively owned" means owning shares or having
2 an ownership interest in the real estate investment trust, or owning
3 an interest in an entity that owns shares or has an ownership
4 interest in the real estate investment trust. Constructive ownership
5 shall be determined by looking across multiple layers of a
6 multilayer pass-through structure; and
- 7 (c) The real estate investment trust is not owned by another real estate investment
8 trust;
- 9 (3) "Commissioner" means the commissioner of the department;
- 10 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal
11 Revenue Code;
- 12 (5) "Critical infrastructure" means property and equipment owned or used by
13 communications networks, electric generation, transmission or distribution systems,
14 gas distribution systems, or water or wastewater pipelines that service multiple
15 customers or citizens, including but not limited to real and personal property such
16 as buildings, offices, lines, poles, pipes, structures, or equipment;
- 17 (6) "Declared state disaster or emergency" means a disaster or emergency event for
18 which:
- 19 (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or
20 (b) A presidential declaration of a federal major disaster or emergency has been
21 issued;
- 22 (7) "Department" means the Department of Revenue;
- 23 (8) "Dependent" means those persons defined as dependents in the Internal Revenue
24 Code;
- 25 (9) "Disaster or emergency-related work" means repairing, renovating, installing,
26 building, or rendering services that are essential to the restoration of critical
27 infrastructure that has been damaged, impaired, or destroyed by a declared state

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

1 entity separate from its single member for federal income tax purposes; or

2 (g) Directing activities at Kentucky customers for the purpose of selling them
3 goods or services.

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

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

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

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

13 (17) "Financial institution" means:

14 (a) A national bank organized as a body corporate and existing or in the process
15 of organizing as a national bank association pursuant to the provisions of the
16 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,
17 1997, exclusive of any amendments made subsequent to that date;

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

20 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,
21 in effect on December 31, 1997, exclusive of any amendments made
22 subsequent to that date, or any corporation organized after December 31,
23 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
24 December 31, 1997; or

25 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
26 3101, in effect on December 31, 1997, exclusive of any amendments made
27 subsequent to that date, or any agency or branch of a foreign depository

1 established after December 31, 1997, that meets the requirements of 12 U.S.C.
2 sec. 3101 in effect on December 31, 1997;

3 (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal
4 Revenue Code;

5 (19) "Gross income":

6 (a) In the case of taxpayers other than corporations, has the same meaning as in
7 Section 61 of the Internal Revenue Code; and

8 (b) In the case of corporations, means the amount calculated in KRS 141.039;

9 (20) "Individual" means a natural person;

10 (21) "Internal Revenue Code" means for taxable years beginning on or after January 1,
11 2026~~[2025]~~, the Internal Revenue Code in effect on December 31, 2025~~[2024]~~,
12 exclusive of any amendments made subsequent to that date, other than amendments
13 that extend provisions in effect on December 31, 2024, that would otherwise
14 terminate;

15 (22) "Limited liability pass-through entity" means any pass-through entity that affords
16 any of its partners, members, shareholders, or owners, through function of the laws
17 of this state or laws recognized by this state, protection from general liability for
18 actions of the entity;

19 (23) "Modified gross income" means the greater of:

20 (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any
21 amendments in effect on December 31 of the taxable year, and adjusted as
22 follows:

23 1. Include interest income derived from obligations of sister states and
24 political subdivisions thereof; and

25 2. Include lump-sum pension distributions taxed under the special
26 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

27 (b) Adjusted gross income as defined in subsection (1) of this section and

- 1 adjusted to include lump-sum pension distributions taxed under the special
2 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 3 (24) "Net income":
- 4 (a) In the case of taxpayers other than corporations, means the amount calculated
5 in KRS 141.019; and
- 6 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 7 (25) "Nonresident" means any individual not a resident of this state;
- 8 (26) "Number of withholding exemptions claimed" means the number of withholding
9 exemptions claimed in a withholding exemption certificate in effect under KRS
10 141.325, except that if no such certificate is in effect, the number of withholding
11 exemptions claimed shall be considered to be zero;
- 12 (27) "Part-year resident" means any individual that has established or abandoned
13 Kentucky residency during the calendar year;
- 14 (28) "Pass-through entity" means any partnership, S corporation, limited liability
15 company, limited liability partnership, limited partnership, or similar entity
16 recognized by the laws of this state that is not taxed for federal purposes at the
17 entity level, but instead passes to each partner, member, shareholder, or owner their
18 proportionate share of income, deductions, gains, losses, credits, and any other
19 similar attributes;
- 20 (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal
21 Revenue Code;
- 22 (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue
23 Code;
- 24 (31) "Registered business" means a business entity that owns or otherwise possesses
25 critical infrastructure and that is registered to do business in the state prior to the
26 declared state disaster or emergency;
- 27 (32) "Resident" means an individual domiciled within this state or an individual who is

1 not domiciled in this state, but maintains a place of abode in this state and spends in
2 the aggregate more than one hundred eighty-three (183) days of the taxable year in
3 this state;

4 (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue
5 Code;

6 (34) "State" means a state of the United States, the District of Columbia, the
7 Commonwealth of Puerto Rico, or any territory or possession of the United States;

8 (35) "Taxable net income":

9 (a) In the case of corporations that are taxable in this state, means "net income" as
10 defined in subsection (24) of this section;

11 (b) In the case of corporations that are taxable in this state and taxable in another
12 state, means "net income" as defined in subsection (24) of this section and as
13 allocated and apportioned under KRS 141.120;

14 (c) For homeowners' associations as defined in Section 528(c) of the Internal
15 Revenue Code, means "taxable income" as defined in Section 528(d) of the
16 Internal Revenue Code. Notwithstanding the provisions of subsection (21) of
17 this section, the Internal Revenue Code sections referred to in this paragraph
18 shall be those code sections in effect for the applicable tax year; and

19 (d) For a corporation that meets the requirements established under Section 856
20 of the Internal Revenue Code to be a real estate investment trust, means "real
21 estate investment trust taxable income" as defined in Section 857(b)(2) of the
22 Internal Revenue Code, except that a captive real estate investment trust shall
23 not be allowed any deduction for dividends paid;

24 (36) "Taxable year" means the calendar year or fiscal year ending during such calendar
25 year, upon the basis of which net income is computed, and in the case of a return
26 made for a fractional part of a year under the provisions of this chapter or under
27 administrative regulations prescribed by the commissioner, "taxable year" means

1 the period for which the return is made; and

2 (37) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code
3 and includes other income subject to withholding as provided in Section 3401(f)
4 and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

5 ➔Section 7. KRS 141.019 is amended to read as follows:

6 In the case of taxpayers other than corporations:

- 7 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
8 those taxpayers the deductions allowed individuals by Section 62 of the Internal
9 Revenue Code and adjusting as follows:
- 10 (a) Exclude income that is exempt from state taxation by the Kentucky
11 Constitution and the Constitution and statutory laws of the United States;
 - 12 (b) Exclude income from supplemental annuities provided by the Railroad
13 Retirement Act of 1937 as amended and which are subject to federal income
14 tax by Pub. L. No. 89-699;
 - 15 (c) Include interest income derived from obligations of sister states and political
16 subdivisions thereof;
 - 17 (d) Exclude employee pension contributions picked up as provided for in KRS
18 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
19 and 161.540 upon a ruling by the Internal Revenue Service or the federal
20 courts that these contributions shall not be included as gross income until such
21 time as the contributions are distributed or made available to the employee;
 - 22 (e) Exclude Social Security and railroad retirement benefits subject to federal
23 income tax;
 - 24 (f) Exclude any money received because of a settlement or judgment in a lawsuit
25 brought against a manufacturer or distributor of "Agent Orange" for damages
26 resulting from exposure to Agent Orange by a member or veteran of the
27 Armed Forces of the United States or any dependent of such person who

1 served in Vietnam;

2 (g) 1. a. For taxable years beginning after December 31, 2005, but before
3 January 1, 2018, exclude up to forty-one thousand one hundred ten
4 dollars (\$41,110) of total distributions from pension plans, annuity
5 contracts, profit-sharing plans, retirement plans, or employee
6 savings plans; and

7 b. For taxable years beginning on or after January 1, 2018, exclude
8 up to thirty-one thousand one hundred ten dollars (\$31,110) of
9 total distributions from pension plans, annuity contracts, profit-
10 sharing plans, retirement plans, or employee savings plans.

11 2. As used in this paragraph:

12 a. "Annuity contract" has the same meaning as set forth in Section
13 1035 of the Internal Revenue Code;

14 b. "Distributions" includes but is not limited to any lump-sum
15 distribution from pension or profit-sharing plans qualifying for the
16 income tax averaging provisions of Section 402 of the Internal
17 Revenue Code; any distribution from an individual retirement
18 account as defined in Section 408 of the Internal Revenue Code;
19 and any disability pension distribution; and

20 c. "Pension plans, profit-sharing plans, retirement plans, or employee
21 savings plans" means any trust or other entity created or organized
22 under a written retirement plan and forming part of a stock bonus,
23 pension, or profit-sharing plan of a public or private employer for
24 the exclusive benefit of employees or their beneficiaries and
25 includes plans qualified or unqualified under Section 401 of the
26 Internal Revenue Code and individual retirement accounts as
27 defined in Section 408 of the Internal Revenue Code;

- 1 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
2 or 168; and
- 3 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 4 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 5 (o) Ignore any change in the cost basis of the surviving spouse's share of property
6 owned by a Kentucky community property trust occurring for federal income
7 tax purposes as a result of the death of the predeceasing spouse;
- 8 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
9 278, related to the tax treatment of forgiven covered loans, deductions
10 attributable to those loans, and tax attributes associated with those loans for
11 taxable years ending on or after March 27, 2020, but before January 1, 2022;~~†~~
12 ~~and†~~
- 13 (q) For taxable years beginning on or after January 1, 2020, but before March 11,
14 2023, allow the same treatment of restaurant revitalization grants in
15 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
16 related to the tax treatment of the grants, deductions attributable to those
17 grants, and tax attributes associated with those grants;~~†and†~~
- 18 **(r) Include the amount of employer contributions made to Trump accounts on**
19 **behalf of an employee or any dependent of such employee under 26 U.S.C.**
20 **sec. 128;**
- 21 **(s) Include the amount deducted for domestic research or experimental**
22 **expenditures under 26 U.S.C. sec. 174A;**
- 23 **(t) Include the amount deducted for any qualified film or television production,**
24 **any qualified live theatrical production, and any qualified sound recording**
25 **production under 26 U.S.C. sec. 181; and**
- 26 **(u) Include interest deducted under 26 U.S.C. sec. 139L for amounts paid to a**
27 **qualified lender on any qualified real estate loan; and**

- 1 (2) Net income shall be calculated by subtracting from adjusted gross income all the
2 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
3 modified by KRS 141.0101, except:
- 4 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
 - 5 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
6 losses allowed under Section 165(d) of the Internal Revenue Code;
 - 7 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
 - 8 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
 - 9 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
10 deduction;
 - 11 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
12 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
13 the estate of a decedent, unless there is filed with the income return a
14 statement that the deduction has not been claimed under KRS 140.090(1)(h);
 - 15 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
16 any other deductions in lieu thereof;
 - 17 (h) Any deduction allowed for amounts paid to any club, organization, or
18 establishment which has been determined by the courts or an agency
19 established by the General Assembly and charged with enforcing the civil
20 rights laws of the Commonwealth, not to afford full and equal membership
21 and full and equal enjoyment of its goods, services, facilities, privileges,
22 advantages, or accommodations to any person because of race, color, religion,
23 national origin, or sex, except nothing shall be construed to deny a deduction
24 for amounts paid to any religious or denominational club, group, or
25 establishment or any organization operated solely for charitable or educational
26 purposes which restricts membership to persons of the same religion or
27 denomination in order to promote the religious principles for which it is

1 established and maintained;~~and~~

2 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
3 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
4 and as modified by this section;

5 (j) For taxable years beginning on or after January 1, 2027, any deduction
6 allowed by 26 U.S.C. sec. 163(h)(3) as qualified residence interest shall be
7 limited to the amount of interest paid or accrued during the taxable year on
8 the acquisition and home equity indebtedness of the principal residence of
9 the taxpayer and shall not be claimed for more than one (1) qualified
10 residence;

11 (k) Any deduction allowed by 26 U.S.C. sec. 224 for qualified tips;

12 (l) Any deduction allowed by 26 U.S.C. sec. 225 for qualified overtime
13 compensation; and

14 (m) Any deduction allowed by 26 U.S.C. sec. 163(h)(4) for qualified passenger
15 vehicle loan interest.

16 ➔Section 8. KRS 141.039 is amended to read as follows:

17 In the case of corporations:

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

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

22 (b) Exclude all dividend income;

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

25 (d) Exclude fifty percent (50%) of gross income derived from any disposal of
26 coal covered by Section 631(c) of the Internal Revenue Code if the
27 corporation does not claim any deduction for percentage depletion, or for

- 1 expenditures attributable to the making and administering of the contract
2 under which such disposition occurs or to the preservation of the economic
3 interests retained under such contract;
- 4 (e) Include the amount calculated under KRS 141.205;
- 5 (f) Ignore the provisions of Section 281 of the Internal Revenue Code in
6 computing gross income;
- 7 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
8 167 or 168;
- 9 (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
10 278, related to the tax treatment of forgiven covered loans, deductions
11 attributable to those loans, and tax attributes associated with those loans for
12 taxable years ending on or after March 27, 2020, but before January 1, 2022;~~†~~
13 ~~and†~~
- 14 (i) For taxable years beginning on or after January 1, 2020, but before March 11,
15 2023, allow the same treatment of restaurant revitalization grants in
16 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
17 related to the tax treatment of the grants, deductions attributable to those
18 grants, and tax attributes associated with those grants;~~†and†~~
- 19 **(j) Include the amount deducted for domestic research or experimental**
20 **expenditures under 26 U.S.C. sec. 174A;**
- 21 **(k) Include the amount deducted for any qualified film or television production,**
22 **any qualified live theatrical production, and any qualified sound recording**
23 **production under 26 U.S.C. sec. 181;**
- 24 **(l) Include interest deducted under 26 U.S.C. sec. 139L for amounts paid to a**
25 **qualified lender on any qualified real estate loan; and**
- 26 **(m) For purposes of determining the limitation on business interest under 26**
27 **U.S.C. sec. 163(j), the provisions of that section in effect on December 31,**

1 **2024, exclusive of any amendments made subsequent to that date, shall be**
2 **used; and**

3 (2) Net income shall be calculated by subtracting from gross income:

4 (a) The deduction for depreciation allowed by KRS 141.0101;

5 (b) Any amount paid for vouchers or similar instruments that provide health
6 insurance coverage to employees or their families;

7 (c) All the deductions from gross income allowed corporations by Chapter 1 of
8 the Internal Revenue Code, as modified by KRS 141.0101, except:

9 1. Any deduction for a state tax which is computed, in whole or in part, by
10 reference to gross or net income and which is paid or accrued to any
11 state of the United States, the District of Columbia, the Commonwealth
12 of Puerto Rico, any territory or possession of the United States, or to any
13 foreign country or political subdivision thereof;

14 2. The deductions contained in Sections 243, 245, and 247 of the Internal
15 Revenue Code;

16 3. The provisions of Section 281 of the Internal Revenue Code shall be
17 ignored in computing net income;

18 4. Any deduction directly or indirectly allocable to income which is either
19 exempt from taxation or otherwise not taxed under the provisions of this
20 chapter, except for deductions allowed under Pub. L. No. 116-260, secs.
21 276 and 278, related to the tax treatment of forgiven covered loans and
22 deductions attributable to those loans for taxable years ending on or
23 after March 27, 2020, but before January 1, 2022; and deductions
24 allowed under Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
25 related to the tax treatment of restaurant revitalization grants and
26 deductions attributable to those grants for taxable years beginning on or
27 after January 1, 2020, but before March 11, 2023. Nothing in this

- 1 chapter shall be construed to permit the same item to be deducted more
2 than once;
- 3 5. Any deduction for amounts paid to any club, organization, or
4 establishment which has been determined by the courts or an agency
5 established by the General Assembly and charged with enforcing the
6 civil rights laws of the Commonwealth, not to afford full and equal
7 membership and full and equal enjoyment of its goods, services,
8 facilities, privileges, advantages, or accommodations to any person
9 because of race, color, religion, national origin, or sex, except nothing
10 shall be construed to deny a deduction for amounts paid to any religious
11 or denominational club, group, or establishment or any organization
12 operated solely for charitable or educational purposes which restricts
13 membership to persons of the same religion or denomination in order to
14 promote the religious principles for which it is established and
15 maintained;
- 16 6. Any deduction prohibited by KRS 141.205; and
- 17 7. Any dividends-paid deduction of any captive real estate investment
18 trust; and
- 19 (d) 1. A deferred tax deduction in an amount computed in accordance with this
20 paragraph.
- 21 2. For purposes of this paragraph:
- 22 a. "Net deferred tax asset" means that deferred tax assets exceed the
23 deferred tax liabilities of the combined group, as computed in
24 accordance with accounting principles generally accepted in the
25 United States of America; and
- 26 b. "Net deferred tax liability" means deferred tax liabilities that
27 exceed the deferred tax assets of a combined group as defined in

1 KRS 141.202, as computed in accordance with accounting
2 principles generally accepted in the United States of America.

- 3 3. Only publicly traded companies, including affiliated corporations
4 participating in the filing of a publicly traded company's financial
5 statements prepared in accordance with accounting principles generally
6 accepted in the United States of America, as of January 1, 2019, shall be
7 eligible for this deduction.
- 8 4. If the provisions of KRS 141.202 result in an aggregate increase to the
9 member's net deferred tax liability, an aggregate decrease to the
10 member's net deferred tax asset, or an aggregate change from a net
11 deferred tax asset to a net deferred tax liability, the combined group
12 shall be entitled to a deduction, as determined in this paragraph.
- 13 5. For ten (10) years beginning with the combined group's first taxable
14 year beginning on or after January 1, ~~2028~~²⁰²⁶, a combined group
15 shall be entitled to a deduction from the combined group's entire net
16 income equal to one-tenth (1/10) of the amount necessary to offset the
17 increase in the net deferred tax liability, decrease in the net deferred tax
18 asset, or aggregate change from a net deferred tax asset to a net deferred
19 tax liability. The increase in the net deferred tax liability, decrease in the
20 net deferred tax asset, or the aggregate change from a net deferred tax
21 asset to a net deferred tax liability shall be computed based on the
22 change that would result from the imposition of the combined reporting
23 requirement under KRS 141.202, but for the deduction provided under
24 this paragraph as of June 27, 2019.
- 25 6. The deferred tax impact determined in subparagraph 5. of this paragraph
26 shall be converted to the annual deferred tax deduction amount, as
27 follows:

- 1 a. The deferred tax impact determined in subparagraph 5. of this
2 paragraph shall be divided by the tax rate determined under KRS
3 141.040;
- 4 b. The resulting amount shall be further divided by the
5 apportionment factor determined by KRS 141.120 or 141.121 that
6 was used by the combined group in the calculation of the deferred
7 tax assets and deferred tax liabilities as described in subparagraph
8 5. of this paragraph; and
- 9 c. The resulting amount represents the total net deferred tax
10 deduction available over the ten (10) year period as described in
11 subparagraph 5. of this paragraph.
- 12 7. The deduction calculated under this paragraph shall not be adjusted as a
13 result of any events happening subsequent to the calculation, including
14 but not limited to any disposition or abandonment of assets. The
15 deduction shall be calculated without regard to the federal tax effect and
16 shall not alter the tax basis of any asset. If the deduction under this
17 section is greater than the combined group's entire Kentucky net income,
18 any excess deduction shall be carried forward and applied as a deduction
19 to the combined group's entire net income in future taxable years until
20 fully utilized.
- 21 8. Any combined group intending to claim a deduction under this
22 paragraph shall file a statement with the department on or before July 1,
23 2019. The statement shall specify the total amount of the deduction
24 which the combined group claims on the form, including calculations
25 and other information supporting the total amounts of the deduction as
26 required by the department. No deduction shall be allowed under this
27 paragraph for any taxable year, except to the extent claimed on the

1 timely filed statement in accordance with this paragraph.

2 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO
3 READ AS FOLLOWS:

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

5 *(a) "Athlete" means a professional or amateur competitor in a sporting event*
6 *or an organized video game competition that is:*

7 *1. Regulated by a sports governing body; and*

8 *2. Held between players who play individually or as a team;*

9 *(b) "Department" means the Department of Revenue;*

10 *(c) "Entry fee" means the cash or cash equivalent that is required to be paid by*
11 *a participant to a fantasy contest operator in order to participate in a*
12 *fantasy contest;*

13 *(d) "Fantasy contest":*

14 *1. Means any fantasy or simulated game or contest that meets the*
15 *following conditions:*

16 *a. The values of all prizes and awards offered to winning*
17 *participants are made known to the participants in advance of*
18 *the contest;*

19 *b. All winning outcomes reflect the relative knowledge and skill of*
20 *the participant;*

21 *c. The participant assembles, owns, or manages a fictional entry or*
22 *roster of actual athletes; and*

23 *d. The game or contest does not violate any provision of federal*
24 *law;*

25 *2. Includes contests in which:*

26 *a. Participants compete against each other; or*

27 *b. Only a single participant competes against a target score set by*

- 1 the fantasy contest operator; and
- 2 3. Does not include any fantasy contest without an entry fee;
- 3 (e) "Fantasy contest operator":
- 4 1. Means a person who:
- 5 a. Offers or administers one (1) or more fantasy contests with an
- 6 entry fee to the general public; and
- 7 b. Awards a prize of value; and
- 8 2. Does not include an internet service provider or a provider of mobile
- 9 data services merely as a result of that provider's transporting of
- 10 general traffic that may include a fantasy contest;
- 11 (f) "Gross receipts" means the total sum of entry fees collected by a fantasy
- 12 contest operator from all participants;
- 13 (g) "Participant":
- 14 1. Means a:
- 15 a. Kentucky resident who participates in a fantasy contest offered
- 16 by a fantasy contest operator; or
- 17 b. Person who is not a Kentucky resident who participates in a
- 18 fantasy contest offered by a fantasy contest operator while in
- 19 Kentucky; and
- 20 2. Does not include a person who only performs the following actions:
- 21 a. Setting house rules for a contest;
- 22 b. Assigning a salary or target score to any eligible athlete or
- 23 player;
- 24 c. Accepting an entry fee from a fantasy contest participant; or
- 25 d. Awarding or disbursing prizes; and
- 26 (h) "Winning outcome" means an outcome that is:
- 27 1. Determined solely by clearly established scoring criteria;

- 1 2. Based on one (1) or more statistical results of the performance of an
2 individual athlete, including but not limited to a fantasy score; and
- 3 3. Not based:
- 4 a. On the score, point spread, or any performance or performances
5 of any single actual team or combination of teams; or
- 6 b. Solely on any single performance of an individual athlete or
7 participant in any single actual event.
- 8 (2) An excise tax is hereby imposed on a fantasy contest operator at the rate of fifteen
9 and one-quarter percent (15.25%) of the fantasy contest operator's gross receipts.
10 The accrual method of accounting shall be used for purposes of calculating the
11 amount of tax owed by the fantasy contest operator under this subsection.
- 12 (3) The tax imposed by subsection (2) of this section is due and payable monthly and
13 shall be remitted to the department on or before the twentieth day of the next
14 succeeding calendar month.
- 15 (4) The fantasy contest operator's payment shall be accompanied by a return
16 prescribed by the department indicating the amount of tax due for the previous
17 calendar month as well as any other information the department shall require
18 through an administrative regulation promulgated in accordance with KRS
19 Chapter 13A.
- 20 (5) Any fantasy contest operator who violates any provision of this section shall be
21 subject to the uniform civil penalties imposed under KRS 131.180.
- 22 (6) In every case, any tax not paid on or before the due date shall bear interest at the
23 tax interest rate as defined in KRS 131.010 from the due date until the date of
24 payment.
- 25 (7) It is the purpose and intent of the General Assembly to levy taxes on persons
26 engaged in the operations of fantasy contests. It is not the intent of the General
27 Assembly to legalize these activities.

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

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

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

4 1. The right of entrance to a display, program, sporting event, music
5 concert, performance, play, show, movie, exhibit, fair, or other
6 entertainment or amusement event or venue; and

7 2. The privilege of using facilities or participating in an event or activity,
8 including but not limited to:

9 a. Bowling centers;

10 b. Skating rinks;

11 c. Health spas;

12 d. Swimming pools;

13 e. Tennis courts;

14 f. Weight training facilities;

15 g. Fitness and recreational sports centers; and

16 h. Golf courses, both public and private;

17 regardless of whether the fee paid is per use or in any other form,
18 including but not limited to an initiation fee, monthly fee, membership
19 fee, or combination thereof.

20 (b) "Admissions" does not include:

21 1. Any fee paid to enter or participate in a fishing tournament; or

22 2. Any fee paid for the use of a boat ramp for the purpose of allowing
23 boats to be launched into or hauled out from the water;

24 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
25 which is to attract public attention to a product, person, business, or organization, or
26 to attempt to sell, popularize, or secure financial support for a product, person,
27 business, or organization. As used in this definition, "product" means tangible

1 personal property, an item transferred electronically, or a service;

2 (3) "Business" includes any activity engaged in by any person or caused to be engaged
3 in by that person with the object of gain, benefit, or advantage, either direct or
4 indirect;

5 (4) "Commonwealth" means the Commonwealth of Kentucky;

6 (5) (a) "Cosmetic surgery services" means modifications to all areas of the head,
7 neck, and body to enhance appearance through surgical and medical
8 techniques.

9 (b) "Cosmetic surgery services" does not include surgery services that are
10 medically necessary to reconstruct or correct dysfunctional areas of the face
11 and body due to birth disorders, trauma, burns, or disease;

12 (6) "Data brokering services" means the act of collecting, aggregating, and
13 analyzing personal data for sale to or use by a third party while possession of the
14 personal data is maintained by the person providing the data brokering services
15 or by the third party, wherever located, regardless of whether the charge for the
16 services provided is on a per use, per user, per license, subscription, or some
17 other basis;

18 (7) "Department" means the Department of Revenue;

19 (8)(7) (a) "Digital audio-visual works" means a series of related images which,
20 when shown in succession, impart an impression of motion, with
21 accompanying sounds, if any.

22 (b) "Digital audio-visual works" includes movies, motion pictures, musical
23 videos, news and entertainment programs, and live events.

24 (c) "Digital audio-visual works" does~~shall~~ not include video greeting cards,
25 video games, and electronic games;

26 (9)(8) (a) "Digital audio works" means works that result from the fixation of a
27 series of musical, spoken, or other sounds.

1 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
2 readings of books or other written materials, speeches, or other sound
3 recordings.

4 (c) "Digital audio works" ~~does~~^{shall} not include audio greeting cards sent by
5 electronic mail;

6 ~~(10)~~⁽⁹⁾ (a) "Digital books" means works that are generally recognized in the
7 ordinary and usual sense as books, including any literary work expressed in
8 words, numbers, or other verbal or numerical symbols or indicia if the literary
9 work is generally recognized in the ordinary or usual sense as a book.

10 (b) "Digital books" ~~does~~^{shall} not include digital audio-visual works, digital
11 audio works, periodicals, magazines, newspapers, or other news or
12 information products, chat rooms, or weblogs;

13 ~~(11)~~⁽¹⁰⁾ (a) "Digital code" means a code which provides a purchaser with a right to
14 obtain one (1) or more types of digital property. A "digital code" may be
15 obtained by any means, including electronic mail messaging or by tangible
16 means, regardless of the code's designation as a song code, video code, or
17 book code.

18 (b) "Digital code" ~~does~~^{shall} not include a code that represents:

- 19 1. A stored monetary value that is deducted from a total as it is used by the
20 purchaser; or
21 2. A redeemable card, gift card, or gift certificate that entitles the holder to
22 select specific types of digital property;

23 ~~(12)~~⁽¹¹⁾ (a) "Digital property" means any of the following which is transferred
24 electronically:

- 25 1. Digital audio works;
26 2. Digital books;
27 3. Finished artwork;

- 1 4. Digital photographs;
- 2 5. Periodicals;
- 3 6. Newspapers;
- 4 7. Magazines;
- 5 8. Video greeting cards;
- 6 9. Audio greeting cards;
- 7 10. Video games;
- 8 11. Electronic games; or
- 9 12. Any digital code related to this property.

10 (b) "Digital property" ~~does~~^{shall} not include digital audio-visual works or
11 satellite radio programming;

12 ~~(13)~~⁽¹²⁾ (a) "Direct mail" means printed material delivered or distributed by United
13 States mail or other delivery service to a mass audience or to addressees on a
14 mailing list provided by the purchaser or at the direction of the purchaser
15 when the cost of the items are not billed directly to the recipient.

16 (b) "Direct mail" includes tangible personal property supplied directly or
17 indirectly by the purchaser to the direct mail retailer for inclusion in the
18 package containing the printed material.

19 (c) "Direct mail" does not include multiple items of printed material delivered to
20 a single address;

21 ~~(14)~~⁽¹³⁾ "Directly used in the manufacturing or industrial processing process" means
22 the process that commences with the movement of raw materials from storage into
23 a continuous, unbroken, integrated process and ends when the finished product is
24 packaged and ready for sale;

25 ~~(15)~~⁽¹⁴⁾ (a) "Executive employee recruitment services" means services provided by
26 a person to locate potential candidates to fill open senior-level management
27 positions.

1 (b) "Executive employee recruitment services" includes but is not limited to
2 making a detailed list of client requirements, researching and identifying
3 potential candidates, performing prescreening interviews, and providing
4 contract and salary negotiations;

5 ~~(16)~~~~(15)~~ (a) "Extended warranty services" means services provided through a service
6 contract agreement between the contract provider and the purchaser where the
7 purchaser agrees to pay compensation for the contract and the provider agrees
8 to repair, replace, support, or maintain tangible personal property, digital
9 property, real property, or prewritten computer software access services
10 according to the terms of the contract.

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

16 ~~(17)~~~~(16)~~ (a) "Finished artwork" means final art that is used for actual reproduction
17 by photomechanical or other processes or for display purposes.

18 (b) "Finished artwork" includes:

- 19 1. Assemblies;
- 20 2. Charts;
- 21 3. Designs;
- 22 4. Drawings;
- 23 5. Graphs;
- 24 6. Illustrative materials;
- 25 7. Lettering;
- 26 8. Mechanicals;
- 27 9. Paintings; and

1 10. Paste-ups;

2 ~~(18)~~~~(17)~~ (a) "Gross receipts" and "sales price" mean the total amount or
3 consideration, including cash, credit, property, and services, for which
4 tangible personal property, digital property, or services are sold, leased, or
5 rented, valued in money, whether received in money or otherwise, without
6 any deduction for any of the following:

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

24 (b) "Gross receipts" and "sales price"~~[shall]~~ include consideration received by
25 the retailer from a third party if:

- 26 1. The retailer actually receives consideration from a third party and the
27 consideration is directly related to a price reduction or discount on the

- 1 sale to the purchaser;
- 2 2. The retailer has an obligation to pass the price reduction or discount
- 3 through to the purchaser;
- 4 3. The amount of consideration attributable to the sale is fixed and
- 5 determinable by the retailer at the time of the sale of the item to the
- 6 purchaser; and
- 7 4. One (1) of the following criteria is met:
- 8 a. The purchaser presents a coupon, certificate, or other
- 9 documentation to the retailer to claim a price reduction or discount
- 10 where the coupon, certificate, or documentation is authorized,
- 11 distributed, or granted by a third party with the understanding that
- 12 the third party will reimburse any seller to whom the coupon,
- 13 certificate, or documentation is presented;
- 14 b. The price reduction or discount is identified as a third-party price
- 15 reduction or discount on the invoice received by the purchaser or
- 16 on a coupon, certificate, or other documentation presented by the
- 17 purchaser; or
- 18 c. The purchaser identifies himself or herself to the retailer as a
- 19 member of a group or organization entitled to a price reduction or
- 20 discount. A "preferred customer" card that is available to any
- 21 patron does not constitute membership in such a group.
- 22 (c) "Gross receipts" and "sales price" ~~do shall~~ not include:
- 23 1. Discounts, including cash, term, or coupons that are not reimbursed by a
- 24 third party and that are allowed by a retailer and taken by a purchaser on
- 25 a sale;
- 26 2. Interest, financing, and carrying charges from credit extended on the
- 27 sale of tangible personal property, digital property, or services, if the

1 amount is separately stated on the invoice, bill of sale, or similar
2 document given to the purchaser;

3 3. Any taxes legally imposed directly on the purchaser that are separately
4 stated on the invoice, bill of sale, or similar document given to the
5 purchaser; or

6 4. Local alcohol regulatory license fees authorized under KRS 243.075 that
7 are separately stated on the invoice, bill of sale, or similar document
8 given to the purchaser.

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

11 ~~(19)~~~~(18)~~ "In this state" or "in the state" means within the exterior limits of the
12 Commonwealth and includes all territory within these limits owned by or ceded to
13 the United States of America;

14 ~~(20)~~~~(19)~~ "Industrial processing" includes:

15 (a) Refining;

16 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

17 (c) Mining, quarrying, fabricating, and industrial assembling;

18 (d) The processing and packaging of raw materials, in-process materials, and
19 finished products; and

20 (e) The processing and packaging of farm and dairy products for sale;

21 ~~(21)~~~~(20)~~ (a) "Lease or rental" means any transfer of possession or control of tangible
22 personal property for a fixed or indeterminate term for consideration. A lease
23 or rental **includes**~~shall include~~ future options to:

24 1. Purchase the property; or

25 2. Extend the terms of the agreement and agreements covering trailers
26 where the amount of consideration may be increased or decreased by
27 reference to the amount realized upon sale or disposition of the property

1 as defined in 26 U.S.C. sec. 7701(h)(1).

2 (b) "Lease or rental" ~~shall~~ **does** not include:

3 1. A transfer of possession or control of property under a security
4 agreement or deferred payment plan that requires the transfer of title
5 upon completion of the required payments;

6 2. A transfer of possession or control of property under an agreement that
7 requires the transfer of title upon completion of the required payments
8 and payment of an option price that does not exceed the greater of one
9 hundred dollars (\$100) or one percent (1%) of the total required
10 payments; or

11 3. Providing tangible personal property and an operator for the tangible
12 personal property for a fixed or indeterminate period of time. To qualify
13 for this exclusion, the operator must be necessary for the equipment to
14 perform as designed, and the operator must do more than maintain,
15 inspect, or setup the tangible personal property.

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

19 ~~(22)~~~~(21)~~ (a) "Lobbying services" means the act of promoting or securing passage of
20 legislation or an attempt to influence or sway a public official or other public
21 servant toward a desired action, including but not limited to the support of or
22 opposition to a project or the passage, amendment, defeat, approval, or veto of
23 any legislation, regulation, rule, or ordinance. ~~;~~

24 (b) "Lobbying services" includes but is not limited to the performance of
25 activities described as executive agency lobbying activities as defined in KRS
26 11A.201, activities described under the definition of lobby in KRS 6.611, and
27 any similar activities performed at the local, state, or federal levels;

- 1 ~~(23)~~~~(22)~~ (a) "Machinery for new and expanded industry" means machinery:
- 2 1. Directly used in the manufacturing or industrial processing process of:
- 3 a. Tangible personal property at a plant facility;
- 4 b. Distilled spirits or wine at a plant facility or on the premises of a
- 5 distiller, rectifier, winery, or small farm winery licensed under
- 6 KRS 243.030 that includes a retail establishment on the premises;
- 7 or
- 8 c. Malt beverages at a plant facility or on the premises of a brewer or
- 9 microbrewery licensed under KRS 243.040 that includes a retail
- 10 establishment;
- 11 2. Which is incorporated for the first time into:
- 12 a. A plant facility established in this state; or
- 13 b. Licensed premises located in this state; and
- 14 3. Which does not replace machinery in the plant facility or licensed
- 15 premises unless that machinery purchased to replace existing machinery:
- 16 a. Increases the consumption of recycled materials at the plant
- 17 facility by not less than ten percent (10%);
- 18 b. Performs different functions;
- 19 c. Is used to manufacture a different product; or
- 20 d. Has a greater productive capacity, as measured in units of
- 21 production, than the machinery being replaced.
- 22 (b) "Machinery for new and expanded industry" does not include repair,
- 23 replacement, or spare parts of any kind, regardless of whether the purchase of
- 24 repair, replacement, or spare parts is required by the manufacturer or seller as
- 25 a condition of sale or as a condition of warranty;
- 26 ~~(24)~~~~(23)~~ "Manufacturing" means any process through which material having little or
- 27 no commercial value for its intended use before processing has appreciable

1 commercial value for its intended use after processing by the machinery;

2 ~~(25)~~~~(24)~~ "Marketplace" means any physical or electronic means through which one (1)
3 or more retailers may advertise and sell tangible personal property, digital property,
4 or services, or lease tangible personal property or digital property, such as a catalog,
5 internet website, or television or radio broadcast, regardless of whether the tangible
6 personal property, digital property, or retailer is physically present in this state;

7 ~~(26)~~~~(25)~~ (a) "Marketplace provider" means a person, including any affiliate of the
8 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of
9 this paragraph as follows:

- 10 1. The person directly or indirectly:
 - 11 a. Lists, makes available, or advertises tangible personal property,
12 digital property, or services for sale by a marketplace retailer in a
13 marketplace owned, operated, or controlled by the person;
 - 14 b. Facilitates the sale of a marketplace retailer's product through a
15 marketplace by transmitting or otherwise communicating an offer
16 or acceptance of a retail sale of tangible personal property, digital
17 property, or services between a marketplace retailer and a
18 purchaser in a forum including a shop, store, booth, catalog,
19 internet site, or similar forum;
 - 20 c. Owns, rents, licenses, makes available, or operates any electronic
21 or physical infrastructure or any property, process, method,
22 copyright, trademark, or patent that connects marketplace retailers
23 to purchasers for the purpose of making retail sales of tangible
24 personal property, digital property, or services;
 - 25 d. Provides a marketplace for making retail sales of tangible personal
26 property, digital property, or services, or otherwise facilitates retail
27 sales of tangible personal property, digital property, or services,

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

1 regardless of whether the person collecting and transmitting the
2 payment receives compensation or other consideration in exchange
3 for the service; or

4 d. Provides a virtual currency that purchasers are allowed or required
5 to use to purchase tangible personal property, digital property, or
6 services.

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

11 ~~(27)~~~~(26)~~ "Marketplace retailer" means a seller that makes retail sales through any
12 marketplace owned, operated, or controlled by a marketplace provider;

13 ~~(28)~~~~(27)~~ (a) "Occasional sale" includes:

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

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

27 (b) For the purposes of this subsection, stockholders, bondholders, partners, or

1 other persons holding an interest in a corporation or other entity are regarded
2 as having the "real or ultimate ownership" of the tangible personal property or
3 digital property of such corporation or other entity;

4 ~~(29)~~~~(28)~~ (a) "Other direct mail" means any direct mail that is not advertising and
5 promotional direct mail, regardless of whether advertising and promotional
6 direct mail is included in the same mailing.

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

- 8 1. Transactional direct mail that contains personal information specific to
9 the addressee, including but not limited to invoices, bills, statements of
10 account, and payroll advices;
- 11 2. Any legally required mailings, including but not limited to privacy
12 notices, tax reports, and stockholder reports; and
- 13 3. Other nonpromotional direct mail delivered to existing or former
14 shareholders, customers, employees, or agents, including but not limited
15 to newsletters and informational pieces.

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

19 ~~(30)~~~~(29)~~ "Person" includes any individual, firm, copartnership, joint venture,
20 association, social club, fraternal organization, corporation, estate, trust, business
21 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or
22 agency, or any other group or combination acting as a unit;

23 ~~(31)~~~~(30)~~ "Permanent," as the term applies to digital property, means perpetual or for an
24 indefinite or unspecified length of time;

25 ~~(32)~~~~(31)~~ (a) "Photography and photofinishing services" means:

- 26 1. The taking, developing, or printing of an original photograph; or
- 27 2. Image editing, including shadow removal, tone adjustments, vertical and

1 horizontal alignment and cropping, composite image creation,
2 formatting, watermarking printing, and delivery of an original
3 photograph in the form of tangible personal property, digital property, or
4 other media.

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

7 ~~(33)~~~~(32)~~ "Plant facility" means a single location that is exclusively dedicated to
8 manufacturing or industrial processing activities. A location shall be deemed to be
9 exclusively dedicated to manufacturing or industrial processing activities even if
10 retail sales are made there, provided that the retail sales are incidental to the
11 manufacturing or industrial processing activities occurring at the location. The term
12 "plant facility" does~~shall~~ not include any restaurant, grocery store, shopping
13 center, or other retail establishment;

14 ~~(34)~~~~(33)~~ (a) "Prewritten computer software" means:

- 15 1. Computer software, including prewritten upgrades, that are not designed
16 and developed by the author or other creator to the specifications of a
17 specific purchaser;
- 18 2. Software designed and developed by the author or other creator to the
19 specifications of a specific purchaser when it is sold to a person other
20 than the original purchaser; or
- 21 3. Any portion of prewritten computer software that is modified or
22 enhanced in any manner, where the modification or enhancement is
23 designed and developed to the specifications of a specific purchaser,
24 unless there is a reasonable, separately stated charge on an invoice or
25 other statement of the price to the purchaser for the modification or
26 enhancement.

27 (b) When a person modifies or enhances computer software of which the person

1 is not the author or creator, the person shall be deemed to be the author or
2 creator only of the modifications or enhancements the person actually made.

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

6 ~~(35)~~~~(34)~~ "Prewritten computer software access services" means the right of access to
7 prewritten computer software where the object of the transaction is to use the
8 prewritten computer software while possession of the prewritten computer software
9 is maintained by the seller or a third party, wherever located, regardless of whether
10 the charge for the access or use is on a per use, per user, per license, subscription, or
11 some other basis;

12 ~~(36)~~~~(35)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
13 lease, or rental, conditional or otherwise, in any manner or by any means
14 whatsoever, of:

- 15 1. Tangible personal property;
 - 16 2. An extended warranty service;
 - 17 3. Digital property transferred electronically; or
 - 18 4. Services included in KRS 139.200;
- 19 for a consideration.

20 (b) "Purchase" includes:

- 21 1. When performed outside this state or when the customer gives a resale
22 certificate, the producing, fabricating, processing, printing, or imprinting
23 of tangible personal property for a consideration for consumers who
24 furnish either directly or indirectly the materials used in the producing,
25 fabricating, processing, printing, or imprinting;
- 26 2. A transaction whereby the possession of tangible personal property or
27 digital property is transferred but the seller retains the title as security

1 for the payment of the price; and

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

6 ~~(37)~~~~(36)~~ "Recycled materials" means materials which have been recovered or diverted
7 from the solid waste stream and reused or returned to use in the form of raw
8 materials or products;

9 ~~(38)~~~~(37)~~ "Recycling purposes" means those activities undertaken in which materials
10 that would otherwise become solid waste are collected, separated, or processed in
11 order to be reused or returned to use in the form of raw materials or products;

12 ~~(39)~~~~(38)~~ "Remote retailer" means a retailer with no physical presence in this state;

13 ~~(40)~~~~(39)~~ (a) "Repair, replacement, or spare parts" means any tangible personal
14 property used to maintain, restore, mend, or repair machinery or equipment.

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

17 ~~(41)~~~~(40)~~ (a) "Retailer" means:

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

21 2. Every person engaged in the business of making sales at auction of
22 tangible personal property or digital property owned by the person or
23 others for storage, use or other consumption, except as provided in
24 paragraph (c) of this subsection;

25 3. Every person making more than two (2) retail sales of tangible personal
26 property, digital property, or services included in KRS 139.200 during
27 any twelve (12) month period, including sales made in the capacity of

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

- 1 3. For purposes of this paragraph, "qualifying entity" means a resident:
- 2 a. Church;
- 3 b. School;
- 4 c. Civic club; or
- 5 d. Any other nonprofit charitable, religious, or educational
- 6 organization;

7 ~~(42)~~~~(41)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,

8 sublease, or subrent;

9 ~~(43)~~~~(42)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a

10 device and that may be used to alert the customer with respect to a

11 communication.

12 (b) "Ringtones" ~~shall~~ **does** not include ringback tones or other digital files that

13 are not stored on the purchaser's communications device;

14 ~~(44)~~~~(43)~~ (a) "Sale" means:

- 15 1. The furnishing of any services included in KRS 139.200; **or**
- 16 2. Any transfer of title or possession, exchange, barter, lease, or rental,
- 17 conditional or otherwise, in any manner or by any means whatsoever,
- 18 of:

- 19 a. Tangible personal property; or
- 20 b. Digital property transferred electronically;

21 for a consideration.

22 (b) "Sale" includes but is not limited to:

23 1. The producing, fabricating, processing, printing, or imprinting of

24 tangible personal property or digital property for a consideration for

25 purchasers who furnish, either directly or indirectly, the materials used

26 in the producing, fabricating, processing, printing, or imprinting;

27 2. A transaction whereby the possession of tangible personal property or

1 digital property is transferred, but the seller retains the title as security
2 for the payment of the price; and

3 3. A transfer for a consideration of the title or possession of tangible
4 personal property or digital property which has been produced,
5 fabricated, or printed to the special order of the purchaser.

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

9 ~~(45)~~~~((44))~~ "Seller" includes every person engaged in the business of selling tangible
10 personal property, digital property, or services of a kind, the gross receipts from the
11 retail sale of which are required to be included in the measure of the sales tax, and
12 every person engaged in making sales for resale;

13 ~~(46)~~~~((45))~~ (a) "Storage" includes any keeping or retention in this state for any purpose
14 except sale in the regular course of business or subsequent use solely outside
15 this state of tangible personal property, digital property, or prewritten
16 computer software access services purchased from a retailer.

17 (b) "Storage" does not include the keeping, retaining, or exercising any right or
18 power over tangible personal property for the purpose of subsequently
19 transporting it outside the state for use thereafter solely outside the state, or
20 for the purpose of being processed, fabricated, or manufactured into, attached
21 to, or incorporated into, other tangible personal property to be transported
22 outside the state and thereafter used solely outside the state;

23 ~~(47)~~~~((46))~~ "Tangible personal property" means personal property which may be seen,
24 weighed, measured, felt, or touched, or which is in any other manner perceptible to
25 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
26 and prewritten computer software;

27 ~~(48)~~~~((47))~~ "Taxpayer" means any person liable for tax under this chapter;

1 ~~(49)~~~~(48)~~ "Telemarketing services" means services provided via telephone, facsimile,
2 electronic mail, text messages, or other modes of communications to another
3 person, which are unsolicited by that person, for the purposes of:

- 4 (a) 1. Promoting products or services;
5 2. Taking orders; or
6 3. Providing information or assistance regarding the products or services;
7 or
8 (b) Soliciting contributions;

9 ~~(50)~~~~(49)~~ "Transferred electronically" means accessed or obtained by the purchaser by
10 means other than tangible storage media; and

11 ~~(51)~~~~(50)~~ (a) "Use" includes the exercise of:

- 12 1. Any right or power over tangible personal property or digital property
13 incident to the ownership of that property, or by any transaction in
14 which possession is given, or by any transaction involving digital
15 property or tangible personal property where the right of access is
16 granted; or
17 2. Any right or power to benefit from any services subject to tax under
18 KRS 139.200(2)(p) to ~~(ay)~~~~(ax)~~.

19 (b) "Use" does not include the keeping, retaining, or exercising any right or
20 power over:

- 21 1. Tangible personal property or digital property for the purpose of:
22 a. Selling tangible personal property or digital property in the regular
23 course of business; or
24 b. Subsequently transporting tangible personal property outside the
25 state for use thereafter solely outside the state, or for the purpose
26 of being processed, fabricated, or manufactured into, attached to,
27 or incorporated into, other tangible personal property to be

1 transported outside the state and thereafter used solely outside the
2 state; or

3 2. Prewritten computer software access services and data brokering
4 services purchased for use outside the state and transferred
5 electronically outside the state for use thereafter solely outside the state.

6 ➔Section 11. KRS 139.200 is amended to read as follows:

7 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross
8 receipts derived from:

9 (1) Retail sales of:

10 (a) Tangible personal property, regardless of the method of delivery, made within
11 this Commonwealth; and

12 (b) Digital property regardless of whether:

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

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

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

17 (2) The furnishing of the following services:

18 (a) The rental of any room or rooms, lodgings, campsites, or accommodations
19 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,
20 recreational vehicle parks, or any other place in which rooms, lodgings,
21 campsites, or accommodations are regularly furnished to transients for a
22 consideration. The tax shall not apply to rooms, lodgings, campsites, or
23 accommodations supplied for a continuous period of thirty (30) days or more
24 to a person;

25 (b) Sewer services;

26 (c) The sale of admissions, except:

27 1. Admissions to enter the grounds or enclosure of any track licensed

- 1 under KRS Chapter 230 at which live horse racing or historical horse
2 racing is being conducted under the jurisdiction of the Kentucky Horse
3 Racing and Gaming Corporation;
- 4 2. Admissions taxed under KRS 229.031;
- 5 3. Admissions that are charged by nonprofit educational, charitable, or
6 religious institutions and for which an exemption is provided under KRS
7 139.495; and
- 8 4. Admissions that are charged by nonprofit civic, governmental, or other
9 nonprofit organizations and for which an exemption is provided under
10 KRS 139.498;
- 11 (d) Prepaid calling service and prepaid wireless calling service;
- 12 (e) Intrastate, interstate, and international communications services as defined in
13 KRS 139.195, ***including***~~except~~ the furnishing of pay telephone service as
14 defined in KRS 139.195;
- 15 (f) Distribution, transmission, or transportation services for natural gas that is for
16 storage, use, or other consumption in this state, excluding those services
17 furnished:
- 18 1. For natural gas that is classified as residential use as provided in KRS
19 139.470(7); or
- 20 2. To a seller or reseller of natural gas;
- 21 (g) Landscaping services, including but not limited to:
- 22 1. Lawn care and maintenance services;
- 23 2. Tree trimming, pruning, or removal services;
- 24 3. Landscape design and installation services;
- 25 4. Landscape care and maintenance services; and
- 26 5. Snow plowing or removal services;
- 27 (h) Janitorial services, including but not limited to residential and commercial

- 1 cleaning services, and carpet, upholstery, and window cleaning services;
- 2 (i) Small animal veterinary services, excluding veterinary services for equine,
3 cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds,
4 buffaloes~~[buffalo]~~, and cervids;
- 5 (j) Pet care services, including but not limited to grooming and boarding
6 services, pet sitting services, and pet obedience training services;
- 7 (k) Industrial laundry services, including but not limited to industrial uniform
8 supply services, protective apparel supply services, and industrial mat and rug
9 supply services;
- 10 (l) Non-coin-operated laundry and dry cleaning services;
- 11 (m) Linen supply services, including but not limited to table and bed linen supply
12 services and nonindustrial uniform supply services;
- 13 (n) Indoor skin tanning services, including but not limited to tanning booth or
14 tanning bed services and spray tanning services;
- 15 (o) Non-medical diet and weight reducing services;
- 16 (p) Extended warranty services;
- 17 (q) Photography and photofinishing services;
- 18 (r) Telemarketing services;
- 19 (s) Public opinion and research polling services;
- 20 (t) Lobbying services;
- 21 (u) Executive employee recruitment services;
- 22 (v) Website design and development services;
- 23 (w) Website hosting services;
- 24 (x) Facsimile transmission services;
- 25 (y) Private mailroom services, including:
- 26 1. Presorting mail and packages by postal code;
- 27 2. Address barcoding;

- 1 3. Tracking;
- 2 4. Delivery to postal service; and
- 3 5. Private mailbox rentals;
- 4 (z) Bodyguard services;
- 5 (aa) Residential and nonresidential security system monitoring services, excluding
- 6 separately stated onsite security guard services;
- 7 (ab) Private investigation services;
- 8 (ac) Process server services;
- 9 (ad) Repossession of tangible personal property services;
- 10 (ae) Personal background check services;
- 11 (af) Parking services;
- 12 1. Including:
- 13 a. Valet services; and
- 14 b. The use of parking lots and parking structures; but
- 15 2. Excluding any parking services at an educational institution;
- 16 (ag) Road and travel services provided by automobile clubs as defined in KRS
- 17 281.010;
- 18 (ah) Condominium time-share exchange services;
- 19 (ai) Rental of space for meetings, conventions, short-term business uses,
- 20 entertainment events, weddings, banquets, parties, and other short-term social
- 21 events;
- 22 (aj) Social event planning and coordination services;
- 23 (ak) Leisure, recreational, and athletic instructional services;
- 24 (al) Recreational camp tuition and fees;
- 25 (am) Personal fitness training services;
- 26 (an) Massage services, except when medically necessary;
- 27 (ao) Cosmetic surgery services;

- 1 (ap) Body modification services, including tattooing, piercing, scarification,
 2 branding, tongue splitting, transdermal and subdermal implants, ear pointing,
 3 teeth pointing, and any other modifications that are not necessary for medical
 4 or dental health;
- 5 (aq) Laboratory testing services, excluding laboratory testing:
 6 1. For medical, educational, or veterinary reasons; or
 7 2. Required by a federal, state, or local statute, regulation, court order, or
 8 other government-related requirement;
- 9 (ar) Interior decorating and design services;
- 10 (as) Household moving services;
- 11 (at) Specialized design services, including the design of clothing, costumes,
 12 fashion, furs, jewelry, shoes, textiles, and lighting;
- 13 (au) Lapidary services, including cutting, polishing, and engraving precious
 14 stones;
- 15 (av) Labor and services to repair or maintain commercial refrigeration equipment
 16 and systems when no tangible personal property is sold in that transaction
 17 including service calls and trip charges;
- 18 (aw) Labor to repair or alter apparel, footwear, watches, or jewelry when no
 19 tangible personal property is sold in that transaction;~~and~~
- 20 (ax) Prewritten computer software access services; **and**
- 21 **(ay) Data brokering services.**
- 22 ➔Section 12. KRS 139.202 is amended to read as follows:
- 23 **(1)** Excluded from the additional taxable services imposed by KRS 139.200(2)(q) to
 24 (ax) are gross receipts derived from:
- 25 ~~**(a)(1)**~~ Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a
 26 fixed price sales contract executed on or before February 25, 2022; and
- 27 ~~**(b)(2)**~~ A lease or rental agreement entered into on or before February 25, 2022.

1 (2) Excluded from the additional taxable services imposed by subsection (2)(a) of
 2 Section 11 of this Act are gross receipts derived from:

- 3 (a) Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a
 4 fixed price sales contract executed on or before February 25, 2026; and
 5 (b) A lease or rental agreement entered into on or before February 25, 2026.

6 →Section 13. KRS 139.260 is amended to read as follows:

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

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

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

21 (b) Tangible personal property to a purchaser claiming an agriculture exemption
 22 under KRS 139.480(4) to (9), (11), (13) to (15), (22) to (29), or (32)~~[(23) to~~
 23 ~~(30), or (33)]~~ unless the person obtains from the purchaser an agriculture
 24 exemption license number or a fully completed Streamlined Sales and Use
 25 Tax Agreement Certificate of Exemption that contains an agriculture
 26 exemption license number in accordance with KRS 139.270;

27 (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the

1 purchaser a certificate to the effect that the service is purchased through a fully
2 completed certificate of exemption or fully completed Streamlined Sales and Use
3 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

4 (3) A service included in KRS 139.200(2)(g) to (ay)~~[(ax)]~~ unless the person takes from
5 the purchaser a certificate to the effect that the service is:

6 (a) Purchased for resale according to KRS 139.270;

7 (b) Purchased through a fully completed certificate of exemption or fully
8 completed Streamlined Sales and Use Tax Agreement Certificate of
9 Exemption in accordance with KRS 139.270; or

10 (c) Purchased according to administrative regulations promulgated by the
11 department governing a direct pay authorization.

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

13 (1) An excise tax is hereby imposed on the storage, use, or other consumption in this
14 state of tangible personal property, digital property, and services listed under KRS
15 139.200(2)(p) to (ay)~~[(ax)]~~ purchased for storage, use, or other consumption in this
16 state at the rate of six percent (6%) of the sales price.

17 (2) The excise tax applies to the purchase of digital property regardless of whether:

18 (a) The purchaser has the right to permanently use the goods;

19 (b) The purchaser's right to access or retain the digital property is not permanent;
20 or

21 (c) The purchaser's right of use is conditioned upon continued payment.

22 ➔Section 15. KRS 139.340 is amended to read as follows:

23 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
24 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
25 give to the purchaser a receipt therefor in the manner and form prescribed by the
26 department. The taxes collected or required to be collected by the retailer under this
27 section shall be deemed to be held in trust for and on account of the

1 Commonwealth.

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

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

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

22 (c) Any retailer soliciting orders for tangible personal property, digital property,
23 or any services subject to tax under KRS 139.200(2)(p) to (ay)~~[(ax)]~~ from
24 residents of this state on a continuous, regular, or systematic basis in which
25 the solicitation of the order, placement of the order by the customer or the
26 payment for the order utilizes the services of any financial institution,
27 telecommunication system, radio or television station, cable television

- 1 service, print media, or other facility or service located in this state;
- 2 (d) Any retailer deriving receipts from the lease or rental of tangible personal
- 3 property situated in this state;
- 4 (e) Any retailer soliciting orders for tangible personal property, digital property,
- 5 or any services subject to tax under KRS 139.200(2)(p) to (ay)~~[(ax)]~~ from
- 6 residents of this state on a continuous, regular, systematic basis if the retailer
- 7 benefits from an agent or representative operating in this state under the
- 8 authority of the retailer to repair or service tangible personal property or
- 9 digital property sold by the retailer;
- 10 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
- 11 either full-time or part-time, if the representative performs any activities that
- 12 help establish or maintain a marketplace for the retailer, including receiving or
- 13 exchanging returned merchandise; or
- 14 (g) 1. Any remote retailer selling tangible personal property, ~~or~~ digital
- 15 property, or services delivered, ~~or~~ transferred electronically, or
- 16 provided to a purchaser in this state, including retail sales facilitated by
- 17 a marketplace provider on behalf of the remote retailer~~;~~ if ~~;~~:
- 18 ~~a. The remote retailer sold tangible personal property or digital property that was~~
- 19 ~~delivered or transferred electronically to a purchaser in this state in two~~
- 20 ~~hundred (200) or more separate transactions in the previous calendar~~
- 21 ~~year or the current calendar year; or~~
- 22 ~~b.~~ the remote retailer's gross receipts derived from the sale of tangible personal
- 23 property, ~~or~~ digital property, or services delivered, ~~or~~ transferred
- 24 electronically, or provided to a purchaser in this state in the previous
- 25 calendar year or current calendar year exceeds one hundred thousand
- 26 dollars (\$100,000).
- 27 2. Any remote retailer that meets the~~either~~ threshold provided in

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

5 ➔Section 16. KRS 139.470 is amended to read as follows:

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

- 7 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
8 state of, tangible personal property or digital property which this state is prohibited
9 from taxing under the Constitution or laws of the United States, or under the
10 Constitution of this state;
- 11 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
12 of:
- 13 (a) Nonreturnable and returnable containers when sold without the contents to
14 persons who place the contents in the container and sell the contents together
15 with the container; and
- 16 (b) Returnable containers when sold with the contents in connection with a retail
17 sale of the contents or when resold for refilling;

18 As used in this ~~subsection~~~~section~~ the term "returnable containers" means
19 containers of a kind customarily returned by the buyer of the contents for reuse. All
20 other containers are "nonreturnable containers";

- 21 (3) Gross receipts from occasional sales of tangible personal property or digital
22 property and the storage, use, or other consumption in this state of tangible personal
23 property or digital property, the transfer of which to the purchaser is an occasional
24 sale;
- 25 (4) Gross receipts from sales of tangible personal property to a common carrier,
26 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
27 freight is paid in advance or the shipment is made freight charges collect, to a point

1 outside this state and the property is actually transported to the out-of-state
2 destination for use by the carrier in the conduct of its business as a common carrier;

3 (5) Gross receipts from sales of tangible personal property sold through coin-operated
4 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
5 retailer is primarily engaged in making the sales and maintains records satisfactory
6 to the department. As used in this subsection, "bulk vending machine" means a
7 vending machine containing unsorted merchandise which, upon insertion of a coin,
8 dispenses the same in approximately equal portions, at random and without
9 selection by the customer;

10 (6) Gross receipts from sales:

11 (a) To any cabinet, department, bureau, commission, board, or other statutory or
12 constitutional agency of the state and gross receipts from sales to counties,
13 cities, or special districts as defined in KRS 65.005. This exemption shall
14 apply only to purchases of tangible personal property, digital property, or
15 services for use solely in the government function. A purchaser not qualifying
16 as a governmental agency or unit shall not be entitled to the exemption even
17 though the purchaser may be the recipient of public funds or grants; and

18 (b) Of data brokering services by:

19 1. Any cabinet, department, bureau, commission, board, or other
20 statutory or constitutional agency of this state; or

21 2. Counties, cities, or special districts as defined in KRS 65.005;

22 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
23 residents for use in heating, water heating, cooking, lighting, and other
24 residential uses if the sewer services, water, and fuel are purchased and
25 declared by the resident as used in his or her place of domicile.

26 (b) As used in this subsection:

27 1. "Fuel" includes but is not ~~shall include but not be~~ limited to natural

1 gas, electricity, fuel oil, bottled gas, coal, coke, and wood; and

2 2. "Place of domicile" means the place where an individual has his or her
3 legal, true, fixed, and permanent home and principal establishment, and
4 to which, whenever the individual is absent, the individual has the
5 intention of returning.

6 (c) Determinations of eligibility for the exemption shall be made by the
7 department.

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

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

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

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

- 1 1. Tangible personal property at a plant facility;
- 2 2. Distilled spirits or wine at a plant facility or on the premises of a
- 3 distiller, rectifier, winery, or small farm winery licensed under KRS
- 4 243.030 that includes a retail establishment on the premises; or
- 5 3. Malt beverages at a plant facility or on the premises of a brewer or
- 6 microbrewery licensed under KRS 243.040 that includes a retail
- 7 establishment;
- 8 and which will be for sale.

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

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

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

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

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

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

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

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

26 (11) (a) 1. Gross receipts from the sale of newspaper inserts or catalogs purchased
27 for storage, use, or other consumption outside this state and delivered by

1 the retailer's own vehicle to a location outside this state, or delivered to
 2 the United States Postal Service, a common carrier, or a contract carrier
 3 for delivery outside this state, regardless of whether the carrier is
 4 selected by the purchaser or retailer or an agent or representative of the
 5 purchaser or retailer, or whether the F.O.B. is retailer's shipping point or
 6 purchaser's destination.

7 ~~2.[(a)]~~ As used in this paragraph~~[subsection]~~:

8 a.[(1)] "Catalogs" means tangible personal property that is printed to the
 9 special order of the purchaser and composed substantially of
 10 information regarding goods and services offered for sale; and

11 b.[(2)] "Newspaper inserts" means printed materials that are placed in or
 12 distributed with a newspaper of general circulation.

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

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

17 (13) (a) 1. Gross receipts from the sale of metal retail fixtures manufactured in this
 18 state and purchased for storage, use, or other consumption outside this
 19 state and delivered by the retailer's own vehicle to a location outside this
 20 state, or delivered to the United States Postal Service, a common carrier,
 21 or a contract carrier for delivery outside this state, regardless of whether
 22 the carrier is selected by the purchaser or retailer or an agent or
 23 representative of the purchaser or retailer, or whether the F.O.B. is the
 24 retailer's shipping point or the purchaser's destination.

25 ~~2.[(a)]~~ As used in this paragraph~~[subsection]~~, "metal retail fixtures"
 26 means check stands and belted and nonbelted checkout counters,
 27 whether made in bulk or pursuant to specific purchaser specifications,

1 that are to be used directly by the purchaser or to be distributed by the
2 purchaser.

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

6 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
7 ultimate storage, use, or other consumption outside this state and delivered to a
8 common carrier in this state for delivery outside this state, regardless of whether the
9 carrier is selected by the purchaser or retailer, or is an agent or representative of the
10 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
11 purchaser's destination;

12 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
13 means an agreement whereby an amount, whether paid in money, credit, or
14 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
15 the quantity and unit price of tobacco products sold at retail that requires the retailer
16 to reduce the selling price of the product to the purchaser without the use of a
17 manufacturer's or wholesaler's coupon or redemption certificate;

18 (16) Gross receipts from the sale of tangible personal property or digital property
19 returned by a purchaser when the full sales price is refunded either in cash or credit.
20 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
21 required to purchase other tangible personal property or digital property at a price
22 greater than the amount charged for the property that is returned;

23 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
24 Chapter 138;

25 (18) The amount of any tax imposed by the United States upon or with respect to retail
26 sales, whether imposed on the retailer or the consumer, not including any
27 manufacturer's excise or import duty;

- 1 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
2 is:
- 3 (a) Sold to a Kentucky resident, registered for use on the public highways, and
4 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 5 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
6 vehicle in a state that:
- 7 1. Allows residents of Kentucky to purchase motor vehicles without
8 payment of that state's sales tax at the time of sale; or
- 9 2. Allows residents of Kentucky to remove the vehicle from that state
10 within a specific period for subsequent registration and use in Kentucky
11 without payment of that state's sales tax;
- 12 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
13 trailer as defined in KRS 189.010(17);
- 14 (21) Gross receipts from the collection of:
- 15 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 16 (b) The charge imposed by KRS 65.7629(3);
- 17 (c) The fee imposed by KRS 65.7634; and
- 18 (d) The service charge imposed by KRS 65.7636;
- 19 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
20 maintain tangible personal property directly used in manufacturing or industrial
21 processing process of:
- 22 (a) Tangible personal property at a plant facility;
- 23 (b) Distilled spirits or wine at a plant facility or on the premises of a distiller,
24 rectifier, winery, or small farm winery licensed under KRS 243.030; or
- 25 (c) Malt beverages at a plant facility or on the premises of a brewer or
26 microbrewery licensed under KRS 243.040;
- 27 that is not otherwise exempt under subsection (9) of this section or KRS

1 139.480(10), if the charges for labor or services are separately stated on the invoice,
2 bill of sale, or similar document given to purchaser;

3 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (ax) prior to
4 January 1, 2025, gross receipts derived from the sale of those services if the
5 gross receipts were less than twelve thousand dollars (\$12,000) during
6 calendar year 2024. When gross receipts from these services exceed twelve
7 thousand dollars (\$12,000) in a calendar year:

- 8 1. All gross receipts over twelve thousand dollars (\$12,000) are taxable in
9 that calendar year; and
- 10 2. All gross receipts are subject to tax in subsequent calendar years.

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

14 (24) (a) For persons that first begin making sales of services included in KRS
15 139.200(2)(g) to (ax) on or after January 1, 2025, gross receipts derived from
16 the sale of those services if the gross receipts are less than twelve thousand
17 dollars (\$12,000) within the first calendar year of operation. When gross
18 receipts from these services exceed twelve thousand dollars (\$12,000) in a
19 calendar year:

- 20 1. All gross receipts over twelve thousand dollars (\$12,000) are taxable in
21 that calendar year; and
- 22 2. All gross receipts are subject to tax in subsequent calendar years.

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

26 ➔Section 17. KRS 224.50-868 is amended to read as follows:

27 (1) As used in this section:

- 1 (a) "Motor vehicle" means every vehicle intended primarily for use and operation
2 on the public highways that is self-propelled, including a low-speed motor
3 vehicle as defined in KRS 186.010;
- 4 (b) "Semitrailer" means any vehicle:
- 5 1. Designed:
- 6 a. As temporary living quarters for recreation, camping, or travel; or
7 b. For carrying persons or property;
- 8 2. Designed for being drawn by a motor vehicle; and
- 9 3. Constructed that:
- 10 a. Some part of its weight; or
11 b. Some part of its load;
12 rests upon or is carried by another vehicle; and
- 13 (c) "Trailer" means any vehicle:
- 14 1. Designed:
- 15 a. As temporary living quarters for recreation, camping, or travel; or
16 b. For carrying persons or property;
- 17 2. Designed for being drawn by a motor vehicle; and
- 18 3. Constructed that:
- 19 a. No part of its weight; and
20 b. No part of its load;
21 rests upon or is carried by another vehicle.
- 22 (2) (a) 1. Prior to July 1, 2018, a person purchasing a new motor vehicle tire in
23 Kentucky shall pay to the retailer a one dollar (\$1) fee at the time of the
24 purchase of that tire. The fee shall not be subject to the Kentucky sales
25 tax.
- 26 2. Beginning July 1, 2018, but prior to July 1, 2020, a fee is hereby
27 imposed upon a retailer at the rate of two dollars (\$2) for each new

1 motor vehicle tire sold in Kentucky. The fee shall be subject to the
2 Kentucky sales tax.

3 3. Beginning July 1, 2020, but prior to July 1, ~~2028~~[2026], a fee is hereby
4 imposed upon a retailer at the rate of two dollars (\$2) for each new
5 motor vehicle, trailer, or semitrailer tire sold in Kentucky. The fee shall
6 be subject to the Kentucky sales tax.

7 4. A retailer may pass the fee imposed by this paragraph on to the
8 purchaser of the new tire.

9 (b) 1. A new tire is a tire that has never been placed on a motor vehicle, trailer,
10 or semitrailer wheel rim.

11 2. A new tire is not a tire placed on a motor vehicle, trailer, or semitrailer
12 prior to its original retail sale or a recapped tire.

13 (3) When a retailer sells a new motor vehicle tire in Kentucky to replace another tire,
14 the tire that is replaced becomes a waste tire subject to the waste tire program. The
15 retailer shall encourage the purchaser of the new tire to leave the waste tire with the
16 retailer or meet the following requirements:

17 (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);

18 (b) Deliver the waste tire to a person registered in accordance with the waste tire
19 program; or

20 (c) Reuse the waste tire for its original intended purpose or an agricultural
21 purpose.

22 (4) (a) A retailer shall report to the Department of Revenue on or before the
23 twentieth day of each month the number of new motor vehicle tires sold
24 during the preceding month and the number of waste tires received from
25 customers that month.

26 (b) The report shall be filed on forms and contain information as the Department
27 of Revenue may require.

1 (c) The retailer shall be allowed to retain an amount equal to five percent (5%) of
2 the fees due, provided the amount due is not delinquent at the time of
3 payment.

4 (5) A retailer shall:

5 (a) Accept from the purchaser of a new tire, if offered, for each new motor
6 vehicle tire sold, a waste tire of similar size and type; and

7 (b) Post notice at the place where retail sales are made that state law requires:

8 1. The retailer to accept, if offered, a waste tire for each new motor vehicle
9 tire sold and that a person purchasing a new motor vehicle tire to replace
10 another tire shall comply with subsection (3) of this section; and

11 2. The two dollar (\$2) new tire fee is used by the state to oversee the
12 management of waste tires, including cleaning up abandoned waste tire
13 piles and preventing illegal dumping of waste tires.

14 (6) A retailer shall comply with the requirements of the recordkeeping system for waste
15 tires established by KRS 224.50-874.

16 (7) A retailer shall transfer waste tires only to a person who presents a letter from the
17 cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid
18 waste disposal facility permit issued by the cabinet, unless the retailer is delivering
19 the waste tires to a destination outside Kentucky and the waste tires will remain in
20 the retailer's possession until they reach that destination.

21 (8) The cabinet shall, in conjunction with the Waste Tire Working Group, develop the
22 informational fact sheet to be made publicly available on the cabinet's website and
23 available in print upon request. The fact sheet shall identify ways to properly
24 dispose of the waste tire and present information on the problems caused by
25 improper waste tire disposal.

26 ➔Section 18. KRS 224.50-872 is amended to read as follows:

27 (1) The cabinet shall report to the General Assembly no later than January 15 each year

1 on the effectiveness of the waste tire program in developing markets for waste tires,
 2 the amount of revenue generated and the effectiveness of the fee established in KRS
 3 224.50-868 in funding the cabinet's implementation of the waste tire program, to
 4 include any waste tire amnesty program established by the cabinet as provided for
 5 in KRS 224.50-880(1)(b), whether the fee should be extended, comparative data on
 6 the number of waste tires generated each year, the number disposed of, the number
 7 of orphan tire piles, and the cost of tire disposal by counties in the Commonwealth.

8 **(2) The cabinet shall gather the following information related to the waste tire trust**
 9 **fund in KRS 224.50-880 and submit an annual report to the Legislative Research**
 10 **Commission for referral to the Interim Joint Committee on Appropriations and**
 11 **Revenue by November 1, 2026, and by each November 1 thereafter as long as the**
 12 **new tire fee established in Section 17 of this Act is collected:**

13 **(a) Total receipts deposited into the fund from the new tire fee during the**
 14 **preceding fiscal year;**

15 **(b) A detailed accounting of the activities supported by fund moneys, including**
 16 **the amount spent on each activity;**

17 **(c) A detailed accounting of all administrative expenses;**

18 **(d) Identification of any unexpended funds and the reason why the funds were**
 19 **not expended; and**

20 **(e) An explanation of how all expenditures align with program objectives.**

21 ➔Section 19. KRS 45.760 is amended to read as follows:

22 The provisions of any other law notwithstanding:

23 (1) During any biennium the amount allotted, from all sources, for expenditure on any
 24 project in the State Capital Construction Program for that biennium shall not exceed
 25 the estimated cost of the project during that biennium, as shown in any branch
 26 budget bill enacted by the General Assembly, except as provided in this section and
 27 KRS 45.770 and 45.780;[~~]~~

- 1 (2) When the General Assembly disapproves a capital project or item of equipment that
2 was previously approved, it shall be eliminated as a capital project or major item of
3 equipment in the Capital Projects Program. General fund moneys appropriated for
4 that project or item of equipment but not allotted, and general fund moneys allotted
5 but not expended to the project or equipment account, shall be transferred to the
6 capital construction and equipment purchase contingency account in the capital
7 construction fund. Agency or federal funds for a disapproved project or item, that
8 have been appropriated but unallotted or allotted but unexpended, shall be returned
9 to the appropriate agency fund. Road fund moneys for a disapproved project or item
10 that have been appropriated but unallotted or allotted but unexpended, shall be
11 returned to the Road Fund Surplus Account; ~~and~~
- 12 (3) Capital projects and major items of equipment disapproved under subsection (2) of
13 this section shall be terminated; ~~and~~
- 14 (4) During any biennium, the amount allotted from all sources for expenditure for the
15 purchase of any major item of equipment shall not exceed the estimated cost of the
16 item as shown in any branch budget bill enacted by the General Assembly and
17 authorizing the purchase, except as provided in subsections (5) and (6) of this
18 section and in KRS 45.770 and 45.780; ~~and~~
- 19 (5) A major item of equipment to be used for medical, scientific, or research purposes,
20 excluding computer equipment and aircraft, may be authorized even though it is not
21 specifically listed in any branch budget bill enacted for the current biennium,
22 subject to the following conditions and procedures:
- 23 (a) Moneys specifically budgeted and appropriated by the General Assembly for
24 another purpose shall not be reallocated for expenditure on the item; moneys
25 utilized shall not jeopardize any existing program and shall not require the use
26 of any current general funds specifically dedicated to existing programs;
- 27 (b) Funds are available for the purchase and the method of financing the purchase

1 will not require an additional appropriation of state funds to acquire the item;
2 and

3 (c) The purchasing agency shall, within thirty (30) days after making the
4 purchase, report the purchase to the Capital Projects and Bond Oversight
5 Committee. The report shall include a description of the item, the purpose for
6 which it will be used, the necessity for the purchase, and the amount expended
7 for the purchase from each source of funds used;[-]

8 (6) Moneys from any source may be transferred to the allotment account of any capital
9 project authorized by the General Assembly under this section, subject to the
10 following conditions and procedures:

11 (a) The total amount transferred shall not exceed five percent (5%)~~fifteen~~
12 ~~percent (15%)~~ of the amount authorized by the General Assembly unless:

- 13 1. The source of funds is private or federal; or
- 14 2. An unforeseen decision by a federal or state court or regulatory agency
15 requires the transfer;[-]

16 (b) Moneys specifically budgeted and appropriated by the General Assembly for
17 another purpose shall not be allotted or reallocated for expenditure on the
18 capital project;[-]

19 (c) Moneys utilized shall not jeopardize any existing program and shall not
20 require the use of any current general funds specifically dedicated to existing
21 programs;[-]

22 (d) The relevant entity head, or his or her designee, shall submit the capital
23 project to the Capital Projects and Bond Oversight Committee at least
24 fourteen (14) days prior to the committee meeting. The submission shall
25 include a written certification to the committee that the transfer, in excess of
26 five percent (5%)~~fifteen percent (15%)~~ of the amount authorized by the
27 General Assembly, is:

- 1 1. Paid for out of private or federal funds; or
- 2 2. Required by an unforeseen decision by a federal or state court or
- 3 regulatory agency; and
- 4 3. Not allotted or reallocated from moneys specifically budgeted and
- 5 appropriated by the General Assembly for another purpose; and
- 6 4. Not jeopardizing any existing program and not requiring the use of any
- 7 current general funds specifically dedicated to existing programs; ~~and~~
- 8 (e) If a capital project is financed with road funds, the cost overruns or scope
- 9 increases shall be paid out of the highway contingency account established
- 10 pursuant to KRS 45.247; ~~and~~
- 11 (7) A capital construction project or a major item of equipment may be authorized even
- 12 though it is not specifically listed in any branch budget bill, subject to the following
- 13 conditions and procedures:
- 14 (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or
- 15 private funds, and fifty percent (50%) or less of the actual cost shall be funded
- 16 by moneys appropriated to the capital construction and equipment purchase
- 17 contingency account or, if the purpose of the project or equipment is to reduce
- 18 energy costs, the relevant entity head certifies projected energy cost savings
- 19 associated with the project or equipment are reasonable and sufficient to
- 20 produce an aggregate simple payback period, as defined by KRS 56.770, of
- 21 five (5) years or less;
- 22 (b) Moneys specifically budgeted and appropriated by the General Assembly for
- 23 another purpose shall not be allotted or reallocated for expenditure on the
- 24 project or major item of equipment; moneys utilized shall not jeopardize any
- 25 existing program and shall not require the use of any current general funds
- 26 specifically dedicated to existing programs; and
- 27 (c) The relevant entity head, or his *or her* designee, shall submit the project or

1 major item of equipment to the committee for review as provided by KRS
2 45.800;[~~]~~

3 (8) The capital construction and equipment purchase contingency fund may be used to
4 advance funds to projects authorized to be financed by bonds, to finance feasibility
5 studies for projects which may be contemplated for future funding, or to audit the
6 capital projects program when authorized by the General Assembly;[~~]~~

7 (9) On or before October 1, each branch of government shall submit to the committee
8 the following information:

9 (a) A complete list and summary description of every capital construction project
10 and major item of equipment not completed as of June 30 of the prior fiscal
11 year;[~~and]~~

12 (b) For each project and major item of equipment, as of July 1, of the current
13 fiscal year:

14 1. The project phase;

15 2. The project account number, project name, and any other term employed
16 to identify the project or major item of equipment;

17 3. The available balance in the project or major item of equipment account,
18 and any sums considered available for that project or major item of
19 equipment;

20 4. A statement of the transfers of funds to or from the project or major item
21 of equipment account; and, any account to which transfers from each
22 project or major item of equipment has been made;

23 5. The year in which the project or major item of equipment was approved,
24 with specific reference to the legislation by which the project or item
25 was approved;

26 6. Total expenditure on the project or major item of equipment;

27 7. The current estimated completion cost, including the amount required

1 for annual inflation; and

2 8. A statement that additional funds for the completion of the project or
3 major item of equipment are or are not required; and, if required, why
4 sufficient funds for completion are not available; and

5 (c) The balance in the appropriated, but unallotted account; and the balance in
6 any account, however designated, that contains appropriated, but unallotted
7 funds for capital construction; ~~and~~[-]

8 (10) When the General Assembly authorizes a capital construction item in the capital
9 construction section of a branch budget bill, the entity head charged with executing
10 the branch budget shall construct the capital construction item according to the
11 requirements set forth in the branch budget bill, supporting documentation
12 considered by the General Assembly, and branch budget records. The entity head
13 shall not deviate from these requirements with regard to:

14 (a) Purpose or location to the extent that the capital construction item no longer
15 meets the identified needs; or

16 (b) Configuration for reasons other than practical accommodation to the
17 construction site or specific program to be accommodated within that capital
18 construction item.

19 ➔Section 20. KRS 45.770 is amended to read as follows:

20 (1) There is created within the capital construction fund the capital construction and
21 equipment purchase contingency account. The account shall consist of moneys
22 appropriated to the account by the General Assembly.

23 (2) Money in the capital construction and equipment purchase contingency account
24 may be transferred to the allotment account of a capital construction project,
25 authorized by the General Assembly under KRS 45.760, subject to the following
26 conditions and procedures:

27 (a) Except as provided in paragraphs (b) and (c) of this subsection, during any

1 biennium, the amount that may be transferred from the capital construction
2 and equipment purchase contingency account to the allotment account of an
3 authorized project shall not exceed an amount equal to five percent
4 ~~(5%) [fifteen percent (15%)]~~ of the estimated cost of the project, for that
5 biennium, approved by the General Assembly in the manner provided by KRS
6 45.760; ~~[-]~~

7 (b) Subject to paragraph (c) of this subsection, if the cost of an authorized project
8 exceeds, by more than five percent (5%) ~~[fifteen percent (15%)]~~, its estimated
9 cost, as approved by the General Assembly, due to an unforeseen decision by
10 a federal or state court or regulatory agency, moneys in excess of five percent
11 ~~(5%) [fifteen percent (15%)]~~ of the estimated cost of the project may be
12 transferred from the capital construction and equipment purchase contingency
13 account to the allotment account of the project; and ~~[-]~~

14 (c) The Finance and Administration Cabinet shall, prior to making any transfer
15 under this subsection, present the proposed transfer to the Capital Projects and
16 Bond Oversight Committee, at least fourteen (14) days prior to the committee
17 meeting, for review as provided by KRS 45.800. Presentation of a proposed
18 transfer under paragraph (b) of this subsection shall include written
19 certification to the committee from the commissioner of the Department for
20 Facilities and Support Services, Finance and Administration Cabinet, that the
21 transfer is necessitated by cost increases resulting from an unforeseen decision
22 by a federal or state court or regulatory agency.

23 (3) Money in the capital construction and equipment purchase contingency account
24 may be transferred to the allotment account of a major item of equipment,
25 authorized by the General Assembly under KRS 45.760, for expenditure on that
26 item subject to the following conditions and procedures:

27 (a) Except as provided in paragraphs (b) and (c) of this subsection, during any

1 biennium, the amount that may be transferred from the capital construction
2 and equipment purchase contingency account to the allotment account of an
3 authorized major item of equipment shall not exceed an amount equal to five
4 percent (5%)~~fifteen percent (15%)~~ of the estimated cost of the item, for that
5 biennium, approved by the General Assembly in the manner provided by KRS
6 45.760;~~[-]~~

7 (b) If the cost of an authorized major item of equipment exceeds, by more than
8 five percent (5%)~~fifteen percent (15%)~~, its estimated cost, as approved by
9 the General Assembly, due to an unforeseen decision by a federal or state
10 court or regulatory agency, moneys in excess of five percent (5%)~~fifteen~~
11 ~~percent (15%)~~ of the estimated cost may be transferred from the capital
12 construction and equipment purchase contingency account to the allotment
13 account of the item; and~~[-]~~

14 (c) The Finance and Administration Cabinet shall, prior to making any transfer
15 under this subsection, present the proposed transfer to the Capital Projects and
16 Bond Oversight Committee, at least fourteen (14) days prior to the committee
17 meeting, for review as provided by KRS 45.800. Presentation of a proposed
18 transfer under paragraph (b) of this subsection shall include written
19 certification to the committee from the secretary of the Finance and
20 Administration Cabinet that the transfer is necessitated by cost increases
21 resulting from an unforeseen decision by a federal or state court or regulatory
22 agency.

23 (4) Money in the capital construction and equipment purchase contingency account
24 may be transferred to a capital project account to be used for nonrecurring moving
25 expenses of state agencies to address issues of public health and safety or
26 governmental efficiency, subject to the following conditions and procedures:

27 (a) The Finance and Administration Cabinet shall, prior to making any transfer

1 under this subsection, present the proposed transfer to the Capital Projects and
2 Bond Oversight Committee, at least fourteen (14) days prior to the committee
3 meeting, for review as provided by KRS 45.800;[-]

4 (b) Presentation of a proposed transfer shall include written certification to the
5 committee from the secretary of the Finance and Administration Cabinet that
6 the moving costs are nonrecurring, and describing the specific benefits,
7 including but not limited to fiscal and efficiency savings associated with the
8 proposal; and[-]

9 (c) No transfer shall be used for capital improvements.

10 (5) No later than thirty (30) days after a project has been accepted by the
11 Commonwealth of Kentucky and the contracts encumbered against that project
12 have been closed, moneys constituting the available balance in the project or
13 equipment account shall be transferred as follows:

14 (a) If the project was a line item in the budget and not funded with road funds,
15 then the balance shall be transferred to the capital construction surplus
16 account;[-]

17 (b) If the project was a line item in the budget and funded with road funds, then
18 the balance shall be transferred to the road fund surplus account;[-]

19 (c) If the project was completed within the biennium in which it was authorized,
20 and if the project was funded from a major maintenance pool, then the balance
21 shall be transferred to that major maintenance pool; or[-]

22 (d) If the project was not completed within the biennium in which it was
23 authorized, without being expressly reauthorized by a succeeding session of
24 the General Assembly, then the balance shall be transferred to the capital
25 construction surplus account.

26 ➔Section 21. KRS 45.345 is amended to read as follows:

27 (1) (a) In addition to any payment method authorized by law, and notwithstanding

1 any statute to the contrary, any state agency may accept the following
2 methods of payment to secure funds for deposit into the State Treasury:

3 ~~1.(a)}~~ Credit card;

4 ~~2.(b)}~~ Debit card;

5 ~~3.(c)}~~ Electronic check;

6 ~~4.(d)}~~ Automated clearinghouse (ACH) debit; or

7 ~~5.(e)}~~ Any other electronic payment method upon the prior written
8 approval of both the Finance and Administration Cabinet and the Office
9 of the State Treasurer.

10 ~~(b)(2)}~~ Any fees charged to a state agency by the provider of the payment
11 services listed in paragraph (a) of this subsection~~[(1) of this section]~~ shall be
12 deemed to represent collection expenses and may be considered normal
13 operating expenses of the agency, or the agency may collect convenience fees
14 from users to supplement agency costs of delivering services.

15 **(2) (a) In satisfaction of debts owed to the Commonwealth:**

16 **1. Rounding cash transactions to the nearest five cent (\$0.05) increment**
17 **shall occur:**

18 **a. When pennies are not available to complete resolution of a**
19 **transaction; and**

20 **b. On settlement of the final bill of sale, invoice, or fee after all**
21 **individual items, duties, fees, taxes, and charges are calculated to**
22 **the exact cent; and**

23 **2. Noncash transactions shall continue to be settled to the cent without**
24 **rounding.**

25 **(b) As used in this subsection, "the nearest five cent (\$0.05) increment" means:**

26 **1. Amounts ending in one cent (\$0.01) and two cents (\$0.02) are rounded**
27 **down to the nearest ten (\$0.10) cents;**

- 1 2. Amounts ending in three cents (\$0.03) and four cents (\$0.04) are
2 rounded up to the nearest five (\$0.05) cents;
3 3. Amounts ending in six cents (\$0.06) and seven cents (\$0.07) are
4 rounded down to the nearest five (\$0.05) cents;
5 4. Amounts ending in eight cents (\$0.08) and nine cents (\$0.09) are
6 rounded up to the nearest ten (\$0.10) cents; and
7 5. Amounts ending in zero (\$0.00) cents and five (\$0.05) cents remain
8 unchanged.

9 (c) Notwithstanding any other statute to the contrary, any person selling goods
10 or services shall not be in violation of any requirements, laws,
11 administrative regulations, or standards of this state or political subdivision
12 of this state based on any action taken in compliance of this section.

13 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
14 READ AS FOLLOWS:

15 (1) In satisfaction of debts owed to cities, counties, and local government entities:

16 (a) Rounding cash transactions to the nearest five cent (\$0.05) increment shall
17 occur:

18 1. When pennies are not available to complete resolution of a
19 transaction; and

20 2. On settlement of the final bill of sale, invoice, or fee after all
21 individual items, duties, fees, taxes, and charges are calculated to the
22 exact cent; and

23 (b) Noncash transactions shall continue to be settled to the cent without
24 rounding.

25 (2) As used in this section, "the nearest five cent (\$0.05) increment" means:

26 (a) Amounts ending in one cent (\$0.01) and two cents (\$0.02) are rounded
27 down to the nearest ten (\$0.10) cents;

1 (b) Amounts ending in three cents (\$0.03) and four cents (\$0.04) are rounded
2 up to the nearest five (\$0.05) cents;

3 (c) Amounts ending in six cents (\$0.06) and seven cents (\$0.07) are rounded
4 down to the nearest five (\$0.05) cents;

5 (d) Amounts ending in eight cents (\$0.08) and nine cents (\$0.09) are rounded
6 up to the nearest ten (\$0.10) cents; and

7 (e) Amounts ending in zero (\$0.00) cents and five (\$0.05) cents remain
8 unchanged.

9 (3) Notwithstanding any other statute to the contrary, any person selling goods or
10 services shall not be in violation of any requirements, laws, administrative
11 regulations, or standards of this state or political subdivision of this state based
12 on any action taken in compliance of this section.

13 ➔Section 23. KRS 139.210 is amended to read as follows:

14 (1) Except as provided in subsections (2) and (3) of this section, the tax shall be
15 required to be collected by the retailer from the purchaser. The tax shall be
16 displayed separately from the sales price, the price advertised in the premises, the
17 marked price, or other price on the sales receipt or other proof of sales.

18 (2) The department may relieve certain retailers from the requirement in subsection (1)
19 of this section of separate display of the tax when the circumstances of the retailer
20 make compliance impracticable. If the retailer establishes to the satisfaction of the
21 department that the sales tax has been added to the total amount of the sales price
22 and has not been absorbed by the retailer, the amount of the sales price shall be the
23 amount received exclusive of the tax imposed.

24 (3) Retailers that provide road and travel services that are taxable under KRS 139.200
25 shall not be required to state the tax separately from the sales price if the retailer can
26 establish and provide evidence that the sales tax has been added to the total amount
27 of the sales price charged to the purchaser and has not been absorbed by the retailer.

1 The amount of the sales price shall be the amount received exclusive of the tax
2 imposed.

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

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

7 **(6) Regardless of a purchaser's method of payment, a retailer shall not be relieved of**
8 **the retailer's responsibility to collect and remit the correct amount of tax due.**

9 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
10 READ AS FOLLOWS:

11 **(1) In satisfaction of debts owed to a school district:**

12 **(a) Rounding cash transactions to the nearest five cent (\$0.05) increment shall**
13 **occur:**

14 **1. When pennies are not available to complete resolution of a**
15 **transaction; and**

16 **2. On settlement of the final bill of sale, invoice, or fee after all**
17 **individual items, duties, fees, taxes, and charges are calculated to the**
18 **exact cent; and**

19 **(b) Noncash transactions shall continue to be settled to the cent without**
20 **rounding.**

21 **(2) As used in this section, "the nearest five cent (\$0.05) increment" means:**

22 **(a) Amounts ending in one cent (\$0.01) and two cents (\$0.02) are rounded**
23 **down to the nearest ten (\$0.10) cents;**

24 **(b) Amounts ending in three cents (\$0.03) and four cents (\$0.04) are rounded**
25 **up to the nearest five (\$0.05) cents;**

26 **(c) Amounts ending in six cents (\$0.06) and seven cents (\$0.07) are rounded**
27 **down to the nearest five (\$0.05) cents;**

1 (d) Amounts ending in eight cents (\$0.08) and nine cents (\$0.09) are rounded
2 up to the nearest ten (\$0.10) cents; and

3 (e) Amounts ending in zero (\$0.00) cents and five (\$0.05) cents remain
4 unchanged.

5 (3) Notwithstanding any other statute to the contrary, any person selling goods or
6 services shall not be in violation of any requirements, laws, administrative
7 regulations, or standards of this state or political subdivision of this state based
8 on any action taken in compliance of this section.

9 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
10 READ AS FOLLOWS:

11 (1) In satisfaction of debts owed in buying or selling goods or services:

12 (a) Rounding cash transactions to the nearest five cent (\$0.05) increment may
13 occur:

14 1. When pennies are not available to complete resolution of a
15 transaction; and

16 2. On settlement of the final bill of sale, invoice, or fee after all
17 individual items, duties, fees, taxes, and charges are calculated to the
18 exact cent; and

19 (b) Noncash transactions shall continue to be settled to the cent without
20 rounding.

21 (2) As used in this section, "the nearest five cent (\$0.05) increment" means:

22 (a) Amounts ending in one cent (\$0.01) and two cents (\$0.02) are rounded
23 down to the nearest ten (\$0.10) cents;

24 (b) Amounts ending in three cents (\$0.03) and four cents (\$0.04) are rounded
25 up to the nearest five (\$0.05) cents;

26 (c) Amounts ending in six cents (\$0.06) and seven cents (\$0.07) are rounded
27 down to the nearest five (\$0.05) cents;

1 (d) Amounts ending in eight cents (\$0.08) and nine cents (\$0.09) are rounded
 2 up to the nearest ten (\$0.10) cents; and

3 (e) Amounts ending in zero (\$0.00) cents and five (\$0.05) cents remain
 4 unchanged.

5 (3) Notwithstanding any other statute to the contrary, any person selling goods or
 6 services shall not be in violation of any requirements, laws, administrative
 7 regulations, or standards of this state or political subdivision of this state based
 8 on any action taken in compliance of this section.

9 ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 10 READ AS FOLLOWS:

11 As used in Sections 26 to 29 of this Act:

12 (1) "Board" means the board of trustees of a district established under Section 28 of
 13 this Act;

14 (2) "District" means a regional industrial taxing district established by an interlocal
 15 agreement as permitted under Section 27 of this Act;

16 (3) "Local government" means a city, county, urban-county government, charter
 17 county government, consolidated local government, or unified local government
 18 located within the Commonwealth; and

19 (4) "Multicounty region" means multiple counties, multiple cities not located in the
 20 same county, or a combination of counties and cities with at least two (2) local
 21 governments from different counties.

22 ➔Section 27. KRS 65.302 is amended to read as follows:

23 (1) ~~[As used in this section:~~

24 ~~(a) "Board" means the board of trustees of a district;~~

25 ~~(b) "District" means a taxing district established under subsection (2)(b) of this~~
 26 ~~section;~~

27 ~~(c) "Local government" means a city, county, urban-county government, charter~~

1 county government, consolidated local government, or unified local
 2 government located within the Commonwealth; and

3 (d) "~~Multicounty region~~" means ~~multiple counties, multiple cities not located in~~
 4 ~~the same county, or a combination of counties and cities with at least two (2)~~
 5 ~~local governments from different counties.~~

6 ~~(2)~~ (a) 1. **After providing notice in accordance with Section 29 of this Act,** two
 7 (2) or more governing bodies of local governments constituting a
 8 multicounty region may join together by entering into an interlocal
 9 agreement under KRS 65.210 to 65.300 to develop real estate as part of
 10 a regional economic development project. The interlocal agreement
 11 shall specify the investment dollars contributed to the regional economic
 12 development project by each local government, the use of those
 13 investment dollars for the project, and the provision of services provided
 14 by each local government.

15 2. The regional economic development project shall:
 16 a. Consist of three hundred (300) or more contiguous acres located in
 17 the jurisdiction of a local government that is a party to the
 18 interlocal agreement; and
 19 b. Result in the creation of at least five hundred (500) new jobs.

20 (b) 1. The territory that will be used in a regional economic development
 21 project may be organized into a taxing district for the purpose of levying
 22 taxes, **with the priority in the following order,** to:

23 a. ~~Provide for the establishment, operation, and maintenance of~~
 24 ~~governmental services for the district; and~~

25 ~~b. Pay the debt service on bonds issued to finance the cost of~~
 26 ~~building infrastructure in the district; ~~and~~~~

27 **b. Repay the Commonwealth for any investment made by the**

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Commonwealth for infrastructure within the district; and
c. Provide for the establishment, operation, and maintenance of
governmental services for the district.

2. A taxing district created under this paragraph shall comply with KRS 65.182 to 65.190, including the petition requirements, but not the percentage of registered voter signature requirements under KRS 65.182(1)(a).~~f~~

~~2. The territory located within the district shall not be subject to annexation without the consent of the governing bodies of all of the local governments that are a party to the interlocal agreement.~~

~~(2)~~~~(3)~~ (a) Once created, the district shall constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky and is authorized to levy a special ad valorem tax on property located within the jurisdictional boundaries of the district.

(b) The special ad valorem tax rate shall not exceed ten cents (\$0.10) per one hundred dollars (\$100) of the assessed value of the property.

(c) The special ad valorem tax shall be:

- 1. In addition to all other ad valorem taxes; and
- 2. Administered and collected in the same manner as the county ad valorem taxes, except the revenues shall be turned over to the board.

~~(3)~~~~(4)~~ (a) In addition to the special ad valorem tax levied under subsection ~~(2)~~~~(3)~~ of this section, the governing body of a local government in which the district is located may, with agreement of the governing bodies of all of the local governments that are a party to the interlocal agreement, impose and collect an occupational license fee on businesses, trades, professions, or occupations performed, rendered, or conducted within the district, at a percentage rate not to exceed three percent (3%) of:

- 1 1. Salaries, wages, commissions, and other compensation earned by
2 persons within the district for work done and services performed,
3 rendered, or conducted within the district;
- 4 2. The net profits of self-employed individuals, partnerships, professional
5 associations, or joint ventures resulting from businesses, trades,
6 professions, occupations, or activities conducted in the district; and
- 7 3. The net profits of corporations resulting from businesses, trades,
8 professions, occupations, or activities conducted in the district.
- 9 (b) Once an occupational license fee is imposed under this subsection, the rate of
10 the occupational license fee shall never increase.
- 11 (c) Except for an occupational license fee imposed **by:**
- 12 **1. A local board of education; or**
- 13 **2. A city that has not joined the district pursuant to Section 29 of this**
14 **Act;**~~under KRS Chapter 160,~~
- 15 an occupational license fee imposed under this subsection shall be the only
16 occupational license fee imposed on businesses, trades, professions, or
17 occupations performed, rendered, or conducted within the district.
- 18 (d) The occupational license fee shall not apply to businesses, trades, professions,
19 or occupations exempt under KRS 68.180, 68.197, or 91.200.
- 20 (e) Each local government that is a party to the interlocal agreement shall receive
21 a portion of the revenues collected from the occupational license fee as
22 specified by the agreement. The revenues may be deposited into the general
23 fund of the local government to be used in accordance with the purposes set
24 out in subsection ~~(1)~~~~(2)~~(b) of this section.
- 25 (f) An occupational license fee imposed under this subsection shall expire **the**
26 **earlier of the date the bonds issued to finance infrastructure projects for the**
27 **district are retired or** twenty (20) years after the **imposition of the occupation**

1 license fee~~[year of imposition]~~. After the occupational license fee has expired,
 2 an additional occupational license fee shall not be imposed under this
 3 subsection.

4 **(g) Notwithstanding any other statute to the contrary, wage assessments shall**
 5 **not be imposed upon salaries, wages, commissions, and other compensation**
 6 **earned by persons within the district for work done and services performed,**
 7 **rendered, or conducted within the district.**~~†~~

- 8 ~~(5) (a) A board shall be established to control and manage the affairs of the district.~~
- 9 ~~(b) The board shall:~~
- 10 ~~1. Represent a multicounty region;~~
- 11 ~~2. Comply with the provisions of KRS Chapter 65A;~~
- 12 ~~3. Agree, in writing, to the use or distribution of the revenue generated from a special~~
 13 ~~ad valorem tax levied under subsection (3) of this section;~~
- 14 ~~4. Agree, in writing, to the collection and distribution of the revenue generated from~~
 15 ~~an occupational license fee imposed under subsection (4) of this section;~~
- 16 ~~5. Operate in accordance with the following:~~
- 17 ~~a. The board membership shall consist of at least one (1) trustee from each local~~
 18 ~~government that is a party to the interlocal agreement;~~
- 19 ~~b. The trustees shall serve staggered terms of four (4) years;~~
- 20 ~~c. The chair of the board shall be elected by the trustees from among its membership;~~
- 21 ~~d. The board may appoint a secretary, an executive director, and other officials and~~
 22 ~~employees who need not be members of the board;~~
- 23 ~~e. A quorum for the transacting of the business of the board shall consist of a majority~~
 24 ~~of its membership;~~
- 25 ~~f. A trustee of the board may be removed as provided by KRS 65.007; and~~
- 26 ~~g. Vacancies of the board shall be filled in the same manner as the original~~
 27 ~~appointments; and~~

- 1 ~~6.— Provide an annual report by August 1 of each year to the Department for Local~~
 2 ~~Government containing:~~
- 3 ~~a.— A description of the regional economic development project, including the location,~~
 4 ~~specific boundaries, and the total number of acres;~~
- 5 ~~b.— A description of each business located in the district;~~
- 6 ~~c.— The total number of jobs created by the regional economic development project;~~
- 7 ~~d.— The total number of people employed within the boundaries of the district;~~
- 8 ~~e.— The name of each local government that is a party to the interlocal agreement;~~
- 9 ~~f.— The total amount of money contributed by each local government for the regional~~
 10 ~~economic development project and a description of how the money was used;~~
- 11 ~~g.— The rate of a special ad valorem tax levied under this section, the total revenues~~
 12 ~~collected from the tax for each year, and a breakdown of how the revenues were~~
 13 ~~used; and~~
- 14 ~~h.— The rate of an occupational license fee imposed under this section, the total~~
 15 ~~revenues collected from the fee for each year, and a breakdown of how the revenues~~
 16 ~~were used.~~
- 17 ~~(6) No later than October 1 of each year, the Department for Local Government shall~~
 18 ~~compile the information reported under subsection (5)(b)6. of this section and~~
 19 ~~report the compiled information to the Interim Joint Committee on Appropriations~~
 20 ~~and Revenue.]~~

21 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 22 READ AS FOLLOWS:

- 23 **(1) A board shall be established to control and manage the affairs of the district. The**
 24 **board shall:**
- 25 **(a) Represent a multicounty region;**
- 26 **(b) Comply with the provisions of KRS Chapter 65A;**
- 27 **(c) Agree, in writing, to the use or distribution of the revenue generated from a**

- 1 special ad valorem tax levied under Section 27 of this Act;
- 2 (d) Agree, in writing, to the collection and distribution of the revenue generated
- 3 from an occupational license fee imposed under Section 27 of this Act;
- 4 (e) Operate in accordance with the following:
- 5 1. The board membership shall consist of at least one (1) trustee from
- 6 each local government that is a party to the interlocal agreement;
- 7 2. The trustees shall serve staggered terms of four (4) years;
- 8 3. The chair of the board shall be elected by the trustees from among its
- 9 membership;
- 10 4. The board may appoint a secretary, an executive director, and other
- 11 officials and employees who need not be members of the board;
- 12 5. A quorum for the transacting of the business of the board shall consist
- 13 of a majority of its membership;
- 14 6. A trustee of the board may be removed as provided by KRS 65.007;
- 15 and
- 16 7. Vacancies of the board shall be filled in the same manner as the
- 17 original appointments; and
- 18 (f) Provide an annual report by August 1 of each year to the Department for
- 19 Local Government containing:
- 20 1. A description of the regional economic development project, including
- 21 the location, specific boundaries, and the total number of acres;
- 22 2. A description of each business located in the district;
- 23 3. The total number of jobs created by the regional economic
- 24 development project;
- 25 4. The total number of people employed within the boundaries of the
- 26 district;
- 27 5. The name of each local government that is a party to the interlocal

1 agreement;

2 6. The total amount of money contributed by each local government for
 3 the regional economic development project and a description of how
 4 the money was used;

5 7. The rate of a special ad valorem tax levied under Section 27 of this
 6 Act, the total revenues collected from the tax for each year, and a
 7 breakdown of how the revenues were used; and

8 8. The rate of an occupational license fee imposed under Section 27 of
 9 this Act, the total revenues collected from the fee for each year, and a
 10 breakdown of how the revenues were used.

11 (2) No later than October 1 of each year, the Department for Local Government shall
 12 compile the information received by the board and report it to the Legislative
 13 Research Commission for referral to the Interim Joint Committee on
 14 Appropriations and Revenue.

15 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) (a) Before the execution of an interlocal agreement to create a district, all local
 18 governments with territory wholly or partially within the boundaries of the
 19 multicounty region shall be provided written notice of the intent to create
 20 the district by the governing body of the local governments seeking to create
 21 the district.

22 (b) The written notice shall:

23 1. Be delivered no less than thirty (30) days prior to the execution of the
 24 agreement to the chief executive officer of each local government with
 25 territory wholly or partially within the boundaries of the multicounty
 26 region, by certified mail or official electronic delivery;

27 2. Identify the proposed participating entities;

- 1 **3. Describe the proposed boundaries of the district;**
- 2 **4. Include a summary of the anticipated tax structure; and**
- 3 **5. Specify the infrastructure projects that will be supported by the**
- 4 **revenues generated from the tax structure.**
- 5 **(2) (a) Notwithstanding any provision of law to the contrary, a city shall not be**
- 6 **required to participate in a district unless the city has adopted an ordinance**
- 7 **or resolution authorizing participation.**
- 8 **(b) A district shall not include any portion of a city located within its**
- 9 **geographic boundaries that has not consented to participation under**
- 10 **paragraph (a) of this subsection.**
- 11 **(c) Nothing in Sections 26 to 29 of this Act shall be construed to limit a city's**
- 12 **authority to levy and collect an occupational license tax under KRS 92.200**
- 13 **or 91.280 unless the city has voluntarily joined a district and agreed to the**
- 14 **imposition of an occupational tax by the district under subsection (3) of**
- 15 **Section 27 of this Act.**

16 ➔Section 30. KRS 143A.030 is amended to read as follows:

17 The taxes imposed in KRS 143A.020 do not apply to ~~fluorspar,~~ lead, zinc, and barite
18 severed for any purposes or to rock, limestone, or gravel used for privately maintained
19 but publicly dedicated roads or limestone when sold or used by the taxpayer for
20 agricultural purposes so as to qualify for exemption from sales and use taxes as provided
21 in KRS 139.480.

22 ➔Section 31. KRS 143A.010 is amended to read as follows:

23 As used in this chapter:

- 24 (1) "Department" means the Department of Revenue;
- 25 (2) "Natural resource" means all forms of minerals, including but not limited to rock,
- 26 stone, limestone, shale, gravel, sand, clay, fluorspar, natural gas, and natural gas
- 27 liquids, which are contained in or on the soils or waters of this state. For purposes

1 of this chapter, "natural resource" does not include coal and oil which are taxed
2 under KRS 143.020 and 137.120;

3 (3) "Severing" or "severed" means the physical removal of the natural resource from
4 the earth or waters of this state by any means; however, "severing" or "severed"
5 shall not include the removal of natural gas from underground storage facilities into
6 which the natural gas has been mechanically injected following its initial removal
7 from the earth;

8 (4) (a) "Taxpayer" means and includes any individual, partnership, joint venture,
9 association, corporation, receiver, trustee, guardian, executor, administrator,
10 fiduciary, or representative of any kind engaged in the business of severing
11 and/or processing natural resources in this state for sale or use. In instances
12 where contracts, either oral or written, are entered into whereby persons,
13 organizations, or businesses are engaged in the business of severing and/or
14 processing a natural resource but do not obtain title to or do not have an
15 economic interest therein, the party who owns the natural resource or has an
16 economic interest is the taxpayer.

17 (b) For purposes of this chapter, a taxpayer possesses an economic interest in a
18 natural resource where the taxpayer has acquired by investment any interest in
19 a natural resource and secures, by any form of legal relationship, income
20 derived from the severance or processing of the natural resource, to which *the*
21 *taxpayer*~~he~~ must look for a return of *the taxpayer's*~~his~~ capital. A party
22 who has no capital investment in the natural resource or who only receives an
23 arm's length royalty shall not be considered as having an economic interest;

24 (5) "Gross value" is defined as follows:

25 (a) For natural resources severed and/or processed and sold during a reporting
26 period, gross value is the amount received or receivable by the taxpayer;

27 (b) For natural resources severed and/or processed, but not sold during a reporting

- 1 period, gross value shall be determined as follows:
- 2 1. If the natural resource is to be sold under the terms of an existing
- 3 contract, the contract price shall be used in computing gross value; and
- 4 2. If there is no existing contract, the fair market value for that grade and
- 5 quality of the natural resource shall be used in computing gross value;
- 6 (c) In a transaction involving related parties, gross value shall not be less than the
- 7 fair market value for natural resources of similar grade and quality;
- 8 (d) In the absence of a sale, gross value shall be the fair market value for natural
- 9 resources of similar grade and quality;
- 10 (e) If severed natural resources are purchased for the purpose of processing and
- 11 resale, the gross value is the amount received or receivable during the
- 12 reporting period reduced by the amount paid or payable to the taxpayer
- 13 actually severing the natural resource;
- 14 (f) If severed natural resources are purchased for the purpose of processing and
- 15 consumption, the gross value is the fair market value of processed natural
- 16 resources of similar grade and quality reduced by the amount paid or payable
- 17 to the taxpayer actually severing the natural resource;
- 18 (g) In all instances, the gross value shall not be reduced by any taxes including
- 19 the tax levied in KRS 143A.020, royalties, sales commissions, or any other
- 20 expense; and
- 21 (h) In all instances, transportation expense incurred in transporting a natural
- 22 resource shall not be considered as gross income from the property;
- 23 (6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying,
- 24 sizing, or loading or unloading for any purpose. "Processing" shall not include the
- 25 act of unloading or loading for shipment natural resources that have not been
- 26 severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky;
- 27 (7) "Related parties" means two (2) or more persons, organizations, or businesses

1 owned or controlled directly or indirectly by the same interests; and

2 (8) (a) "Transportation expense" means:

3 1. The amount paid by a taxpayer to a third party for transporting natural
4 resources; and

5 2. The expenses incurred by a taxpayer using the taxpayer's~~[his]~~ own
6 facilities in transporting natural resources from the point of extraction to
7 a processing plant, tipple, or loading dock.

8 (b) "Transportation expense" shall not include:

9 1. The cost of acquisition, improvements, and maintenance of real
10 property;

11 2. The cost of acquisition and operating expenses of mining and nonmining
12 loading or unloading facilities; or

13 3. The cost of acquisition and operating expenses of equipment used to
14 load or unload the natural resource at the point of extraction, processing
15 facility, or mining and nonmining loading facility.

16 ➔Section 32. KRS 140.160 is amended to read as follows:

17 (1) The Department of Revenue shall have full supervision of the collection of all taxes
18 due under the provisions of this chapter, including the power to institute suit in this
19 and other states. It may employ attorneys and other persons necessary to carry out
20 the full intent and purpose of this chapter. The department shall furnish, upon
21 application, blank forms covering information as may be necessary to determine the
22 amount of tax due the state on the transfer of all property subject to tax.

23 (2) The department may cause personal representatives or beneficiaries to file all
24 statements required by this chapter with the clerks of the proper courts and with the
25 department, and may require them to furnish any additional information deemed
26 necessary to support the computation of the amount of tax that should be paid by
27 the estate. The personal representative, or the beneficiaries in the absence of a

1 personal representative, shall compute the taxes imposed by this chapter on the tax
2 return provided by the department when:

- 3 (a) 1. A United States estate tax return is required to be filed under federal law
4 and applicable regulations; and
5 2. The estate includes property over which Kentucky has jurisdiction for
6 purposes of the taxes imposed by this chapter; or
7 (b) Any assets from the estate subject to the taxes imposed by this chapter pass to
8 a beneficiary taxable under KRS 140.070.

9 **(3) (a) For deaths prior to July 1, 2026,** the tax return, when required, shall be
10 filed with the department within eighteen (18) months after the death of the
11 decedent or at the time payment of the tax is made pursuant to KRS 140.210.

12 **(b) For deaths on or after July 1, 2026, the tax return, when required, shall be**
13 **filed with the department within twenty-four (24) months after the death of**
14 **the decedent or at the time payment of the tax is made pursuant to Section**
15 **33 of this Act.**

16 ~~(4)~~~~(3)~~ Except as herein provided, no action to enforce the collection of the tax
17 imposed by this chapter shall be commenced more than ten (10) years after the
18 cause of action first accrued. In case the settlement of an estate is delayed because
19 of litigation or other unavoidable cause, the delay shall suspend the limitation,
20 prescribed by this subsection, until the cause of delay is removed. In the case of a
21 fraudulent return or any other fraudulent representation affecting the amount of or
22 the liability for the tax imposed by this chapter notwithstanding any provision of
23 limitation provided elsewhere, the tax due by reason thereof may at any time be
24 assessed and collected by the methods set out in this chapter, including action in a
25 court of competent jurisdiction.

26 ➔Section 33. KRS 140.210 is amended to read as follows:

27 (1) **(a) For deaths prior to July 1, 2026,** all taxes imposed by this chapter, unless

1 otherwise provided in this chapter, shall be due at the death of the decedent
 2 and shall be payable to the Department of Revenue within eighteen (18)
 3 months thereafter. If they are paid within nine (9) months, a discount of five
 4 percent (5%) shall be allowed, and if they are paid within eighteen (18)
 5 months, no interest shall be charged and collected thereon. If the taxes due are
 6 not paid within eighteen (18) months, interest at the tax interest rate as defined
 7 in KRS 131.010~~[(6)]~~ shall be paid from the expiration of the eighteen (18)
 8 months until payment is actually made to the department.

9 **(b) For deaths on or after July 1, 2026, all taxes imposed by this chapter, unless**
 10 **otherwise provided in this chapter, shall be due at the death of the decedent**
 11 **and shall be payable to the Department of Revenue within twenty-four (24)**
 12 **months thereafter. If they are paid within fourteen (14) months, a discount**
 13 **of five percent (5%) shall be allowed, and if they are paid within twenty-four**
 14 **(24) months, no interest shall be charged and collected thereon. If the taxes**
 15 **due are not paid within twenty-four (24) months, interest at the tax interest**
 16 **rate as defined in KRS 131.010 shall be paid from the expiration of the**
 17 **twenty-four (24) months until payment is actually made to the department.**

18 (2) In all cases where the personal representatives or trustees do not pay the taxes by
 19 the applicable eighteen (18) month or twenty-four (24) month deadline
 20 established in subsection (1) of this section~~[within eighteen (18) months from the~~
 21 ~~death of the decedent]~~, they shall be required to give bond, in the form and to the
 22 effect prescribed by the department, for the payment of the taxes and interest.

23 ➔Section 34. KRS 140.222 is amended to read as follows:

24 (1) When the net tax due from a beneficiary's distributive share exceeds five thousand
 25 dollars (\$5,000), the beneficiary may elect to pay the inheritance tax in ten (10)
 26 equal installments. The first installment shall be due at the time the return is filed
 27 with succeeding payments due in annual installments beginning one (1) year after

1 the return is filed.

2 (2) **(a) For deaths prior to July 1, 2026,** the portion of the tax deferred under this
 3 section shall be charged with interest at the tax interest rate as defined in KRS
 4 131.010~~[(6)]~~ commencing eighteen (18) months after the date of death.

5 **(b) For deaths on or after July 1, 2026, the portion of the tax deferred under**
 6 **this section shall be charged with interest at the tax interest rate as defined**
 7 **in KRS 131.010 commencing twenty-four (24) months after the date of**
 8 **death.**

9 (3) When the beneficiary elects to pay the tax on **the beneficiary's**~~his~~ share as
 10 provided in this section, such election must be made in writing and signed by the
 11 beneficiary and must be filed with the Department of Revenue at the time of filing
 12 the tax return for the decedent's estate under KRS 140.160~~(3)~~~~[(2)]~~. The filing of the
 13 election together with payment of the first installment shall relieve the personal
 14 representative or trustee of the estate from further liability for the tax payments
 15 deferred under this section and the bond requirements of KRS 140.210, subject to
 16 the final approval by the Department of Revenue of all other taxes due under this
 17 chapter.

18 (4) A beneficiary electing to defer the payment of taxes under this section shall be
 19 personally liable for the amount of deferred taxes until paid.

20 (5) The period of limitations for actions to enforce the collection of taxes imposed by
 21 this chapter as provided by KRS 140.160~~(4)~~~~[(3)]~~ shall be suspended for the period
 22 of time for deferred payment granted by this section.

23 ➔Section 35. KRS 134.490 is amended to read as follows:

24 (1) (a) Within fifty (50) days after the delivery of a certificate of delinquency by the
 25 clerk to a third-party purchaser, the third-party purchaser shall send a notice to
 26 the delinquent taxpayer informing the delinquent taxpayer that the certificate
 27 of delinquency has been purchased by the third-party purchaser.

1 (b) The third-party purchaser shall send this notice once every six (6)
2 months~~[At least annually thereafter,]~~ until the notice required by subsection
3 (2) of this section is sent~~[, the third-party purchaser shall send a notice to the~~
4 ~~delinquent taxpayer]~~.

5 (c) The notices included in this subsection shall be sent by certified mail with
6 proof of mailing and include the information required by subsection (3)(d) of
7 this section. A copy of each notice shall be sent to each mortgagee who holds
8 a mortgage on the property that is the subject of the certificate of delinquency.

9 (2) Anytime after the expiration of the one (1) year tolling period established by KRS
10 134.546, the third-party purchaser may institute an action to collect the amount due
11 on a certificate of delinquency. At least forty-five (45) days before instituting a
12 legal action, the third-party purchaser shall send a notice to the taxpayer and a copy
13 of the notice to each mortgagee who holds a mortgage on the property by certified
14 mail with proof of mailing. The notice shall:

15 (a) Inform the taxpayer that enforcement action will be taken;

16 (b) Include a statement advising the taxpayer that substantial additional
17 administrative costs and fees associated with collection in addition to the
18 amount due on the certificate of delinquency may be imposed and that
19 collection actions may include foreclosure; and

20 (c) Include the information required by subsection (3) of this section.

21 The notice shall be in addition to any notice sent under subsection (1) of this
22 section.

23 (3) (a) 1. For certificates of delinquency for all property except property described
24 in paragraph (b) of this subsection, third-party purchasers or their
25 designees shall obtain from the office of the property valuation
26 administrator of the county in which the real property is located the
27 most recent address for the property owner.

- 1 2. To obtain information from the office of the property valuation
2 administrator, the third-party purchaser shall, at the option of the
3 property valuation administrator, either:
- 4 a. Obtain information from an up-to-date public access list or
5 website~~[Web site]~~ offered by the property valuation administrator;
6 or
- 7 b. Submit a list of addresses, map identification numbers, or parcel
8 numbers for which updated information is requested to the
9 property valuation administrator, who shall update his or her
10 records with regard to the properties for which information is
11 requested and provide the updated information to the third-party
12 purchaser within ten (10) days.
- 13 3. For this service, the property valuation administrator may charge a fee
14 not to exceed two dollars (\$2) for each address provided or obtained.
- 15 4. Except as provided in paragraph (b) of this subsection, the third-party
16 purchaser shall send the notices required by subsections (1) and (2) of
17 this section to the address provided by the property valuation
18 administrator. Unless the provisions of subparagraph 7. of this
19 paragraph apply, the third-party purchaser shall not be required to send a
20 notice to any party other than the owner of record as provided by the
21 property valuation administrator at the time the notice is sent and the
22 mortgagee as required by subsections (1) and (2) of this section.
- 23 5. If, due to insufficient staffing, the property valuation administrator is
24 unable to provide the requested information to the third-party purchaser
25 within ten (10) days of submission, the property valuation administrator
26 shall immediately notify the third-party purchaser, and the third-party
27 purchaser may send the notices required by subsections (1) and (2) of

1 this section to the address reflected in the public records of the property
2 valuation administrator.

3 6. Any notices sent pursuant to information obtained under this paragraph
4 that are returned as undeliverable shall be re-sent by certified mail with
5 proof of mailing addressed to the "Occupant" at the address of the
6 property that is the subject of the certificate of delinquency. These
7 notices shall be sent within twenty (20) days of receipt of the returned
8 notice.

9 7. If a third-party purchaser becomes aware of a more recent or more
10 accurate address for a delinquent taxpayer that is different from the
11 address reflected in the records of the property valuation administrator,
12 the third-party purchaser shall send notices to the updated address in the
13 manner required by this subsection, and shall notify the property
14 valuation administrator of the updated address.

15 8. If a third-party purchaser receives an address from the property
16 valuation administrator during an address check after a first notice is
17 sent and returned as undeliverable, and the address is the same as was
18 originally provided, the third-party purchaser shall send the notice
19 addressed to "Occupant" at the address of the property that is the subject
20 of the certificate of delinquency in the manner required by this
21 subsection.

22 (b) 1. For certificates of delinquency relating to unmined coal, oil or gas
23 reserves, or any other mineral or energy resources assessed separately
24 from the surface real property pursuant to KRS 132.820, third-party
25 purchasers or their designees shall obtain from the department the most
26 recent address for the property owner.

27 2. To obtain information about a particular property, the third-party

- 1 purchaser shall submit to the department a list of addresses, map
2 identification numbers, parcel numbers, and any other information the
3 department may require. The department shall:
- 4 a. Update its records with regard to the properties for which
5 information is requested; and
 - 6 b. Provide the updated information to the third-party purchaser
7 within ten (10) business days.
- 8 3. For this service, the department may charge a fee not to exceed two
9 dollars (\$2) for each address provided.
- 10 4. The third-party purchaser shall send the notices required by subsections
11 (1) and (2) of this section relating to unmined coal, oil or gas reserves,
12 or any other mineral or energy resources assessed separately from the
13 surface real property pursuant to KRS 132.820 to the address provided
14 by the department. Unless the provisions of subparagraph 5.f. of this
15 paragraph apply, the third-party purchaser shall not be required to send a
16 notice to any party other than the owner of record as provided by the
17 department at the time the notice is sent and the mortgagee as required
18 by subsections (1) and (2) of this section.
- 19 5. a. Any notice sent pursuant to subsections (1) and (2) of this section
20 based on information obtained pursuant to this paragraph and
21 returned as undeliverable shall be submitted to the department
22 within ten (10) days of receipt of the returned notice.
 - 23 b. The department shall attempt to obtain an updated address for the
24 owner of the property subject to the certificate of delinquency
25 from the individual or entity filing the property tax return for the
26 property.
 - 27 c. The individual or entity filing the property tax return shall provide

- 1 an address of the property owner upon request of the department.
- 2 d. The department shall provide any updated address information to
- 3 the third-party purchaser.
- 4 e. If updated information is provided, the notices shall be re-sent by
- 5 certified mail with proof of mailing to the updated address of the
- 6 owner within ten (10) days of the receipt of the updated
- 7 information from the department.
- 8 f. If a third-party purchaser becomes aware of a more recent or more
- 9 accurate address for a delinquent taxpayer that is different from the
- 10 address reflected in the records of the department, the third-party
- 11 purchaser shall send notices to the updated address in the manner
- 12 required by this subsection, and shall notify the department of the
- 13 updated address.
- 14 (c) The third-party purchaser shall maintain complete and accurate records of all
- 15 notices sent pursuant to this section.
- 16 (d) The notices required by this section shall include the following information:
- 17 1. A statement that the certificate of delinquency is a lien of record against
- 18 the property for which delinquent taxes are owed;
- 19 2. A statement that the certificate bears interest at the rate provided in KRS
- 20 134.125;
- 21 3. A statement that if the certificate is not paid, it will be subject to
- 22 collection as provided by law, and that collection actions may include
- 23 foreclosure. The notice required by subsection (2) of this section shall
- 24 also include a statement of the intent to institute legal action to collect
- 25 the amount due;
- 26 4. A complete listing of the amount due, as of the date of the notice,
- 27 broken down as follows:

- 1 a. The purchase price of the certificate of delinquency;
- 2 b. Interest accrued subsequent to the purchase of the certificate of
- 3 delinquency; and
- 4 c. Fees imposed by the third-party purchaser;
- 5 5. If the third-party purchaser is required to register with the department as
- 6 provided in KRS 134.128(3), for certificates of delinquency purchased
- 7 after June 1, 2012, a statement informing the taxpayer that upon written
- 8 request and the payment of a processing fee, the third-party purchaser
- 9 will offer a payment plan; and
- 10 6. Information, in a format and with content as determined by the
- 11 department, detailing the provisions of the law relating to third-party
- 12 purchaser fees and charges.
- 13 (e) In addition, the notice shall provide the following information to the taxpayer:
- 14 1. The legal name of the third-party purchaser;
- 15 2. The third-party purchaser's physical address;
- 16 3. The third-party purchaser's mailing address for payments, if different
- 17 from the physical address; and
- 18 4. The third-party purchaser's telephone number.

19 If the information required by this paragraph changes, the third-party
20 purchaser shall, within thirty (30) days of the change becoming effective, send
21 a notice to each taxpayer by certified mail with proof of mailing with the
22 corrected information. The third-party purchaser shall also update contact
23 information included in the records of the county clerk within ten (10) days of
24 the change becoming effective. Failure to send the original notice or any
25 correction notices shall result in the suspension of the accrual of all interest
26 and any fees incurred by the third-party purchaser after that date until proper
27 notice is given as required by this subsection.

- 1 (4) If a person entitled to pay a certificate of delinquency to a third-party purchaser
2 makes payment on the certificate of delinquency to the county clerk under the
3 conditions described in KRS 134.127(3)(d), the payment shall constitute payment in
4 full, and no other amounts may be collected by the third-party purchaser from the
5 person.
- 6 (5) (a) For certificates of delinquency purchased after June 1, 2012, at the written
7 request of a delinquent taxpayer, a third-party purchaser required to register
8 with the department as provided in KRS 134.128(3) shall provide a monthly
9 installment payment plan to a taxpayer.
- 10 (b) The taxpayer and third-party purchaser shall sign an agreement detailing the
11 terms of the installment payment plan.
- 12 (c) The third-party purchaser may impose a processing fee, not to exceed eight
13 dollars (\$8) per month to offset the administrative cost of providing the
14 payment plan. No other fees, charges, interest, or other amounts not expressly
15 authorized by this chapter shall be charged, assessed, or collected by the third-
16 party purchaser.
- 17 (d) The existence of an agreement to provide a payment plan shall not impact the
18 right of the third-party purchaser to pursue legal action if the delinquent
19 taxpayer fails to follow the terms of the installment payment agreement.
- 20 (e) Upon default of a delinquent taxpayer:
- 21 1. The third-party purchaser shall retain all amounts paid, which shall be
22 applied to the outstanding balance due; and
- 23 2. The third-party purchaser shall not be required to offer the delinquent
24 taxpayer another opportunity for an installment payment plan.
- 25 (f) If a third-party purchaser who was required to offer payment plans pursuant to
26 paragraph (a) of this subsection, subsequently does not purchase a sufficient
27 number of certificates of delinquency to require registration with the

1 department, the third-party purchaser shall continue to offer payment plans
 2 under the conditions established by this subsection for all delinquent
 3 taxpayers whose certificates of delinquency were purchased during a period in
 4 which the third-party purchaser was required to register with the department.

5 (g) A third-party purchaser who is not required to register with the department as
 6 provided in KRS 134.128(3), or who holds certificates of delinquency
 7 purchased prior to June 1, 2012, may voluntarily offer installment payment
 8 plans to delinquent taxpayers in accordance with the provisions of this
 9 subsection.

10 (h) The department may establish additional terms and conditions for installment
 11 payment plans in an administrative regulation.

12 (6) Any person to whom a third-party purchaser transfers or assigns a
 13 certificate of delinquency shall be considered a third-party purchaser
 14 under this chapter.

15 ➔Section 36. KRS 138.130 is amended to read as follows:

16 As used in KRS 138.130 to 138.205:

17 (1) ~~{(a)-}~~"Chewing tobacco":

18 (a) Means any leaf tobacco that is not intended to be smoked;~~{and}~~

19 (b) Includes loose leaf chewing tobacco, plug chewing tobacco, and twist
 20 chewing tobacco;and~~{~~

21 ~~{(b)-}~~"Chewing tobacco":

22 (c) Does not include snuff;

23 (2) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any
 24 substitute for tobacco, irrespective of size or shape and whether or not the tobacco
 25 is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of
 26 which is made of paper or any other substance or material, except tobacco;

27 (3) "Cigarette tax" means the group of taxes consisting of:

- 1 (a) The tax imposed by KRS 138.140(1)(a);
 2 (b) The surtax imposed by KRS 138.140(1)(b); and
 3 (c) The surtax imposed by KRS 138.140(1)(c);

4 (4) ~~[(a)]~~ "Closed vapor cartridge":

5 **(a)** Means a pre-filled disposable cartridge that:

- 6 1. Is intended to be used with or in a noncombustible product that employs
 7 a heating element, battery, power source, electronic circuit, or other
 8 electronic, chemical, or mechanical means, regardless of shape or size,
 9 to deliver vaporized or aerosolized nicotine, non-nicotine substances, or
 10 other materials to users that may be inhaling from the product, **including**
 11 **but not limited to** ~~[such as]~~ any electronic cigarette, electronic cigar,
 12 electronic cigarillo, electronic pipe, or other similar product or device
 13 and every variation thereof, regardless of whether marketed as **one of**
 14 **these products** ~~[such]~~; and
 15 2. Contains nicotine or non-nicotine substances or other material consumed
 16 during the process of vaporization or aerosolization; **and** ~~[]~~

17 (b) ~~["Closed vapor cartridge"]~~ Does not include any product regulated as a drug
 18 or device by the United States Food and Drug Administration under Chapter
 19 V of the Food, Drug, and Cosmetic Act;

20 (5) "Department" means the Department of Revenue;

21 (6) "Distributor" means any person **located:**

22 **(a) In this state or outside** ~~[within]~~ this state in possession of tobacco products or
 23 vapor products for resale within this state; **or**

24 **(b) Outside this state selling tobacco products or vapor products to consumers**
 25 **in this state;**

26 on which the tobacco products tax imposed under KRS 138.140(2) has not been
 27 paid;

- 1 (7) "Half-pound unit" means a consumer-sized container, pouch, or package:
- 2 (a) Containing at least four (4) ounces but not more than eight (8) ounces of
- 3 chewing tobacco by net weight;
- 4 (b) Produced by the manufacturer to be sold to consumers as a half-pound unit
- 5 and not produced to be divided or sold separately; and
- 6 (c) Containing one (1) individual container, pouch, or package;
- 7 (8) "Manufacturer" means any person who manufactures or produces cigarettes or
- 8 tobacco products within or without this state;
- 9 (9) "Nonresident wholesaler" means any person who purchases cigarettes directly from
- 10 the manufacturer and maintains a permanent location outside this state where
- 11 Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is
- 12 reported and paid;
- 13 (10) ~~[(a)]~~ "Open vaping system":
- 14 (a) Means:
- 15 1. Any noncombustible product that employs a heating element, battery,
- 16 power source, electronic circuit, or other electronic, chemical, or
- 17 mechanical means, regardless of shape or size~~[and including the~~
- 18 ~~component parts and accessories thereto,]~~ that uses a refillable liquid
- 19 solution to deliver vaporized or aerosolized nicotine, non-nicotine
- 20 substances, or other materials to users that may be inhaling from the
- 21 product; and
- 22 2. Any liquid solution that is intended to be used with the product
- 23 described in subparagraph 1. of this paragraph;
- 24 (b) Includes:~~[such as]~~
- 25 1. Any electronic cigarette, electronic cigar, electronic cigarillo, electronic
- 26 pipe, or similar product or device and every variation thereof, regardless
- 27 of whether marketed as one of those products~~[such];~~ and

1 2. Any component parts to or accessories for a product described in
 2 paragraph (a)1. of this subsection; and ~~liquid solution that is intended~~
 3 ~~to be used with the product described in subparagraph 1. of this~~
 4 ~~paragraph.~~

5 ~~(c)(b)~~ ~~["Open-vaping system"]~~ Does not include any product regulated as a
 6 drug or device by the United States Food and Drug Administration under
 7 Chapter V of the Food, Drug, and Cosmetic Act;

8 (11) "Person" means:

9 (a) Any individual, firm, copartnership, joint venture, association, municipal
 10 corporation, or private corporation, whether organized for profit or not;~~;~~

11 (b) The Commonwealth of Kentucky or any of its political subdivisions; ~~and~~;

12 (c) An estate, trust, or any other group or combination acting as a unit;

13 (12) "Pound unit" means a consumer-sized container, pouch, or package:

14 (a) Containing more than eight (8) ounces but not more than sixteen (16) ounces
 15 of chewing tobacco by net weight;

16 (b) Produced by the manufacturer to be sold to consumers as a pound unit and not
 17 produced to be divided or sold separately; and

18 (c) Containing one (1) individual container, pouch, or package;

19 (13) "Premium cigar" means a cigar that:

20 (a) Is:

21 1. Wrapped in whole tobacco leaf; and

22 2. Handmade or hand rolled;

23 (b) Contains:

24 1. No ingredients or additives, except tobacco, water, and vegetable gum;

25 2. A one hundred percent (100%) leaf tobacco binder; and

26 3. At least fifty percent (50%) of the filler tobacco by weight of long filler
 27 tobacco;

1 (c) Does not have a:

2 1. Filter, tobacco tip, or nontobacco mouthpiece; or

3 2. Characterizing flavor other than tobacco; and

4 (d) Weighs more than six (6) pounds per one thousand (1,000) units;

5 (14) "Reference products" means tobacco products, vapor products, or cigarettes made
6 by a manufacturer specifically for an accredited state college or university to be
7 held by the college or university until sale or transfer to a laboratory, hospital,
8 medical center, institute, college or university, manufacturer, or other institution;

9 (15)~~(14)~~ "Resident wholesaler" means any person who purchases at least seventy-five
10 percent (75%) of all cigarettes purchased by the wholesaler directly from the
11 manufacturer on which the cigarette tax is unpaid, and who maintains an
12 established place of business in this state where the wholesaler attaches cigarette tax
13 evidence or receives untax-paid cigarettes;

14 (16)~~(15)~~ "Retail distributor" means a retailer who has obtained a retail distributor's
15 license under KRS 138.195;

16 (17)~~(16)~~ "Retailer" means any person who sells to a consumer or to any person for any
17 purpose other than resale;

18 (18)~~(17)~~ "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift,
19 offer for sale, advertising for sale, soliciting an order for cigarettes ~~or~~ tobacco
20 products, or vapor products, and distribution in any manner or by any means
21 whatsoever;

22 (19)~~(18)~~ "Sale at retail" means a sale to any person for any other purpose other than
23 resale;

24 (20)~~(19)~~ "Single unit" means a consumer-sized container, pouch, or package:

25 (a) Containing less than four (4) ounces of chewing tobacco by net weight;

26 (b) Produced by the manufacturer to be sold to consumers as a single unit and not
27 produced to be divided or sold separately; and

1 (c) Containing one (1) individual container, pouch, or package;

2 ~~(21)~~~~(20)~~—(a) "Snuff":

3 (a) Means tobacco that:

4 1. Is finely cut, ground, or powdered; and

5 2. Is not for smoking; ~~and~~.

6 (b) ~~"Snuff"~~Includes snus;

7 ~~(22)~~~~(21)~~ "**Subjobber**"~~"Sub-jobber"~~ means any person who purchases cigarettes from
8 a resident wholesaler, nonresident wholesaler, or unclassified acquirer licensed
9 under KRS 138.195 on which the cigarette tax has been paid and makes them
10 available to retailers for resale. ~~A~~~~No~~ person shall **not** make cigarettes available to
11 retailers for resale unless the person certifies and establishes to the satisfaction of
12 the department that firm arrangements have been made to regularly supply at least
13 five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular
14 course of business;

15 ~~(23)~~~~(22)~~ "Tax evidence" means any stamps, metered impressions, or other indicia
16 prescribed by the department **within an**~~by~~ administrative regulation **promulgated**
17 **in accordance with KRS Chapter 13A** as a means of denoting the payment of
18 cigarette taxes;

19 ~~(24)~~~~(23)~~ "Tobacco products" means any smokeless tobacco products, smoking tobacco,
20 chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for
21 chewing or smoking, or both, or any kind or form of tobacco that is suitable to be
22 placed in an individual's oral cavity, except cigarettes;

23 ~~(25)~~~~(24)~~ "Tobacco products tax" means the tax imposed by KRS 138.140(2)(a)1. to
24 ~~4~~~~3~~;

25 ~~(26)~~~~(25)~~ "Transporter" means any person transporting untax-paid cigarettes obtained
26 from any source to any destination within this state, other than cigarettes
27 transported by the manufacturer thereof;

1 ~~(27)~~~~(26)~~ "Unclassified acquirer" means any person in this state who acquires cigarettes
 2 from any source on which the cigarette tax has not been paid, and who is not a
 3 person otherwise required to be licensed under KRS 138.195;

4 ~~(28)~~~~(27)~~ "Untax-paid cigarettes" means any cigarettes on which the cigarette tax
 5 imposed by KRS 138.140 has not been paid;

6 ~~(29)~~~~(28)~~ "Untax-paid tobacco or vapor products" means any tobacco products or vapor
 7 products on which the tax imposed by KRS 138.140(2) has not been paid;

8 ~~(30)~~~~(29)~~ "Vapor products" means a closed vapor cartridge or an open vaping system;

9 ~~(31)~~~~(30)~~ "Vapor products tax" means tax imposed under KRS 138.140(2)(a)~~[4. and]~~5.
 10 **and 6.**; and

11 ~~(32)~~~~(31)~~ "Vending machine operator" means any person **that**~~[who]~~ operates one (1) or
 12 more **vending machines containing cigarettes, tobacco products, vapor products,**
 13 **or a combination thereof**~~[cigarette vending machines].~~

14 ➔Section 37. KRS 138.140 is amended to read as follows:

15 (1) (a) A tax shall be paid on the sale of cigarettes within the state at a proportionate
 16 rate of three cents (\$0.03) on each twenty (20) cigarettes.

17 (b) Effective July 1, 2018, a surtax shall be paid in addition to the tax levied in
 18 paragraph (a) of this subsection at a proportionate rate of one dollar and six
 19 cents (\$1.06) on each twenty (20) cigarettes.

20 (c) A surtax shall be paid in addition to the tax levied in paragraph (a) of this
 21 subsection and in addition to the surtax levied by paragraph (b) of this
 22 subsection, at a proportionate rate of one cent (\$0.01) on each twenty (20)
 23 cigarettes. The revenues from this surtax shall be deposited in the cancer
 24 research institutions matching fund created in KRS 164.043.

25 (d) The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be
 26 paid at the time that the tax imposed by paragraph (a) of this subsection is
 27 paid.

1 (2) (a) An excise tax is hereby imposed upon every distributor for the privilege of
2 selling tobacco products in this state at the following rates:

- 3 1. Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-
4 half (1-1/2) ounces or portion thereof by net weight sold;
- 5 2. Upon chewing tobacco at the rate of:
 - 6 a. Nineteen cents (\$0.19) per each single unit sold;
 - 7 b. Forty cents (\$0.40) per each half-pound unit sold; or
 - 8 c. Sixty-five cents (\$0.65) per each pound unit sold.

9 If the container, pouch, or package on which the tax is levied contains
10 more than sixteen (16) ounces by net weight, the rate that shall be
11 applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus
12 nineteen cents (\$0.19) for each increment of four (4) ounces or portion
13 thereof exceeding sixteen (16) ounces sold;

- 14 3. *a. On or after July 1, 2026, upon premium cigars, at the rate of*
15 *fifteen percent (15%) of the actual price for which the distributor*
16 *sells premium cigars within the Commonwealth, except that the*
17 *tax on premium cigars shall not exceed a maximum amount*
18 *equal to sixty cents (\$0.60) per premium cigar sold within the*
19 *Commonwealth.*

20 *b. Beginning July 1, 2027, and every July 1 thereafter:*

- 21 *i. The maximum amount to be levied on premium cigars shall*
22 *be adjusted by the percent increase in the nonseasonally*
23 *adjusted annual average Consumer Price Index for All*
24 *Urban Consumers (CPI-U), U.S. City Average, Tobacco*
25 *products other than cigarettes, between the two (2) most*
26 *recent calendar years available, as published by the United*
27 *States Bureau of Labor Statistics and rounded to the*

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nearest cent.

ii. Notification of the change in the maximum amount to be levied shall be published on the department's website at least twenty (20) days in advance of July 1 of each calendar year;

4. a. Prior to July 1, 2026, upon tobacco products sold, at the rate of fifteen percent (15%) of the actual price for which the distributor sells tobacco products, except snuff and chewing tobacco, within the Commonwealth; and

b. On or after July 1, 2026, upon tobacco products sold, at the rate of fifteen percent (15%) of the actual price for which the distributor sells tobacco products, except snuff, chewing tobacco, and premium cigars, within the Commonwealth;

~~5.14.~~ Upon closed vapor cartridges, one dollar and fifty cents (\$1.50) per cartridge; and

~~6.15.~~ Upon open vaping systems, fifteen percent (15%) of the actual price for which the distributor sells:

- a. The open vaping system when the actual price includes the items described in both KRS 138.130(10)(a)~~1.~~ and (b)~~2.~~; or
- b. The liquid solution described in KRS 138.130(10)(a)2. when the solution is sold separately.

(b) The net weight posted by the manufacturer on the container, pouch, or package or on the manufacturer's invoice shall be used to calculate the tax due on snuff or chewing tobacco.

(c) 1. A retailer located in this state shall not purchase tobacco products for resale to consumers from any person within or outside this state unless that person is a distributor licensed under KRS 138.195(7)(a) or the

- 1 retailer applies for and is granted a retail distributor's license under KRS
 2 138.195(7)(b) for the privilege of purchasing untax-paid tobacco
 3 products and remitting the tax as provided in this paragraph.
- 4 2. A licensed retail distributor of tobacco products shall be subject to the
 5 excise tax as follows:
- 6 a. On purchases of untax-paid snuff, at the same rate levied by
 7 paragraph (a)1. of this subsection;
- 8 b. On purchases of untax-paid chewing tobacco, at the same rates
 9 levied by paragraph (a)2. of this subsection;
- 10 c. *On purchases of untax-paid premium cigars, at the same rate*
 11 *levied by paragraph (a)3. of this subsection;*
- 12 *d.* On purchases of untax-paid tobacco products, except snuff,
 13 *premium cigars,* and chewing tobacco, fifteen percent (15%) of
 14 the total purchase price as invoiced by the retail distributor's
 15 supplier;
- 16 *e.*~~[d.]~~ On purchases of untax-paid closed vapor cartridges, at the same
 17 rate levied by paragraph (a)*5.*~~[4.]~~ of this subsection; and
- 18 *f.*~~[e.]~~ On purchases of untax-paid open vaping systems, fifteen percent
 19 (15%) of the total purchase price as invoiced by the retail
 20 distributor's supplier as described in paragraph (a)*6.*~~[5.]~~ of this
 21 subsection.
- 22 (d) 1. The licensed distributor that first possesses tobacco products or vapor
 23 products for sale to a retailer in this state or for sale to a person who is
 24 not licensed under KRS 138.195(7) shall be the distributor liable for the
 25 tax imposed by this subsection except as provided in subparagraph 2. of
 26 this paragraph.
- 27 2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco

- 1 products or vapor products to another distributor licensed under KRS
2 138.195(7)(a) without payment of the excise tax. In such case, the
3 purchasing licensed distributor shall be the distributor liable for the tax.
- 4 3. A licensed distributor or licensed retail distributor shall:
- 5 a. Identify and display the distributor's or retail distributor's license
6 number on the invoice to the retailer; and
- 7 b. Identify and display the excise tax separately on the invoice to the
8 retailer. If the excise tax is included as part of the product's sales
9 price, the licensed distributor or licensed retail distributor shall list
10 the total excise tax in summary form by tax type with invoice
11 totals.
- 12 4. It shall be presumed that the excise tax has not been paid if the licensed
13 distributor or licensed retail distributor does not comply with
14 subparagraph 3. of this paragraph.
- 15 (e) ~~A tax~~ tax shall **not** be imposed on tobacco products or vapor products under
16 this subsection that are **outside**~~[not within]~~ the taxing power of this state under
17 the Commerce Clause of the United States Constitution.
- 18 (3) (a) The taxes imposed by subsections (1) and (2) of this section:
- 19 1. Shall not apply to reference products; and
- 20 2. Shall be paid only once, regardless of the number of times the cigarettes
21 or tobacco products may be sold.
- 22 (b) The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this
23 section shall be reduced by:
- 24 1. Fifty percent (50%) on any product as to which a modified risk tobacco
25 product order is issued under 21 U.S.C. sec. 387k(g)(1); or
- 26 2. Twenty-five percent (25%) for any product as to which a modified risk
27 tobacco product order is issued under 21 U.S.C. sec. 387k(g)(2).

- 1 (4) A reference product shall carry a marking labeling the contents as a research
2 cigarette, research vapor product, or a research tobacco product to be used only for
3 tobacco-health research and experimental purposes and shall not be offered for sale,
4 sold, or distributed to consumers.
- 5 (5) The department may prescribe forms and promulgate administrative regulations to
6 execute and administer the provisions of this section.
- 7 (6) The General Assembly recognizes that increasing taxes on tobacco products should
8 reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The
9 relative taxes on tobacco products proposed in this section reflect the growing data
10 from scientific studies suggesting that although smokeless tobacco poses some
11 risks, those health risks are significantly less than the risks posed by other forms of
12 tobacco products. Moreover, the General Assembly acknowledges that some in the
13 public health community recognize that tobacco harm reduction should be a
14 complementary public health strategy regarding tobacco products. Taxing tobacco
15 products according to relative risk is a rational tax policy and may well serve the
16 public health goal of reducing smoking-related mortality and morbidity and
17 lowering health care costs associated with tobacco-related disease.
- 18 (7) Any person subject to the taxes imposed under subsections (1) and (2) of this
19 section that:
- 20 (a) Files an application related to a modified risk tobacco product shall report to
21 the department that an application has been filed within thirty (30) days of
22 that filing; and
- 23 (b) Receives an order authorizing the marketing of a modified risk tobacco
24 product shall report to the department that an authorizing order has been
25 received.
- 26 (8) Upon receipt of the information required by subsection (7)(b) of this section, the
27 department shall reduce the tax imposed on the modified risk tobacco product as

1 required by subsection (3)(b) of this section on the first day of the calendar month
2 following the expiration of forty-five (45) days following receipt of the information
3 required by subsection (7)(b) of this section.

4 ➔Section 38. KRS 138.143 is amended to read as follows:

5 (1) Every retailer, subjobber~~[sub-jobber]~~, resident wholesaler, nonresident wholesaler,
6 and unclassified acquirer shall:

7 (a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax
8 stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or
9 in their control at 11:59 p.m. on June 30, 2018. Inventory of cigarettes in
10 vending machines may be accomplished by:

- 11 1. Taking an actual physical inventory;
- 12 2. Estimating the cigarettes in vending machines by reporting one-half
13 (1/2) of the normal fill capacity of the machines, as reflected in
14 individual inventory records maintained for vending machines; or
- 15 3. Using a combination of the methods prescribed in subparagraphs 1. and
16 2. of this paragraph;

17 (b) File a return with the department on or before July 10, 2018, showing the
18 entire wholesale and retail inventories of cigarettes in packages bearing
19 Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps
20 possessed by them or in their control at 11:59 p.m. on June 30, 2018; and

21 (c) Pay a floor stock tax at a proportionate rate equal to fifty cents (\$0.50) on
22 each twenty (20) cigarettes in packages bearing a Kentucky tax stamp and
23 unaffixed Kentucky tax stamps in their possession or control at 11:59 p.m. on
24 June 30, 2018.

25 (2) Every retailer and subjobber~~[sub-jobber]~~ shall:

26 (a) 1. Take a physical inventory of all units of snuff possessed by them or in
27 their control at 11:59 p.m. on March 31, 2009;

- 1 2. File a return with the department on or before April 10, 2009, showing
2 the entire inventory of snuff possessed by them or in their control at
3 11:59 p.m. on March 31, 2009; and
- 4 3. Pay a floor stock tax at a proportionate rate equal to nine and one-half
5 cents (\$0.095) on each unit of snuff in their possession or control at
6 11:59 p.m. on March 31, 2009; and
- 7 (b) 1. a. Take a physical inventory of all other tobacco products possessed
8 by them or in their control at 11:59 p.m. on March 31, 2009;
- 9 b. File a return with the department on or before April 10, 2009,
10 showing the entire inventories of other tobacco products possessed
11 by them or in their control at 11:59 p.m. on March 31, 2009; and
- 12 c. Pay a floor stock tax at a proportionate rate equal to seven and
13 one-half percent (7.5%) on the purchase price of other tobacco
14 products in their possession or control at 11:59 p.m. on March 31,
15 2009.
- 16 2. a. As used in this paragraph, "purchase price" means the actual
17 amount paid for the other tobacco products subject to the tax
18 imposed by this paragraph.
- 19 b. If the retailer or subjobber~~sub-jobber~~ cannot determine the
20 actual amount paid for each item of other tobacco product, the
21 retailer or subjobber~~sub-jobber~~ may use as the purchase price
22 the amount per unit paid as reflected on the most recent invoice
23 received prior to April 1, 2009, for the same category of other
24 tobacco product.
- 25 c. To prevent double taxation, if the invoice used by the retailer or
26 subjobber~~sub-jobber~~ to determine the purchase price of the
27 other tobacco product does not separately state the tax paid by the

1 wholesaler, the retailer or subjobber~~sub-jobber~~ may reduce the
2 amount paid per unit by seven and one-half percent (7.5%).

3 (3) (a) The taxes imposed by this section may be paid in three (3) installments. The
4 first installment, in an amount equal to at least one-third (1/3) of the total
5 amount due, shall be remitted with the return provided by the department on
6 or before July 10, 2018. The second installment, in an amount that brings the
7 total amount paid to at least two-thirds (2/3) of the total amount due, shall be
8 remitted on or before August 10, 2018. The third installment, in an amount
9 equal to the remaining balance, shall be remitted on or before September 10,
10 2018.

11 (b) Interest shall not be imposed against any outstanding installment payment not
12 yet due from any retailer, subjobber~~sub-jobber~~, resident wholesaler,
13 nonresident wholesaler, or unclassified acquirer who files the return and
14 makes payments as required under this section.

15 (c) Any retailer, subjobber~~sub-jobber~~, resident wholesaler, nonresident
16 wholesaler, or unclassified acquirer who fails to file a return or make a
17 payment on or before the dates provided in this section shall, in addition to the
18 tax, pay interest at the tax interest rate as defined in KRS 131.010(6) from the
19 date on which the return was required to be filed.

20 ➔Section 39. KRS 138.146 is amended to read as follows:

21 (1) The cigarette tax shall be due when any licensed wholesaler or unclassified acquirer
22 takes possession within this state of untax-paid cigarettes.

23 (2) (a) The cigarette tax shall be paid by the purchase of stamps by a resident
24 wholesaler within forty-eight (48) hours after the wholesaler receives the
25 cigarettes.

26 (b) A stamp shall be affixed to each package of an aggregate denomination not
27 less than the amount of the cigarette tax on the package.

- 1 (c) The affixed stamp shall be prima facie evidence of payment of the cigarette
2 tax.
- 3 (d) Unless stamps have been previously affixed, they shall be affixed by each
4 resident wholesaler prior to the delivery of any cigarettes to a retail location or
5 any person in this state.
- 6 (e) The evidence of cigarette tax payment shall be affixed to each individual
7 package of cigarettes by a nonresident wholesaler prior to the introduction or
8 importation of the cigarettes into the territorial limits of this state.
- 9 (f) The evidence of cigarette tax payment shall be affixed by an unclassified
10 acquirer within twenty-four (24) hours after the cigarettes are received by the
11 unclassified acquirer.
- 12 (3) (a) The department shall, by an administrative regulation promulgated in
13 accordance with KRS Chapter 13A, prescribe the form of cigarette tax
14 evidence, the method and manner of the sale and distribution of cigarette tax
15 evidence, and the method and manner that tax evidence shall be affixed to the
16 cigarettes.
- 17 (b) All cigarette tax evidence prescribed by the department shall be designed and
18 furnished in a fashion to permit identification of the person that affixed the
19 cigarette tax evidence to the particular package of cigarettes, by means of
20 numerical rolls or other mark on the cigarette tax evidence.
- 21 (c) The department shall maintain for at least three (3) years information
22 identifying the person that affixed the cigarette tax evidence to each package
23 of cigarettes. This information shall not be kept confidential or exempt from
24 disclosure to the public through open records.
- 25 (4) (a) Units of cigarette tax evidence shall be sold at their face value, but the
26 department shall allow as compensation to any licensed wholesaler an amount
27 of tax evidence equal to a proportionate rate of one and one-half cents

1 (\$0.015) on each twenty (20) cigarettes.

2 (b) The department shall have the power to withhold compensation as provided in
3 paragraph (a) of this subsection from any licensed wholesaler for failure to
4 abide by any provisions of KRS 138.130 to 138.205 or any administrative
5 regulations promulgated thereunder. Any refund or credit for unused cigarette
6 tax evidence shall be reduced by the amount allowed as compensation at the
7 time of purchase.

8 (5) (a) Payment for units of cigarette tax evidence shall be made at the time the units
9 are sold, unless the licensed wholesaler:

10 1. Has filed with the department a bond, issued by a corporation authorized
11 to do surety business in Kentucky, in an amount:

12 a. Determined by the department; or

13 b. i. Not less than the monthly average of payments by the
14 wholesaler for the units of cigarette tax evidence purchased
15 in the immediately preceding calendar year, which may be
16 delayed under paragraph (b) of this subsection; and

17 ii. No greater than ten million dollars (\$10,000,000); and

18 2. Has registered and agrees to make the payment of tax to the department
19 electronically.

20 ~~[At no time shall]~~ The licensed wholesaler ***shall not*** be allowed to delay any
21 payment for units of cigarette tax evidence, including tax, penalty, interest, or
22 collection fees, which would exceed the amount of bond filed with the
23 department.

24 (b) Except as provided in paragraph (c) of this subsection, if the licensed
25 wholesaler qualifies under paragraph (a) of this subsection, the licensed
26 wholesaler shall have ten (10) days from the date of purchase to remit
27 payment of cigarette tax, without the assessment of civil penalties under KRS

- 1 131.180 or interest under KRS 131.183 during the ten (10) day period.
- 2 (c) 1. The ten (10) day payment period under paragraph (b) of this subsection
3 shall not apply to the payment for units of cigarette tax evidence during
4 the last ten (10) days of the month of June during each fiscal year.
- 5 2. All payments for units of cigarette tax evidence made under paragraph
6 (b) of this subsection during the month of June shall be made the earlier
7 of:
8 a. The ten (10) day period; or
9 b. June 25.
- 10 (d) If the licensed wholesaler does not make the payment of cigarette tax within
11 the ten (10) day period, or within the period of time under paragraph (c) of
12 this subsection, the department shall:
13 1. Revoke the license required under KRS 138.195;
14 2. Issue a demand for payment in an amount equal to the cigarette tax
15 evidence purchased, plus all penalties, interest, and collection fees
16 applicable, up to the amount of the required bond; and
17 3. Require immediate payment of the bond.
- 18 (6) (a) The bond required under subsection (5) of this section shall be on a form and
19 with a surety approved by the department.
20 (b) The licensed wholesaler shall be named as the principal obligor and the
21 department shall be named as the obligee within the bond.
22 (c) The bond shall be conditioned upon the payment by the licensed wholesaler of
23 all cigarette tax imposed by the Commonwealth.
24 (d) The provisions of KRS 131.110 shall not apply to the demand for payment
25 required under subsection (5)(c)2. of this section.
- 26 (7) (a) ~~[-No-]~~ Tax evidence ***shall not***~~[-may-]~~ be affixed~~[-]~~ or used in any way~~[-]~~ by any
27 person other than the person purchasing the ***tax*** evidence from the department.

- 1 (b) Tax evidence ~~shall~~~~may~~ not be transferred or negotiated, and ~~shall~~~~may~~ not,
2 by any scheme or device, be given, bartered, sold, traded, or loaned to any
3 other person.
- 4 (c) Unaffixed tax evidence may be returned to the department for credit or refund
5 for any reason satisfactory to the department.
- 6 (8) (a) In the event any retailer ~~takes~~~~receives into his~~ possession ***of*** cigarettes to
7 which evidence of Kentucky tax payment is not properly affixed, the retailer
8 shall, within twenty-four (24) hours, notify the department of the receipt.
- 9 (b) The notification to the department shall be in writing, stating the name of the
10 person from whom the cigarettes were received and the quantity of those
11 cigarettes.
- 12 (c) The written notice may be:
- 13 1. Given to any field agent of the department; or
14 2. Directed to the commissioner of the Department of Revenue, Frankfort,
15 Kentucky.
- 16 (d) If the notice is given by means of the United States mail, it shall be sent by
17 certified mail.
- 18 (e) Any ~~such~~ cigarettes ***to which evidence of Kentucky tax payment is not***
19 ***properly affixed*** shall be retained by the retailer, and not sold, for a period of
20 fifteen (15) days after giving the notice provided in this subsection.
- 21 (f) The retailer may, at ***the retailer's***~~his~~ option, pay the tax due on those
22 cigarettes according to administrative regulations prescribed by the
23 department, and proceed to sell those cigarettes after the payment.
- 24 (9) (a) Cigarettes stamped with the cigarette tax evidence of another state shall at no
25 time be commingled with cigarettes on which the Kentucky cigarette tax
26 evidence has been affixed.
- 27 (b) Any licensed wholesaler, licensed ***subjobber***~~sub-jobber~~, or licensed vending

1 machine operator may hold cigarettes stamped with the tax evidence of
 2 another state for any period of time, subsection (2) of this section
 3 notwithstanding.

4 →Section 40. KRS 138.195 is amended to read as follows:

5 (1) (a) ~~A~~~~no~~ person other than a manufacturer shall **not** acquire cigarettes in this
 6 state on which the Kentucky cigarette tax has not been paid, nor act as a
 7 resident wholesaler, nonresident wholesaler, vending machine operator,
 8 **subjobber**~~[sub-jobber]~~, transporter or unclassified acquirer of such cigarettes
 9 without first obtaining a license from the department as **provided**~~[set out]~~ in
 10 this section.

11 (b) ~~A~~~~no~~ person shall **not** act as a distributor of tobacco products or vapor
 12 products without first obtaining a license from the department as **provided**~~[set~~
 13 ~~out]~~ in this section.

14 (c) ~~An~~~~[For licenses effective for periods beginning on or after July 1, 2015, no]~~
 15 individual, entity, or any other group or combination acting as a unit **shall**
 16 **not**~~[may]~~ be eligible to obtain a license under this section if the individual, or
 17 any partner, director, principal officer, or manager of the entity or any other
 18 group or combination acting as a unit has been convicted of or entered a plea
 19 of guilty or nolo contendere to:

20 1. A crime relating to the reporting, distribution, sale, or taxation of
 21 cigarettes, tobacco products, or vapor products; or

22 2. A crime involving fraud, falsification of records, improper business
 23 transactions or reporting;

24 for ten (10) years from the expiration of probation or final discharge from
 25 parole or maximum expiration of sentence.

26 (2) (a) Each resident wholesaler shall secure a separate license for each place of
 27 business at which cigarette tax evidence is affixed or at which cigarettes on

- 1 which the Kentucky cigarette tax has not been paid are received.
- 2 (b) Each nonresident wholesaler shall secure a separate license for each place of
- 3 business at which evidence of Kentucky cigarette tax is affixed or from where
- 4 Kentucky cigarette tax is reported and paid.
- 5 (c) Each license shall be secured on or before July 1 of each year.
- 6 (d) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
- 7 or portion thereof, for which each license is secured.
- 8 (3) (a) Each **subjobber**~~[sub-jobber]~~ shall secure a separate license for each place of
- 9 business from which cigarettes, upon which the cigarette tax has been paid,
- 10 are made available to retailers, whether the place of business is located within
- 11 or without this state.
- 12 (b) Each license shall be secured on or before July 1 of each year.
- 13 (c) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
- 14 or portion thereof, for which each license is secured.
- 15 (4) (a) Each vending machine operator shall secure a license for the privilege of
- 16 dispensing cigarettes, **tobacco products, or vapor products by vending**
- 17 **machines** on which the~~[cigarette]~~ tax **imposed by Section 37 of this Act is**
- 18 **required to be**~~[has been]~~ paid~~[, by vending machines]~~.
- 19 (b) Each license shall be secured on or before July 1 of each year.
- 20 (c) Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or
- 21 portion thereof, for which each license is secured.
- 22 (d) ~~A [No]~~ vending machine shall **not** be operated within this Commonwealth
- 23 without having prominently affixed thereto the name of its operator and the
- 24 license number assigned to that operator by the department.
- 25 (e) The department shall prescribe by administrative regulation the manner in
- 26 which the information shall be affixed to the vending machine.
- 27 (5) (a) Each transporter shall secure a license for the privilege of transporting

1 cigarettes within this state.

2 (b) Each license shall be secured on or before July 1 of each year.

3 (c) Each licensee shall pay the sum of fifty dollars (\$50) for each year, or portion
4 thereof, for which each license is secured.

5 (d) ~~A [No]~~ transporter shall ***not*** transport any cigarettes without having in actual
6 possession an invoice or bill of lading therefor, showing:

7 1. The name and address of the consignor and consignee;

8 2. The date acquired by the transporter;

9 3. The name and address of the transporter;

10 4. The quantity of cigarettes being transported; and

11 5. The license number assigned to the transporter by the department.

12 (6) ***(a)*** Each unclassified acquirer shall secure a license for the privilege of acquiring
13 cigarettes on which the cigarette tax has not been paid.

14 ***(b)*** ~~*Each*~~ ~~[The]~~ license shall be secured on or before July 1 of each year.

15 ***(c)*** Each licensee shall pay the sum of fifty dollars (\$50) for each year, or portion
16 thereof, for which the license is secured.

17 (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco
18 products or vapor products in this state. Each license shall be secured on
19 or before July 1 of each year, and each licensee shall pay the sum of five
20 hundred dollars (\$500) for each year, or portion thereof, for which the
21 license is secured.

22 2. a. A resident wholesaler, nonresident wholesaler, or subjobber
23 licensed under this section may also obtain and maintain a
24 distributor's license at each place of business at no additional cost
25 each year.

26 b. An unclassified acquirer licensed under this section may also
27 obtain and maintain a distributor's license for the privilege of

1 selling tobacco products or vapor products in this state. The
2 license shall be secured on or before July 1 of each year, and each
3 licensee shall pay the sum of four hundred fifty dollars (\$450) for
4 each year, or portion thereof, for which the license is secured.

5 3. The department may, upon application, grant a distributor's license to a
6 person other than a retailer and who is not otherwise required to hold a
7 distributor's license under this paragraph. If the department grants the
8 license, the licensee shall pay the sum of five hundred dollars (\$500) for
9 each year, or portion thereof, for which the license is secured, and the
10 licensee shall be subject to the excise tax in the same manner and
11 subject to the same requirements as a distributor required to be licensed
12 under this paragraph.

13 (b) The department may, upon application, grant a retail distributor's license to a
14 retailer for the privilege of purchasing tobacco products or vapor products
15 from a distributor not licensed by the department. If the department grants the
16 license, the licensee shall pay the sum of one hundred dollars (\$100) for each
17 year, or portion thereof, for which the license is secured.

18 (8) ~~Nothing in~~ KRS 138.130 to 138.205 shall **not** be construed to prevent the
19 department from requiring a person to purchase more than one (1) license if the
20 nature of that person's business is so diversified as to justify the requirement.

21 (9) (a) The department may, by administrative regulation **promulgated in**
22 **accordance with KRS Chapter 13A,** require any person requesting a license
23 or holding a license under this section to supply such information concerning
24 his or her business, sales or any privilege exercised, as is deemed reasonably
25 necessary for the regulation of the licensees, and to protect the revenues of the
26 state.

27 (b) Failure on the part of the applicant or licensee to:

- 1 1. Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
2 248.754 or any administrative regulations promulgated thereunder; or
3 2. Permit an inspection of premises, machines, or vehicles by an authorized
4 agent of the department at any reasonable time;
5 shall be grounds for the denial or revocation of any license issued by the
6 department, after due notice and a hearing by the department.
- 7 (c) The commissioner may assign a time and place for the hearing and may
8 appoint a conferee who shall conduct a hearing, receive evidence, and hear
9 arguments.
- 10 (d) The conferee shall thereupon file a report with the commissioner together
11 with a recommendation as to the denial or revocation of the license.
- 12 (e) From any denial or revocation made by the commissioner on the report, the
13 licensee may prosecute an appeal to the Board of Tax Appeals pursuant to
14 KRS 49.220.
- 15 (f) Any person whose license has been revoked for the willful violation of any
16 provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
17 248.754 or any administrative regulations promulgated thereunder shall not be
18 entitled to any license provided for in this section, or have any interest in any
19 license, either disclosed or undisclosed, either as an individual, partnership,
20 corporation or otherwise, for a period of two (2) years after the revocation.
- 21 (10) ~~A~~~~+~~~~No~~ license issued under~~[pursuant to]~~ this section shall **not** be transferable or
22 negotiable, except that a license may be transferred between an individual and a
23 corporation if that individual is the exclusive owner of that corporation, or between
24 a subsidiary corporation and its parent corporation.
- 25 (11) Every manufacturer located or doing business in this state and the first person to
26 import cigarettes into this state shall keep written records of all shipments of
27 cigarettes to persons within this state, and shall submit to the department monthly

1 reports of ~~the~~^[such] shipments. All books, records, invoices, and documents
2 required by this section shall be preserved in a form prescribed by the department
3 for not less than four (4) years from the making of the records unless the
4 department authorizes, in writing, the destruction of the records.

5 (12) ~~A~~^[No] person licensed under this section other than a~~[except]~~ nonresident
6 wholesaler~~[wholesalers]~~ shall either sell to or purchase from any other such
7 licensee untax-paid cigarettes.

8 (13) (a) Licensed distributors of tobacco products or vapor products shall pay and
9 report the tobacco products tax or vapor products tax on or before the
10 twentieth day of the calendar month following the month in which the
11 possession or title of the tobacco products or vapor products are transferred
12 from the licensed distributor to retailers or consumers in this state, as the case
13 may be.

14 (b) Retailers who have applied for and been granted a retail distributor's license
15 for the privilege of purchasing tobacco products or vapor products from a
16 person who is not a distributor licensed under KRS 138.195(7)(a) shall report
17 and pay the tobacco products tax or vapor products tax on or before the
18 twentieth day of the calendar month following the month in which the
19 products are acquired by the licensed retail distributors.

20 (c) If the distributor or retail distributor timely reports and pays the tax due, the
21 distributor or retail distributor may deduct an amount equal to one percent
22 (1%) of the tax due.

23 (d) The department shall promulgate administrative regulations in accordance
24 with KRS Chapter 13A to prescribe~~[setting forth]~~ the details of the reporting
25 requirements.

26 (14) A tax return shall be filed for each reporting period whether or not tax is due.

27 (15) Any license issued by the department under this section shall not be construed to

1 waive or condone any violation that occurred or may have occurred prior to the
2 issuance of the license and shall not prevent subsequent proceedings against the
3 licensee.

- 4 (16) (a) The department may deny the issuance of a license under this section if:
- 5 1. The applicant has made any material false statement on the application
6 for the license; or
 - 7 2. The applicant has violated any provision of KRS 131.600 to 131.630,
8 138.130 to 138.205, 248.754, or 248.756 or any administrative
9 regulations promulgated thereunder.
- 10 (b) If the department denies the applicant a license under this section, the
11 department shall notify the applicant of the grounds for the denial, and
12 the applicant may request a hearing and appeal the denial as provided in
13 subsection (9) of this section.

14 ➔Section 41. KRS 141.0205 is amended to read as follows:

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

- 18 (1) The nonrefundable business incentive credits against the tax imposed by KRS
19 141.020 shall be taken in the following order:
- 20 (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - 21 (b) The economic development credits computed under KRS 141.347, 141.381,
22 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
23 154.12-2088;
 - 24 (c) The qualified farming operation credit permitted by KRS 141.412;
 - 25 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a) ***and***
26 ***Section 58 of this Act***;
 - 27 (e) The health insurance credit permitted by KRS 141.062;

- 1 (f) The tax paid to other states credit permitted by KRS 141.070;
- 2 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 3 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 4 (i) The ~~tax~~ credit for cash contributions in investment funds permitted by KRS
- 5 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 6 154.20-258;
- 7 (j) The research facilities credit permitted by KRS 141.395;
- 8 (k) The employer High School Equivalency Diploma program incentive credit
- 9 permitted under KRS 151B.402;
- 10 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 11 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 12 (n) The clean coal incentive credit permitted by KRS 141.428;
- 13 (o) The ethanol credit permitted by KRS 141.4242;
- 14 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 15 (q) The energy efficiency credits permitted by KRS 141.436;
- 16 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 17 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 18 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 19 (u) The distilled spirits credit permitted by KRS 141.389;
- 20 (v) The angel investor credit permitted by KRS 141.396;
- 21 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 22 on or after April 27, 2018, but before January 1, 2022;
- 23 (x) The inventory credit permitted by KRS 141.408;
- 24 (y) The renewable chemical production credit permitted by KRS 141.4231; and
- 25 (z) The qualified broadband investment ~~tax~~ credit permitted by KRS 141.391;
- 26 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 27 the nonrefundable personal tax credits against the tax imposed by KRS 141.020

1 shall be taken in the following order:

- 2 (a) The individual credits permitted by KRS 141.020(3);
3 (b) The credit permitted by KRS 141.066;
4 (c) The tuition credit permitted by KRS 141.069;
5 (d) The household and dependent care credit permitted by KRS 141.067;
6 (e) The income gap credit permitted by KRS 141.066; and
7 (f) The Education Opportunity Account Program ~~tax~~ credit permitted by KRS
8 141.522;

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

- 12 (a) The individual withholding tax credit permitted by KRS 141.350;
13 (b) The individual estimated tax payment credit permitted by KRS 141.305;
14 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
15 171.397(1)(b) **and Section 58 of this Act**;
16 (d) The film industry ~~tax~~ credit permitted by KRS 141.383 for applications
17 approved prior to April 27, 2018, or on or after January 1, 2022;
18 (e) The development area ~~tax~~ credit permitted by KRS 141.398;
19 (f) The decontamination ~~tax~~ credit permitted by KRS 141.419; and
20 (g) The pass-through entity tax credit permitted by KRS 141.209;

21 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
22 tax imposed by KRS 141.040;

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

- 26 (a) The economic development credits computed under KRS 141.347, 141.381,
27 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and

- 1 154.12-2088;
- 2 (b) The qualified farming operation credit permitted by KRS 141.412;
- 3 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a) ***and***
- 4 ***Section 58 of this Act;***
- 5 (d) The health insurance credit permitted by KRS 141.062;
- 6 (e) The unemployment credit permitted by KRS 141.065;
- 7 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 8 (g) The coal conversion credit permitted by KRS 141.041;
- 9 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 10 ending prior to January 1, 2008;
- 11 (i) The ~~tax~~ credit for cash contributions to investment funds permitted by KRS
- 12 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 13 154.20-258;
- 14 (j) The research facilities credit permitted by KRS 141.395;
- 15 (k) The employer High School Equivalency Diploma program incentive credit
- 16 permitted by KRS 151B.402;
- 17 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 18 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 19 (n) The clean coal incentive credit permitted by KRS 141.428;
- 20 (o) The ethanol credit permitted by KRS 141.4242;
- 21 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 22 (q) The energy efficiency credits permitted by KRS 141.436;
- 23 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 24 permitted by KRS 141.437;
- 25 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 26 (t) The railroad expansion credit permitted by KRS 141.386;
- 27 (u) The Endow Kentucky credit permitted by KRS 141.438;

- 1 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 2 (w) The distilled spirits credit permitted by KRS 141.389;
- 3 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 4 on or after April 27, 2018, but before January 1, 2022;
- 5 (y) The inventory credit permitted by KRS 141.408;
- 6 (z) The renewable chemical production ~~tax~~ credit permitted by KRS 141.4231;
- 7 (aa) The Education Opportunity Account Program ~~tax~~ credit permitted by KRS
- 8 141.522; and
- 9 (ab) The qualified broadband investment ~~tax~~ credit permitted by KRS 141.391;
- 10 and
- 11 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 12 the refundable credits shall be taken in the following order:
- 13 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 14 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 15 171.397(1)(b) **and Section 58 of this Act**;
- 16 (c) The film industry ~~tax~~ credit permitted by KRS 141.383 for applications
- 17 approved prior to April 27, 2018, or on or after January 1, 2022;
- 18 (d) The decontamination ~~tax~~ credit permitted by KRS 141.419; and
- 19 (e) The pass-through entity tax credit permitted by KRS 141.209.

20 ➔Section 42. KRS 131.190 is amended to read as follows:

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

1 the department or other proper officer, or any information produced by a hearing or
2 investigation, insofar as the information may have to do with the affairs of the
3 person's business.

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

- 1 promulgate an administrative regulation establishing a fee schedule for the
2 provision of the information described in this paragraph. Any fee imposed
3 shall not exceed the greater of the actual cost of providing the information or
4 ten dollars (\$10);
- 5 (g) Providing information to a licensing agency, the Transportation Cabinet, or
6 the Kentucky Supreme Court under KRS 131.1817;
- 7 (h) Statistics of gasoline and special fuels gallonage reported to the department
8 under KRS 138.210 to 138.448;
- 9 (i) Providing any utility gross receipts license tax return information that is
10 necessary to administer the provisions of KRS 160.613 to 160.617 to
11 applicable school districts on a confidential basis;
- 12 (j) Providing documents, data, or other information to a third party pursuant to an
13 order issued by a court of competent jurisdiction;
- 14 (k) Publishing administrative writings on its official website in accordance with
15 KRS 131.020(1)(b); or
- 16 (l) Providing information to the Legislative Research Commission under:
- 17 1. KRS 139.519 for purposes of the sales and use tax refund on building
18 materials used for disaster recovery;
- 19 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 20 3. KRS 141.437 for purposes of the ENERGY STAR home and the
21 ENERGY STAR manufactured home credits;
- 22 4. KRS 141.383 for purposes of the film industry incentives;
- 23 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
24 credit and the job assessment fees;
- 25 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 26 7. KRS 141.396 for purposes of the angel investor credit;
- 27 8. KRS 141.389 for purposes of the distilled spirits credit;

- 1 9. KRS 141.408 for purposes of the inventory credit;
- 2 10. KRS 141.390 for purposes of the recycling and composting credits;
- 3 11. KRS 141.3841 for purposes of the selling farmer credit;
- 4 12. KRS 141.4231 for purposes of the renewable chemical production
- 5 credit;
- 6 13. KRS 141.524 for purposes of the Education Opportunity Account
- 7 Program credit;
- 8 14. KRS 141.398 for purposes of the development area credit;
- 9 15. KRS 139.516 for purposes of the sales and use tax exemptions for the
- 10 commercial mining of cryptocurrency;
- 11 16. KRS 141.419 for purposes of the decontamination credit;
- 12 17. KRS 141.391 for purposes of the qualified broadband investment credit;
- 13 18. KRS 139.499 for purposes of the sales and use tax exemptions for a
- 14 qualified data center project;~~and~~
- 15 19. KRS 139.5325 for purposes of the sales and use tax incentive for a
- 16 qualifying attraction;
- 17 **20. Section 44 of this Act for the purposes of the film and motion picture**
- 18 **sales tax exemption;**
- 19 **21. Section 52 of this Act for the purposes of the hiring of unemployed**
- 20 **persons credit;**
- 21 **22. Section 53 of this Act for the purposes of the qualified farming**
- 22 **operations credit; and**
- 23 **23. Section 55 of this Act for the purposes of the High School Equivalency**
- 24 **Diploma Incentives credit.**
- 25 (3) The commissioner shall make available any information for official use only and on
- 26 a confidential basis to the proper officer, agency, board or commission of this state,
- 27 any Kentucky county, any Kentucky city, any other state, or the federal

1 government, under reciprocal agreements whereby the department shall receive
2 similar or useful information in return.

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

10 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
11 requirements of KRS Chapter 137 and statistics of natural gas production as
12 reported to the department under the natural resources severance tax requirements
13 of KRS Chapter 143A may be made public by the department by release to the
14 Energy and Environment Cabinet, Department for Natural Resources.

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

24 ➔Section 43. KRS 160.6131 is amended to read as follows:

25 As used in KRS 160.613 to 160.617:

26 (1) "Department" means the Department of Revenue;

27 (2) "Communications service" means the provision, transmission, conveyance, or

1 routing, for consideration, of voice, data, video, or any other information signals of
2 the purchaser's choosing to a point or between or among points specified by the
3 purchaser, by or through any electronic, radio, light, fiber optic, or similar medium
4 or method now in existence or later devised.

5 (a) "Communications service" includes but is not limited to:

- 6 1. Local and long-distance telephone services;
- 7 2. Telegraph and teletypewriter services;
- 8 3. Postpaid calling services;
- 9 4. Private communications services involving a direct channel specifically
10 dedicated to a customer's use between specific points;
- 11 5. Channel services involving a path of communications between two (2)
12 or more points;
- 13 6. Data transport services involving the movement of encoded information
14 between points by means of any electronic, radio, or other medium or
15 method;
- 16 7. Caller ID services, ring tones, voice mail, and other electronic
17 messaging services;
- 18 8. Mobile wireless telecommunications service and fixed wireless service
19 as defined in KRS 139.195; and
- 20 9. Voice over Internet Protocol (VOIP).

21 (b) "Communications service" does not include any of the following if the
22 charges are separately itemized on the bill provided to the purchaser:

- 23 1. Information services;
- 24 2. Internet access as defined in 47 U.S.C. sec. 151;
- 25 3. Installation, reinstallation, or maintenance of wiring or equipment on a
26 customer's premises. This exclusion does not apply to any charge
27 attributable to the connection, movement, change, or termination of a

- 1 communications service;
- 2 4. The sale of directory and other advertising and listing services;
- 3 5. Billing and collection services provided to another communications
- 4 service provider;
- 5 6. Cable service, satellite broadcast, satellite master antenna television,
- 6 wireless cable service, including direct-to-home satellite service as
- 7 defined in Section 602 of the federal Telecommunications Act of 1996,
- 8 and Internet protocol television provided through wireline facilities
- 9 without regard to delivery technology;
- 10 7. The sale of communications service to a communications provider that
- 11 is buying the communications service for sale or incorporation into a
- 12 communications service for sale, including:
- 13 a. Carrier access charges, excluding user access fees;
- 14 b. Right of access charges;
- 15 c. Interconnection charges paid by the provider of mobile
- 16 telecommunications services or other communications providers;
- 17 d. Charges for the sale of unbundled network elements as defined in
- 18 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is
- 19 provided on an unbundled basis in accordance with 47 U.S.C. sec.
- 20 251(c)(3); and
- 21 e. Charges for use of facilities for providing or receiving
- 22 communications service;
- 23 8. ~~The sale of communications services provided to the public by means~~
- 24 ~~of a pay phone;~~
- 25 9. ~~Prepaid calling services and prepaid wireless calling service;~~
- 26 9.10. Interstate telephone service, if the interstate charge is separately
- 27 itemized for each call; and

1 ~~10.111~~ If the interstate calls are not itemized, the portion of telephone
2 charges identified and set out on the customer's bill as interstate as
3 supported by the provider's books and records;

4 (3) "Gross cost" means the total cost of utility services including the cost of the
5 tangible personal property and any services associated with obtaining the utility
6 services regardless from whom purchased;

7 (4) "Gross receipts" means all amounts received in money, credits, property, or other
8 money's worth in any form, as consideration for the furnishing of utility services;

9 (5) "Utility services" means the furnishing of communications services, electric power,
10 water, and natural, artificial, and mixed gas;

11 (6) "Cable service" has the same meaning as in KRS 136.602;

12 (7) "Satellite broadcast and wireless cable service" has the same meaning as in KRS
13 136.602;

14 (8) "Ring tones" has the same meaning as in KRS 136.602;

15 (9) "Multichannel video programming service" has the same meaning as in KRS
16 136.602;

17 (10) "Industrial processing" has the same meaning as in KRS 139.010;

18 (11) "Manufacturing" has the same meaning as in KRS 139.010;

19 (12) "Plant facility" has the same meaning as in KRS 139.010;

20 (13) "Commercial mining of cryptocurrency" has the same meaning as in KRS 139.516;
21 and

22 (14) "Colocation facility" has the same meaning as in KRS 139.516.

23 ➔Section 44. KRS 139.538 is amended to read as follows:

24 (1) It is the intent and purpose of the General Assembly in enacting this section and
25 KRS 139.990(5), to encourage the motion picture industry to choose locations in
26 the Commonwealth for the filming or producing of motion pictures, by providing
27 an exemption from sales and use taxes. The exemption is accomplished by granting

1 a refundable credit for sales and use taxes paid on purchases made in connection
2 with the filming or producing of motion pictures in Kentucky.

3 (2) (a) On or after July 1, 2028~~[April 27, 2018, and until July 1, 2022]~~, the
4 department shall not accept any new applications as provided by subsection
5 (4) of this section.

6 (b) On or before November 1, 2026, and each November 1, thereafter as long as
7 this refundable credit is available~~[June 1, 2019]~~, the department shall report
8 to the Legislative Research Commission for referral ~~[provide the following~~
9 ~~information]~~ to the Interim Joint Committee on Appropriations and Revenue
10 for all fiscal years data is available:

- 11 1. The name and address of the motion picture company;
- 12 2. By county, the filming location or locations in this state;
- 13 3. A brief description of the production or productions;
- 14 4. The amount of sales and use tax refunded to the motion picture
15 company~~;~~~~and]~~
- 16 5. The total number of motion picture companies claiming the credit;
17 and
- 18 6. The total amount of all sales and use tax refunded to motion picture
19 production companies during each fiscal year reported.

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

24 (3) As used in this section and KRS 139.990(5):

25 (a) "Financial institution" means any bank or savings and loan institution in the
26 Commonwealth which carries FDIC or FSLIC insurance;

27 (b) "Motion picture production company" means a company engaged in the

1 business of producing motion pictures intended for a theatrical release or for
2 exhibition on national television either by a network or for national
3 syndication, or television programs which will serve as a pilot for or a
4 segment of a nationally televised dramatic series, either by a network or for
5 national syndication; and

6 (c) "Secretary" means the secretary of the Kentucky Finance and Administration
7 Cabinet.

8 (4) Any motion picture production company that intends to film all or parts of a motion
9 picture in the Commonwealth and desires to receive the credit provided for in
10 subsection (7) of this section shall, prior to the commencement of filming:

11 (a) Provide the department with the address of a Kentucky location at which
12 records of expenditures qualifying for the tax credit will be maintained, and
13 with the name of the individual maintaining these records; and

14 (b) File an application for the tax credit within sixty (60) days after the
15 completion of filming or production in Kentucky. The application shall
16 include a final expenditure report providing documentation for expenditures
17 in accordance with administrative regulations promulgated by the department.

18 (5) To qualify as a basis for the financial incentive, expenditures must be made by
19 check drawn upon any Kentucky financial institution.

20 (6) The twelve (12) month period during which expenditures may qualify for the tax
21 credit shall begin on the date of the earliest expenditure reported.

22 (7) Any motion picture production company which films or produces one (1) or more
23 motion pictures in the Commonwealth during any twelve (12) month period shall,
24 upon making application therefor and meeting the other requirements prescribed in
25 this section, be entitled to a refundable tax credit equal to the amount of Kentucky
26 sales and use tax paid for purchases made in connection with the filming or
27 production of a motion picture.

- 1 (8) The department shall, within sixty (60) days following the receipt of an application
2 for a credit for sales and use tax paid, calculate the total expenditures of the motion
3 picture production company for which there is documentation for funds expended
4 in the Commonwealth, calculate the amount of credit to which the applicant is
5 entitled, and certify the amount of the credit to the secretary. In the case of an audit,
6 as provided for in subsection (13) of this section, the department shall certify the
7 amount of the credit due to the secretary within one hundred eighty (180) days
8 following the receipt of the motion picture production company's application.
- 9 (9) Upon receipt of the certification of the amount of credit from the department, the
10 secretary shall cause the refund of sales taxes paid to be remitted to the motion
11 picture production company. For purposes of payment and funding thereof, the
12 credit shall be paid in the same manner as other claims on the State Treasury are
13 paid. They shall not be charged against any appropriation but shall be deducted
14 from tax receipts for the current fiscal year.
- 15 (10) The sales and use taxes paid by the motion picture production company for which a
16 refundable tax credit is granted shall be deemed not to have been legally paid into
17 the State Treasury, and the refund of the credit shall not be in violation of Section
18 59 of the Kentucky Constitution.
- 19 (11) Any tax credit or part thereof paid to a motion picture production company as a
20 result of error by the department shall be repaid by such company to the secretary.
- 21 (12) Any tax credit or part thereof paid to a motion picture production company as a
22 result of error or fraudulent statements made by the motion picture production
23 company shall be repaid by such company to the secretary, together with interest, at
24 the tax interest rate provided for in KRS 131.010(6).
- 25 (13) The department may require that reported expenditures and the application for the
26 tax credit from a motion picture production company be subjected to an audit by the
27 department auditors to verify expenditures.

1 (14) For companies in the business of producing films or television shows other than
 2 those which would qualify them for the credit under the definition of "motion
 3 picture production company," the department may require separate accounting
 4 records for the reporting of expenditures made in connection with the application
 5 for a refundable tax credit.

6 (15) The department may promulgate appropriate administrative regulations to carry out
 7 the intent and purposes of this section.

8 ➔Section 45. KRS 132.096 is amended to read as follows:

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

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

13 (2) Livestock, ratite birds, and domestic fowl;

14 (3) Tangible personal property located in a foreign trade zone established pursuant to
 15 19 U.S.C. secs. 81a to 81u, provided that the zone is activated in accordance with
 16 the regulations of the United States Customs Service and the Foreign Trade Zones
 17 Board;

18 (4) Property that is certified as an alcohol production facility as defined in KRS
 19 247.910;

20 (5) ~~Property that is certified as a fluidized bed energy production facility as defined in~~
 21 ~~KRS 211.390;~~

22 ~~(6)~~ Computer software, except prewritten computer software as defined in KRS
 23 139.010;

24 ~~(6)~~~~(7)~~ Trucks, tractors, and buses used on routes or in systems that are partly within
 25 and partly outside this state, and that are subject to the fee imposed by KRS
 26 136.188;

27 ~~(7)~~~~(8)~~ Semitrailers and trailers, as defined in KRS 189.010, if the semitrailers or

1 trailers are used on a route or in a system that is partly within and partly outside this
2 state. Semitrailers or trailers required to be registered under KRS 186.655 that are
3 used only in this state shall be subject to the ad valorem tax imposed by KRS
4 132.487;

5 ~~(8)~~~~(9)~~ All intangible personal property, except intangible personal property assessed
6 under KRS 132.030 or KRS Chapter 136. Nothing in this subsection shall prohibit
7 local taxation of franchises of:

- 8 (a) Corporations;
9 (b) Financial institutions as provided in KRS 136.575; or
10 (c) Domestic life insurance companies;

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

15 ~~(10)~~~~(11)~~ Every fraternal benefit society organized or licensed under Subtitle 29 of KRS
16 Chapter 304 that is a charitable and benevolent institution, and its funds shall be
17 exempt from all state, county, district, city, and school taxes, other than taxes on
18 real property and office equipment; and

19 ~~(11)~~~~(12)~~ (a) Any bridge built by an adjoining state, by the government of the United
20 States, or by any commission created by an Act of Congress, over a boundary
21 line stream between this state and an adjoining state, which is:

- 22 1. Not operated for profit and, if it connects with a primary highway of this
23 state, is declared to be public property used for public purposes; and
24 2. Exempt from taxation unless the adjoining state, or other public body
25 constructing the bridge, taxes similar bridges built by this
26 Commonwealth in like manner.

27 (b) The issuance of bonds for the purpose of amortizing the cost of construction

1 of the bridges, as described in paragraph (a) of this subsection, shall not affect
2 the tax exemption granted.

3 ➔Section 46. KRS 139.480 is amended to read as follows:

4 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
5 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter,
6 ~~do~~shall not include the sale, use, storage, or other consumption of:

- 7 (1) Locomotives or rolling stock, including materials for the construction, repair, or
8 modification thereof, or fuel or supplies for the direct operation of locomotives and
9 trains, used or to be used in interstate commerce;
- 10 (2) Coal for the manufacture of electricity;
- 11 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
12 processing, mining, or refining and any related distribution, transmission, and
13 transportation services for this energy that are billed to the user, to the extent
14 that the cost of the energy or energy-producing fuels used, and related
15 distribution, transmission, and transportation services for this energy that are
16 billed to the user exceed three percent (3%) of the cost of production.
- 17 (b) Cost of production shall be computed on the basis of a plant facility, which
18 ~~includes~~shall include all operations within the continuous, unbroken,
19 integrated manufacturing or industrial processing process that ends with a
20 product packaged and ready for sale.
- 21 (c) A person who performs a manufacturing or industrial processing activity for a
22 fee and does not take ownership of the tangible personal property that is
23 incorporated into, or becomes the product of, the manufacturing or industrial
24 processing activity is a toller. For periods on or after July 1, 2018, the costs of
25 the tangible personal property shall be excluded from the toller's cost of
26 production at a plant facility with tolling operations in place as of July 1,
27 2018.

- 1 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
2 tangible personal property shall be excluded from the toller's cost of
3 production if the toller:
- 4 1. Maintains a binding contract for periods after July 1, 2018, that governs
5 the terms, conditions, and responsibilities with a separate legal entity,
6 which holds title to the tangible personal property that is incorporated
7 into, or becomes the product of, the manufacturing or industrial
8 processing activity;
 - 9 2. Maintains accounting records that show the expenses it incurs to fulfill
10 the binding contract that include but are not limited to energy or energy-
11 producing fuels, materials, labor, procurement, depreciation,
12 maintenance, taxes, administration, and office expenses;
 - 13 3. Maintains separate payroll, bank accounts, tax returns, and other records
14 that demonstrate its independent operations in the performance of its
15 tolling responsibilities;
 - 16 4. Demonstrates one (1) or more substantial business purposes for the
17 tolling operations germane to the overall manufacturing, industrial
18 processing activities, or corporate structure at the plant facility. A
19 business purpose is a purpose other than the reduction of sales tax
20 liability for the purchases of energy and energy-producing fuels; and
 - 21 5. Provides information to the department upon request that documents
22 fulfillment of the requirements in subparagraphs 1. to 4. of this
23 paragraph and gives an overview of its tolling operations with an
24 explanation of how the tolling operations relate and connect with all
25 other manufacturing or industrial processing activities occurring at the
26 plant facility;
- 27 (4) Livestock of a kind the products of which ordinarily constitute food for human

- 1 consumption, provided the sales are made for breeding or dairy purposes and by or
2 to a person regularly engaged in the business of farming;
- 3 (5) Poultry for use in breeding or egg production;
- 4 (6) Farm work stock for use in farming operations;
- 5 (7) Seeds, the products of which ordinarily constitute food for human consumption or
6 are to be sold in the regular course of business, and commercial fertilizer to be
7 applied on land, the products from which are to be used for food for human
8 consumption or are to be sold in the regular course of business; provided the sales
9 are made to farmers who are regularly engaged in the occupation of tilling and
10 cultivating the soil for the production of crops as a business, or who are regularly
11 engaged in the occupation of raising and feeding livestock or poultry or producing
12 milk for sale; and provided further that tangible personal property so sold is to be
13 used only by those persons designated above who are so purchasing;
- 14 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
15 used in the production of crops as a business, or in the raising and feeding of
16 livestock or poultry, the products of which ordinarily constitute food for human
17 consumption;
- 18 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
19 products of which ordinarily constitute food for human consumption;
- 20 (10) Machinery for new and expanded industry;
- 21 (11) Farm machinery. As used in this section, the term "farm machinery":
- 22 (a) Means machinery used exclusively and directly in the occupation of:
- 23 1. Tilling the soil for the production of crops as a business;
- 24 2. Raising and feeding livestock or poultry for sale; or
- 25 3. Producing milk for sale;
- 26 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
27 replacement parts which are used or manufactured for use on, or in the

1 operation of farm machinery and which are necessary to the operation of the
2 machinery, and are customarily so used, including but not limited to combine
3 header wagons, combine header trailers, or any other implements specifically
4 designed and used to move or transport a combine head; and

5 (c) Does not include:

- 6 1. Automobiles;
- 7 2. Trucks;
- 8 3. Trailers, except combine header trailers; or
- 9 4. Truck-trailer combinations;

10 (12) Tombstones and other memorial grave markers;

11 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
12 or handling. The exemption applies to the equipment, machinery, attachments,
13 repair and replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities;

15 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
16 shall apply to the equipment, machinery, attachments, repair and replacement parts,
17 and any materials incorporated into the construction, renovation, or repair of the
18 facilities. The exemption shall apply but not be limited to vent board equipment,
19 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
20 and curtain systems. In addition, the exemption shall apply whether or not the seller
21 is under contract to deliver, assemble, and incorporate into real estate the
22 equipment, machinery, attachments, repair and replacement parts, and any materials
23 incorporated into the construction, renovation, or repair of the facilities;

24 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
25 and directly to:

26 (a) Operate farm machinery as defined in subsection (11) of this section;

27 (b) Operate on-farm grain or soybean drying facilities as defined in subsection

- 1 (13) of this section;
- 2 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
3 this section;
- 4 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
- 5 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
6 section; or
- 7 (f) Operate on-farm dairy facilities;
- 8 (16) Textbooks, including related workbooks and other course materials, purchased for
9 use in a course of study conducted by an institution which qualifies as a nonprofit
10 educational institution under KRS 139.495. The term "course materials" means only
11 those items specifically required of all students for a particular course but
12 ~~shall~~ does not include notebooks, paper, pencils, calculators, tape recorders, or
13 similar student aids;
- 14 (17) Any property which has been certified as an alcohol production facility as defined
15 in KRS 247.910;
- 16 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
17 direct operation of aircraft in interstate commerce and used exclusively for the
18 conveyance of property or passengers for hire. Nominal intrastate use shall not
19 subject the property to the taxes imposed by this chapter;
- 20 (19) ~~Any property which has been certified as a fluidized bed energy production facility~~
21 ~~as defined in KRS 211.390;~~
- 22 ~~(20)~~ (a) 1. Any property to be incorporated into the construction, rebuilding,
23 modification, or expansion of a blast furnace or any of its components or
24 appurtenant equipment or structures as part of an approved supplemental
25 project, as defined by KRS 154.26-010; and
- 26 2. Materials, supplies, and repair or replacement parts purchased for use in
27 the operation and maintenance of a blast furnace and related carbon

1 steel-making operations as part of an approved supplemental project, as
2 defined ~~in~~^{by} KRS 154.26-010.

3 (b) The exemptions provided in this subsection shall be effective for sales made:

- 4 1. On and after July 1, 2018; and
- 5 2. During the term of a supplemental project agreement entered into
6 pursuant to KRS 154.26-090;

7 ~~(20)~~⁽²¹⁾ Beginning on October 1, 1986, food or food products purchased for human
8 consumption with food coupons issued by the United States Department of
9 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
10 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
11 continue participation in the federal food stamp program;

12 ~~(21)~~⁽²²⁾ Machinery or equipment purchased or leased by a business, industry, or
13 organization in order to collect, source separate, compress, bale, shred, or otherwise
14 handle waste materials if the machinery or equipment is primarily used for
15 recycling purposes;

16 ~~(22)~~⁽²³⁾ Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
17 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
18 products, and the following items used in this agricultural pursuit:

- 19 (a) Feed and feed additives;
- 20 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
21 and
- 22 (c) On-farm facilities, including equipment, machinery, attachments, repair and
23 replacement parts, and any materials incorporated into the construction,
24 renovation, or repair of the facilities. The exemption shall apply to incubation
25 systems, egg processing equipment, waterer and feeding systems, brooding
26 systems, ventilation systems, alarm systems, and curtain systems. In addition,
27 the exemption shall apply whether or not the seller is under contract to

1 deliver, assemble, and incorporate into real estate the equipment, machinery,
2 attachments, repair and replacement parts, and any materials incorporated into
3 the construction, renovation, or repair of the facilities;

4 ~~(23)~~~~(24)~~ Embryos and semen that are used in the reproduction of livestock, if the
5 products of these embryos and semen ordinarily constitute food for human
6 consumption, and if the sale is made to a person engaged in the business of farming;

7 ~~(24)~~~~(25)~~ Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit
8 for the breeding and production of hides, breeding stock, fiber and wool products,
9 meat, and llama and alpaca by-products, and the following items used in this
10 pursuit:

11 (a) Feed and feed additives;

12 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
13 and

14 (c) On-farm facilities, including equipment, machinery, attachments, repair and
15 replacement parts, and any materials incorporated into the construction,
16 renovation, or repair of the facilities. The exemption shall apply to waterer
17 and feeding systems, ventilation systems, and alarm systems. In addition, the
18 exemption shall apply whether or not the seller is under contract to deliver,
19 assemble, and incorporate into real estate the equipment, machinery,
20 attachments, repair and replacement parts, and any materials incorporated into
21 the construction, renovation, or repair of the facilities;

22 ~~(25)~~~~(26)~~ Baling twine and baling wire for the baling of hay and straw;

23 ~~(26)~~~~(27)~~ Water sold to a person regularly engaged in the business of farming and used
24 in the:

25 (a) Production of crops;

26 (b) Production of milk for sale; or

27 (c) Raising and feeding of:

- 1 1. Livestock or poultry, the products of which ordinarily constitute food
- 2 for human consumption; or
- 3 2. Ratites, llamas, alpacas, buffaloes~~[buffalo]~~, cervids or aquatic
- 4 organisms;

5 ~~(27)~~~~(28)~~ Buffaloes~~[Buffaloes]~~ to be used as beasts of burden or in an agricultural
6 pursuit for the production of hides, breeding stock, meat, and buffalo by-products,
7 and the following items used in this pursuit:

- 8 (a) Feed and feed additives;
- 9 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 10 and
- 11 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 12 replacement parts, and any materials incorporated into the construction,
- 13 renovation, or repair of the facilities. The exemption shall apply to waterer
- 14 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 15 exemption shall apply whether or not the seller is under contract to deliver,
- 16 assemble, and incorporate into real estate the equipment, machinery,
- 17 attachments, repair and replacement parts, and any materials incorporated into
- 18 the construction, renovation, or repair of the facilities;

19 ~~(28)~~~~(29)~~ Aquatic organisms sold directly to or raised by a person regularly engaged in
20 the business of producing products of aquaculture, as defined in KRS 260.960, for
21 sale, and the following items used in this pursuit:

- 22 (a) Feed and feed additives;
- 23 (b) Water;
- 24 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 25 and
- 26 (d) On-farm facilities, including equipment, machinery, attachments, repair and
- 27 replacement parts, and any materials incorporated into the construction,

1 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
2 petroleum gas, or natural gas used to operate the facilities. The exemption
3 shall apply, but not be limited to: waterer and feeding systems; ventilation,
4 aeration, and heating systems; processing and storage systems; production
5 systems such as ponds, tanks, and raceways; harvest and transport equipment
6 and systems; and alarm systems. In addition, the exemption shall apply
7 whether or not the seller is under contract to deliver, assemble, and
8 incorporate into real estate the equipment, machinery, attachments, repair and
9 replacement parts, and any materials incorporated into the construction,
10 renovation, or repair of the facilities;

11 ~~(29)~~~~(30)~~ Members of the genus cervidae permitted by KRS Chapter 150 that are used
12 for the production of hides, breeding stock, meat, and cervid by-products, and the
13 following items used in this pursuit:

- 14 (a) Feed and feed additives;
- 15 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 16 (c) On-site facilities, including equipment, machinery, attachments, repair and
17 replacement parts, and any materials incorporated into the construction,
18 renovation, or repair of the facilities. In addition, the exemption shall apply
19 whether or not the seller is under contract to deliver, assemble, and
20 incorporate into real estate the equipment, machinery, attachments, repair and
21 replacement parts, and any materials incorporated into the construction,
22 renovation, or repair of the facilities;

23 ~~(30)~~~~(31)~~ (a) Repair or replacement parts for the direct operation or maintenance of a
24 motor vehicle, including any towed unit, used exclusively in interstate
25 commerce for the conveyance of property or passengers for hire, provided the
26 motor vehicle is licensed for use on the highway and its declared gross vehicle
27 weight with any towed unit is forty-four thousand and one (44,001) pounds or

1 greater. Nominal intrastate use shall not subject the property to the taxes
2 imposed by this chapter; and

3 (b) Repair or replacement parts for the direct operation and maintenance of a
4 motor vehicle operating under a charter bus certificate issued by the
5 Transportation Cabinet under KRS Chapter 281, or under similar authority
6 granted by the United States Department of Transportation.

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

15 ~~(31)~~~~(32)~~ Food donated by a retail food establishment or any other entity regulated
16 under KRS 217.127 to a nonprofit organization for distribution to the needy;

17 ~~(32)~~~~(33)~~ Drugs and over-the-counter drugs, as defined in KRS 139.472, that are
18 purchased by a person regularly engaged in the business of farming and used in the
19 treatment of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas,
20 **buffaloes**~~buffalo~~, aquatic organisms, or cervids;

21 ~~(33)~~~~(34)~~ (a) Building materials, fixtures, or supplies purchased by a construction
22 contractor if:

- 23 1. Fulfilled by a construction contract for a sewer or water project with:
- 24 a. A municipally owned water utility organized under KRS Chapter
25 96;
- 26 b. A water district or water commission formed or organized under
27 KRS Chapter 74;

- 1 c. A sanitation district established under KRS Chapter 220 or formed
2 pursuant to KRS Chapter 65;
- 3 d. A nonprofit corporation created under KRS 58.180 to act on behalf
4 of a governmental agency in the acquisition and financing of
5 public projects;
- 6 e. Regional wastewater commissions formed under KRS Chapter
7 278;
- 8 f. A municipally owned joint sewer agency formed under KRS
9 Chapter 76; or
- 10 g. Any other governmental agency; and
- 11 2. The building materials, fixtures, or supplies:
- 12 a. Will be permanently incorporated into a structure or improvement
13 to real property, or will be completely consumed, in fulfilling a
14 construction contract for the purpose of furnishing water or sewer
15 services to the general public; and
- 16 b. Would be exempt if purchased directly by the entities listed in
17 subparagraph 1. of this paragraph.
- 18 (b) As used in this subsection, "construction contract" means a:
- 19 1. Lump sum contract;
- 20 2. Cost plus contract;
- 21 3. Materials only contract;
- 22 4. Labor and materials contract; or
- 23 5. Any other type of contract.
- 24 (c) The exemption provided in this subsection shall apply without regard to the
25 payment arrangement between the construction contractor, the retailer, and
26 the entities listed in paragraph (a)1. of this subsection or to the place of
27 delivery for the building materials, fixtures, or supplies;

1 ~~(34)~~~~(35)~~ (a) On or after February 25, 2022, the rental of space for meetings,
2 conventions, short-term business uses, entertainment events, weddings,
3 banquets, parties, and other short-term social events, as referenced in KRS
4 139.200, if the tax established in KRS 139.200 is paid by the primary lessee to
5 the lessor.

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

- 8 1. The contract between the lessor and the lessee specifies that the lessee
9 may sublease, subrent, or otherwise sell the space; and
- 10 2. The space is then sublet, subrented, or otherwise sold to exhibitors,
11 vendors, sponsors, or other entities and persons who will use the space
12 associated with the event to be conducted under the primary lease;

13 ~~(35)~~~~(36)~~ Prewritten computer software access services sold to or purchased by a
14 retailer that develops prewritten computer software for print technology and uses
15 and sells prewritten computer software access services for print technology;

16 ~~(36)~~~~(37)~~ (a) Currency or bullion.

17 (b) As used in this subsection:

- 18 1. "Bullion":
 - 19 a. Means bars, ingots, or coins, which are:
 - 20 i. Made of gold, silver, platinum, palladium, or a combination
21 of these metals;
 - 22 ii. Valued based on the content of the metal and not its form;
23 and
 - 24 iii. Used, or have been used, as a medium of exchange, security,
25 or commodity by any state, the United States government, or
26 a foreign nation; and
 - 27 b. Does not include medallions or coins that are incorporated into a

1 pendant or other jewelry; and

2 2. "Currency":

3 a. Means a coin or currency made of gold, silver, platinum,
4 palladium, or other metal or paper money that is or has been used
5 as legal tender and is sold based on its value as a collectible item
6 rather than the value as a medium of exchange; and

7 b. Does not include a coin or currency that has been incorporated into
8 jewelry; and

9 ~~(37)~~~~(38)~~ Medicinal cannabis as defined in KRS 218B.010 when sold, used, stored, or
10 consumed in accordance with KRS Chapter 218B.

11 ➔Section 47. KRS 139.4802 is amended to read as follows:

12 (1) (a) On or after March 27, 2025, a violation shall occur when an official notice
13 published by the secretary of the Finance and Administration Cabinet or the
14 commissioner of the department instructs that taxpayers should continue to
15 collect and remit sales and use tax on the sale, use, storage, or other
16 consumption of currency or bullion currency under this chapter.

17 (b) Any notice or instruction, published at any time, that states that on or after
18 August 1, 2024, the sale, use, storage, or other consumption of currency or
19 bullion currency under this chapter is taxable is void and unenforceable.

20 (2) Notwithstanding KRS 49.220 and 139.770, on and after August 1, 2024, any person
21 who paid sales tax under KRS 139.200 or use tax under KRS 139.310 on currency
22 or bullion currency that is exempt from sales and use tax under KRS 139.480
23 ~~(36)~~~~(37)~~ may maintain an action for a refund of the tax paid, as an individual or
24 by seeking certification as a class under Rule 23 of the Kentucky Rules of Civil
25 Procedure, for a refund on behalf of the person and other persons similarly situated
26 against the Commonwealth.

27 (3) An action for a refund pursuant to subsection (2) of this section, or alleging a

1 violation under subsection (1) of this section, may be brought in the Circuit Court
 2 of any county where the named plaintiff resides or where the currency or bullion
 3 currency transaction took place.

4 (4) In addition to a refund of the sales or use tax, persons seeking a refund pursuant to
 5 subsection (2) of this section or alleging a violation under subsection (1) of this
 6 section who prevail shall be entitled to:

- 7 (a) Prejudgment and post-judgment interest;
- 8 (b) Temporary or permanent injunctive relief;
- 9 (c) Reasonable attorney's fees and costs; and
- 10 (d) For allegations of a violation under subsection (1) of this section, liquidated
 11 damages of one thousand dollars (\$1,000) for each day that the violation
 12 occurred, which shall be paid from the administrative budget of the Finance
 13 and Administration Cabinet, the department, or the Office of the Governor.

14 (5) It is the intent of the General Assembly to waive sovereign, governmental, and
 15 qualified immunity for claims under this section, including immunity afforded to
 16 the Commonwealth pursuant to the Eleventh Amendment to the Constitution of the
 17 United States.

18 (6) Any person who directs, instructs, or causes a violation of any provision of this
 19 section shall be personally, jointly, and severally liable for any awarded damages.

20 ➔Section 48. KRS 139.481 is amended to read as follows:

21 (1) On and after January 1, 2023, every person claiming an exemption provided under
 22 KRS 139.480(4) to (9), (11), (13) to (15), (22) to (29), and (32)~~(23) to (30), and~~
 23 ~~(33)~~ shall provide to the seller or retailer a valid agriculture exemption license
 24 number issued by the department.

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

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

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

1 filing.

2 (b) The application shall include:

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

17 (5) (a) The agriculture exemption license number shall expire:

18 1. On December 31, 2026, and every four (4) years thereafter;~~1.1~~ or

19 2. When the person ceases to engage in the agriculture activity for which

20 the agriculture exemption license number was granted;~~2.1~~

21 whichever comes first.

22 (b) **The department shall extend the initial expiration date for a period not to**

23 **exceed six (6) months.**

24 (c) When a person ceases to engage in the agriculture activity for which the

25 license number was granted, the person shall notify the department within

26 sixty (60) days.

27 ~~(d)~~(e) The person may apply for a renewal of the agriculture exemption license

1 number prior to the expiration date if the person continues to meet the
2 requirements of subsection (2) of this section and provides documentation
3 required by subsection (4)(b)5. of this section. The department shall, by
4 administrative regulation, prescribe the electronic process for renewing an
5 agriculture exemption license number.

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

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

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

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

22 ➔Section 49. KRS 141.0401 is amended to read as follows:

23 (1) As used in this section:

24 (a) "Kentucky gross receipts" means an amount equal to the computation of the
25 numerator of the apportionment fraction under KRS 141.120, any
26 administrative regulations related to the computation of the sales factor, and
27 KRS 141.121 and includes the proportionate share of Kentucky gross receipts

1 of all wholly or partially owned limited liability pass-through entities,
2 including all layers of a multi-layered pass-through structure;

3 (b) "Gross receipts from all sources" means an amount equal to the computation
4 of the denominator of the apportionment fraction under KRS 141.120, any
5 administrative regulations related to the computation of the sales factor, and
6 KRS 141.121 and includes the proportionate share of gross receipts from all
7 sources of all wholly or partially owned limited liability pass-through entities,
8 including all layers of a multi-layered pass-through structure;

9 (c) "Affiliated group" has the same meaning as in KRS 141.201;

10 (d) "Cost of goods sold" means:

11 1. Amounts that are:

12 a. Allowable as cost of goods sold pursuant to the Internal Revenue
13 Code and any guidelines issued by the Internal Revenue Service
14 relating to cost of goods sold, unless modified by this paragraph;
15 and

16 b. Incurred in acquiring or producing the tangible product generating
17 the Kentucky gross receipts.

18 2. For manufacturing, producing, reselling, retailing, or wholesaling
19 activities, cost of goods sold shall only include costs directly incurred in
20 acquiring or producing the tangible product. In determining cost of
21 goods sold:

22 a. Labor costs shall be limited to direct labor costs as defined in
23 paragraph (f) of this subsection;

24 b. Bulk delivery costs as defined in paragraph (g) of this subsection
25 may be included; and

26 c. Costs allowable under Section 263A of the Internal Revenue Code
27 may be included only to the extent the costs are incurred in

1 acquiring or producing the tangible product generating the
2 Kentucky gross receipts. Notwithstanding the foregoing, indirect
3 labor costs allowable under Section 263A shall not be included;

4 3. For any activity other than manufacturing, producing, reselling,
5 retailing, or wholesaling, no costs shall be included in cost of goods
6 sold.

7 As used in this paragraph, "guidelines issued by the Internal Revenue Service"
8 includes regulations, private letter rulings, or any other guidance issued by the
9 Internal Revenue Service that may be relied upon by taxpayers under reliance
10 standards established by the Internal Revenue Service;

11 (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by
12 returns and allowances attributable to Kentucky gross receipts, less the
13 cost of goods sold attributable to Kentucky gross receipts. If the amount
14 of returns and allowances attributable to Kentucky gross receipts and the
15 cost of goods sold attributable to Kentucky gross receipts is zero, then
16 "Kentucky gross profits" means Kentucky gross receipts; and

17 2. "Gross profits from all sources" means gross receipts from all sources
18 reduced by returns and allowances attributable to gross receipts from all
19 sources, less the cost of goods sold attributable to gross receipts from all
20 sources. If the amount of returns and allowances attributable to gross
21 receipts from all sources and the cost of goods sold attributable to gross
22 receipts from all sources is zero, then gross profits from all sources
23 means gross receipts from all sources;

24 (f) "Direct labor" means labor that is incorporated into the tangible product sold
25 or is an integral part of the manufacturing process;

26 (g) "Bulk delivery costs" means the cost of delivering the product to the
27 consumer if:

- 1 1. The tangible product is delivered in bulk and requires specialized
2 equipment that generally precludes commercial shipping; and
3 2. The tangible product is taxable under KRS 138.220;
- 4 (h) "Manufacturing" and "producing" means:
- 5 1. Manufacturing, producing, constructing, or assembling components to
6 produce a significantly different or enhanced end tangible product;
7 2. Mining or severing natural resources from the earth; or
8 3. Growing or raising agricultural or horticultural products or animals;
- 9 (i) "Real property" means land and anything growing on, attached to, or erected
10 on it, excluding anything that may be severed without injury to the land;
- 11 (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible
12 product;
- 13 (k) "Tangible personal property" means property, other than real property, that
14 has physical form and characteristics; and
- 15 (l) "Tangible product" means real property and tangible personal property;
- 16 (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited
17 liability entity tax shall be paid by every corporation and every limited
18 liability pass-through entity doing business in Kentucky on all Kentucky gross
19 receipts or Kentucky gross profits except as provided in this subsection. A
20 small business exclusion from this tax shall be provided based on the
21 reduction contained in this subsection. The tax shall be the greater of the
22 amount computed under paragraph (b) of this subsection or one hundred
23 seventy-five dollars (\$175), regardless of the application of any tax credits
24 provided under this chapter or any other provisions of the Kentucky Revised
25 Statutes for which the business entity may qualify.
- 26 (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of
27 this paragraph:

- 1 b. If the corporation's or limited liability pass-through entity's gross
2 profits from all sources are at least three million dollars
3 (\$3,000,000) but less than six million dollars (\$6,000,000), the
4 limited liability entity tax shall be seventy-five cents (\$0.75) per
5 one hundred dollars (\$100) of the corporation's or limited liability
6 pass-through entity's Kentucky gross profits, reduced by an
7 amount equal to twenty-two thousand five hundred dollars
8 (\$22,500) multiplied by a fraction, the numerator of which is six
9 million dollars (\$6,000,000) less the amount of the corporation's or
10 limited liability pass-through entity's Kentucky gross profits, and
11 the denominator of which is three million dollars (\$3,000,000), but
12 in no case shall the result be less than one hundred seventy-five
13 dollars (\$175);
- 14 c. If the corporation's or limited liability pass-through entity's gross
15 profits from all sources are equal to or greater than six million
16 dollars (\$6,000,000), the limited liability entity tax shall be
17 seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of
18 the corporation's or limited liability pass-through entity's Kentucky
19 gross profits.

20 In determining eligibility for the reductions contained in this paragraph, a
21 member of an affiliated group shall consider the total gross receipts and the
22 total gross profits from all sources of the entire affiliated group, including
23 eliminating entries for transactions among the group.

- 24 (c) A credit shall be allowed against the tax imposed under paragraph (a) of this
25 subsection for the current year to a corporation or limited liability pass-
26 through entity that owns an interest in a limited liability pass-through entity.
27 The credit shall be the proportionate share of tax calculated under this

1 subsection by the lower-level pass-through entity, as determined after the
2 amount of tax calculated by the pass-through entity has been reduced by the
3 minimum tax of one hundred seventy-five dollars (\$175). The credit shall
4 apply across multiple layers of a multi-layered pass-through entity structure.
5 The credit at each layer shall include the credit from each lower layer, after
6 reduction for the minimum tax of one hundred seventy-five dollars (\$175) at
7 each layer.

8 (d) The department may promulgate administrative regulations to establish a
9 method for calculating the cost of goods sold attributable to Kentucky.

10 (3) A nonrefundable credit based on the tax calculated under subsection (2) of this
11 section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The
12 credit amount shall be determined as follows:

13 (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040
14 shall be equal to the amount of tax calculated under subsection (2) of this
15 section for the current year after subtraction of any credits identified in KRS
16 141.0205, reduced by the minimum tax of one hundred seventy-five dollars
17 (\$175), plus any credit determined in paragraph (b) of this subsection for tax
18 paid by wholly or partially owned limited liability pass-through entities. The
19 amount of credit allowed to a corporation based on the amount of tax paid
20 under subsection (2) of this section for the current year shall be applied to the
21 income tax due from the corporation's activities in this state. Any remaining
22 credit from the corporation shall be disallowed.

23 (b) The credit allowed members, shareholders, or partners of a limited liability
24 pass-through entity shall be the members', shareholders', or partners'
25 proportionate share of the tax calculated under subsection (2) of this section
26 for the current year after subtraction of any credits identified in KRS
27 141.0205, as determined after the amount of tax paid has been reduced by the

1 minimum tax of one hundred seventy-five dollars (\$175). The credit allowed
2 to members, shareholders, or partners of a limited liability pass-through entity
3 shall be applied to income tax assessed on income from the limited liability
4 pass-through entity. Any remaining credit from the limited liability pass-
5 through entity shall be disallowed.

6 (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms
7 prepared by the department, on or before the fifteenth day of the fourth month
8 following the close of the taxpayer's taxable year. Any tax remaining due after
9 making the payments required in KRS 141.044 shall be paid by the original due
10 date of the return.

11 (5) The department shall prescribe forms and promulgate administrative regulations as
12 needed to administer the provisions of this section.

13 (6) The tax imposed by subsection (2) of this section shall not apply to:

14 (a) For taxable years beginning prior to January 1, 2021:

- 15 1. Financial institutions, as defined in KRS 136.500, except banker's banks
16 organized under KRS 287.135 or 286.3-135;
- 17 2. Savings and loan associations organized under the laws of this state and
18 under the laws of the United States and making loans to members only;
- 19 3. Banks for cooperatives;
- 20 4. Production credit associations;
- 21 5. Insurance companies, including farmers' or other mutual hail, cyclone,
22 windstorm, or fire insurance companies, insurers, and reciprocal
23 underwriters;
- 24 6. Corporations or other entities exempt under Section 501 of the Internal
25 Revenue Code;
- 26 7. Religious, educational, charitable, or like corporations not organized or
27 conducted for pecuniary profit;

- 1 8. Corporations whose only owned or leased property located in this state
- 2 is located at the premises of a printer with which it has contracted for
- 3 printing, provided that:
- 4 a. The property consists of the final printed product, or copy from
- 5 which the printed product is produced; and
- 6 b. The corporation has no individuals receiving compensation in this
- 7 state as provided in KRS 141.901;
- 8 9. Public service corporations subject to tax under KRS 136.120;
- 9 10. Open-end registered investment companies organized under the laws of
- 10 this state and registered under the Investment Company Act of 1940;
- 11 11. ~~Any property or facility which has been certified as a fluidized bed~~
- 12 ~~energy production facility as defined in KRS 211.390;~~
- 13 ~~12.] An alcohol production facility as defined in KRS 247.910;~~
- 14 12.] Real estate investment trusts as defined in Section 856 of the
- 15 Internal Revenue Code;
- 16 13.] Regulated investment companies as defined in Section 851 of the
- 17 Internal Revenue Code;
- 18 14.] Real estate mortgage investment conduits as defined in Section
- 19 860D of the Internal Revenue Code;
- 20 15.] Personal service corporations as defined in Section 269A(b)(1) of
- 21 the Internal Revenue Code;
- 22 16.] Cooperatives described in Sections 521 and 1381 of the Internal
- 23 Revenue Code, including farmers' agricultural and other cooperatives
- 24 organized or recognized under KRS Chapter 272, advertising
- 25 cooperatives, purchasing cooperatives, homeowners associations
- 26 including those described in Section 528 of the Internal Revenue Code,
- 27 political organizations as defined in Section 527 of the Internal Revenue

1 Code, and rural electric and rural telephone cooperatives; or
2 ~~17.118.1~~ Publicly traded partnerships as defined by Section 7704(b) of the
3 Internal Revenue Code that are treated as partnerships for federal tax
4 purposes under Section 7704(c) of the Internal Revenue Code, or their
5 publicly traded partnership affiliates. "Publicly traded partnership
6 affiliates" shall include any limited liability company or limited
7 partnership for which at least eighty percent (80%) of the limited
8 liability company member interests or limited partner interests are
9 owned directly or indirectly by the publicly traded partnership; and

10 (b) For taxable years beginning on or after January 1, 2021:

- 11 1. Insurance companies, including farmers' or other mutual hail, cyclone,
12 windstorm, or fire insurance companies, insurers, and reciprocal
13 underwriters;
- 14 2. Corporations or other entities exempt under Section 501 of the Internal
15 Revenue Code;
- 16 3. Religious, educational, charitable, or like corporations not organized or
17 conducted for pecuniary profit;
- 18 4. Corporations whose only owned or leased property located in this state
19 is located at the premises of a printer with which it has contracted for
20 printing, provided that:
 - 21 a. The property consists of the final printed product, or copy from
22 which the printed product is produced; and
 - 23 b. The corporation has no individuals receiving compensation in this
24 state as provided in KRS 141.901;
- 25 5. Public service corporations subject to tax under KRS 136.120;
- 26 6. Open-end registered investment companies organized under the laws of
27 this state and registered under the Investment Company Act of 1940;

- 1 7. ~~[Any property or facility which has been certified as a fluidized bed~~
2 ~~energy production facility as defined in KRS 211.390;~~
3 8. ~~—]An alcohol production facility as defined in KRS 247.910;~~
4 8.~~[9.]~~ Real estate investment trusts as defined in Section 856 of the Internal
5 Revenue Code;
6 9.~~[10.]~~ Regulated investment companies as defined in Section 851 of the
7 Internal Revenue Code;
8 10.~~[11.]~~ Real estate mortgage investment conduits as defined in Section
9 860D of the Internal Revenue Code;
10 11.~~[12.]~~ Personal service corporations as defined in Section 269A(b)(1) of
11 the Internal Revenue Code;
12 12.~~[13.]~~ Cooperatives described in Sections 521 and 1381 of the Internal
13 Revenue Code, including farmers' agricultural and other cooperatives
14 organized or recognized under KRS Chapter 272, advertising
15 cooperatives, purchasing cooperatives, homeowners associations
16 including those described in Section 528 of the Internal Revenue Code,
17 political organizations as defined in Section 527 of the Internal Revenue
18 Code, and rural electric and rural telephone cooperatives; or
19 13.~~[14.]~~ Publicly traded partnerships as defined by Section 7704(b) of the
20 Internal Revenue Code that are treated as partnerships for federal tax
21 purposes under Section 7704(c) of the Internal Revenue Code, or their
22 publicly traded partnership affiliates. "Publicly traded partnership
23 affiliates" shall include any limited liability company or limited
24 partnership for which at least eighty percent (80%) of the limited
25 liability company member interests or limited partner interests are
26 owned directly or indirectly by the publicly traded partnership.

27 (7) (a) As used in this subsection, "qualified exempt organization" means an entity

1 listed in subsection (6)(a) and (b) of this section and shall not include any
2 entity whose exempt status has been disallowed by the Internal Revenue
3 Service.

4 (b) Notwithstanding any other provisions of this section, any limited liability
5 pass-through entity that is owned in whole or in part by a qualified exempt
6 organization shall, in calculating its Kentucky gross receipts or Kentucky
7 gross profits, exclude the proportionate share of its Kentucky gross receipts or
8 Kentucky gross profits attributable to the ownership interest of the qualified
9 exempt organization.

10 (c) Any limited liability pass-through entity that reduces Kentucky gross receipts
11 or Kentucky gross profits in accordance with paragraph (b) of this subsection
12 shall disregard the ownership interest of the qualified exempt organization in
13 determining the amount of credit available under subsection (3) of this
14 section.

15 (d) The Department of Revenue may promulgate an administrative regulation to
16 further define "qualified exempt organization" to include an entity for which
17 exemption is constitutionally or legally required, or to exclude any entity
18 created primarily for tax avoidance purposes with no legitimate business
19 purpose.

20 (8) The credit permitted by subsection (3) of this section shall flow through multiple
21 layers of limited liability pass-through entities and shall be claimed by the taxpayer
22 who ultimately pays the tax on the income of the limited liability pass-through
23 entity.

24 ➔Section 50. KRS 141.206 is amended to read as follows:

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

- 1 by the department.
- 2 (2) (a) Pass-through entities shall calculate net income in the same manner as in the
3 case of an individual under KRS 141.019 and the adjustment required under
4 Sections 703(a) and 1363(b) of the Internal Revenue Code.
- 5 (b) Computation of net income under this section and the computation of the
6 partner's, member's, or shareholder's distributive share shall be computed as
7 nearly as practicable identical with those required for federal income tax
8 purposes except to the extent required by differences between this chapter and
9 the federal income tax law and regulations.
- 10 (3) Individuals, estates, trusts, or corporations doing business in this state as a partner,
11 member, or shareholder in a pass-through entity shall be liable for income tax only
12 in their individual, fiduciary, or corporate capacities, and no income tax shall be
13 assessed against the net income of any pass-through entity, except as required:
- 14 (a) For S corporations under KRS 141.040;
- 15 (b) For a partnership level audit under KRS 141.211; and
- 16 (c) For a pass-through entity making an election under KRS 141.209.
- 17 (4) (a) Every pass-through entity required to file a return under subsection (1) of this
18 section, except publicly traded partnerships as described in KRS
19 141.0401(6)(a)~~17.18~~ and (b)~~13.14~~, shall withhold Kentucky income tax
20 on the distributive share, whether distributed or undistributed, of each
21 nonresident individual partner, member, or shareholder.
- 22 (b) Withholding shall be at the maximum rate provided in KRS 141.020.
- 23 (5) (a) Every pass-through entity required to withhold Kentucky income tax as
24 provided by subsection (4) of this section shall pay estimated tax for the
25 taxable year, if for a nonresident individual partner, member, or shareholder,
26 the estimated tax liability can reasonably be expected to exceed five hundred
27 dollars (\$500).

1 (b) The payment of estimated tax shall contain the information and shall be filed
2 as provided in KRS 141.207.

3 (6) (a) If a pass-through entity demonstrates to the department that a partner,
4 member, or shareholder has filed an appropriate tax return for the prior year
5 with the department, then the pass-through entity shall not be required to
6 withhold on that partner, member, or shareholder for the current year unless
7 the exemption from withholding has been revoked pursuant to paragraph (b)
8 of this subsection.

9 (b) 1. An exemption from withholding shall be considered revoked if the
10 partner, member, or shareholder does not file and pay all taxes due in a
11 timely manner.

12 2. An exemption so revoked shall be reinstated only with permission of the
13 department.

14 3. If a partner, member, or shareholder who has been exempted from
15 withholding does not file a return or pay the tax due, the department
16 may require the pass-through entity to pay to the department the amount
17 that should have been withheld, up to the amount of the partner's,
18 member's, or shareholder's ownership interest in the entity.

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

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

26 (8) In determining the tax under this chapter, a nonresident individual, estate, or trust
27 that is a partner, member, or shareholder in a pass-through entity required to file a

1 return under subsection (1) of this section shall take into account:

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

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

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

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

15 (a) 1. For taxable years beginning on or after January 1, 2007, but prior to
16 January 1, 2018, shall include the proportionate share of the sales,
17 property, and payroll of the limited liability pass-through entity or
18 general partnership in computing its own apportionment factor; and

19 2. For taxable years beginning on or after January 1, 2018, shall include
20 the proportionate share of the sales of the limited liability pass-through
21 entity or general partnership in computing its own apportionment factor;
22 and

23 (b) Credits from the partnership.

24 (10) (a) If a pass-through entity is doing business both within and without this state,
25 the pass-through entity shall compute and furnish to each partner, member, or
26 shareholder the numerator and denominator of each factor of the
27 apportionment fraction determined in accordance with subsection (11) of this

1 section.

2 (b) For purposes of determining an apportionment fraction under paragraph (a) of
3 this subsection, if the pass-through entity is:

4 1. Doing business both within and without this state; and

5 2. A partner or member in another pass-through entity;

6 then the pass-through entity shall be deemed to own the pro rata share of the
7 property owned or leased by the other pass-through entity, and shall also
8 include its pro rata share of the other pass-through entity's payroll and sales.

9 (c) The phrases "a partner or member in another pass-through entity" and "doing
10 business both within and without this state" shall extend to each level of
11 multiple-tiered pass-through entities.

12 (d) The attribution to the pass-through entity of the pro rata share of property,
13 payroll and sales from its role as a partner or member in another pass-through
14 entity will also apply when determining the pass-through entity's ultimate
15 apportionment factor for property, payroll and sales as required under
16 subsection (11) of this section.

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

27 (b) For taxable years beginning on or after January 1, 2018, a pass-through entity

1 doing business within and without the state shall compute an apportionment
2 fraction as provided in KRS 141.120.

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

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

12 (14) (a) Nonresident individuals shall not be taxable on investment income distributed
13 by a qualified investment partnership. For purposes of this subsection, a
14 "qualified investment partnership" means a pass-through entity that, during
15 the taxable year, holds only investments that produce income that would not
16 be taxable to a nonresident individual if held or owned individually.

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

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

25 (b) A pass-through entity shall furnish to its nonresident partner, member, or
26 shareholder annually, but not later than the fifteenth day of the fourth month
27 after the end of its taxable year, a record of the amount of tax paid on behalf

1 of the partner, member, or shareholder on a form prescribed by the
2 department.

3 ➔Section 51. KRS 154.20-236 is amended to read as follows:

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

6 (a) All qualified investors shall be no more than three million dollars
7 (\$3,000,000); and

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

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

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

12 2. All investors in all investment funds pursuant to KRS 154.20-250 to
13 154.20-284;

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

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

19 (c) The authority shall not grant preliminary or final approval for applications
20 received for the Kentucky Angel Investment Act on or after January 1, 2019,
21 but may resume approving applications received on or after January 1, 2021.

22 **(d) The authority shall not grant preliminary or final approval for applications**
23 **received for the Kentucky Angel Investment Act on or after the effective**
24 **date of this section.**

25 (3) The authority shall, by promulgation of an administrative regulation, develop a
26 standard procedure for:

27 (a) Small businesses and investors to request certification for participation in the

- 1 program;
- 2 (b) Qualified investors to request certification of a planned investment as being a
3 qualified investment, and to apply for a credit; and
- 4 (c) The award of credits to qualified investors making qualified investments.
- 5 (4) At a minimum, the procedure shall:
- 6 (a) Require small businesses and investors to demonstrate to the authority that
7 they, and any planned investment, satisfy all requirements provided in KRS
8 154.20-234;
- 9 (b) Provide small businesses and investors with a standard written application
10 form to request certification and apply for a credit;
- 11 (c) Require the payment of a fee; and
- 12 (d) Mandate a time period for the duration of certifications granted to small
13 businesses and investors, and the procedures for recertification thereof.
- 14 (5) The amount of credit awarded shall not exceed:
- 15 (a) Twenty-five percent (25%) of the amount of the qualified investment, if the
16 principal place of business of the qualified small business is outside an
17 enhanced incentive county; or
- 18 (b) Forty percent (40%) of the amount of the qualified investment, if the principal
19 place of business of the qualified small business is in an enhanced incentive
20 county.
- 21 (6) Upon approval of a credit, the authority shall reduce the amount of available credit
22 by the amount of credit approved to the qualified investor.
- 23 (7) The authority may, in effectuating this section, contract with a science and
24 technology organization as defined in KRS 164.6011 to administer and manage the
25 certification and application procedure established by the authority. However, the
26 final approval of all credits shall be made solely by the authority.
- 27 ➔Section 52. KRS 141.065 is amended to read as follows:

- 1 (1) For the purposes of this section, "code" or "Internal Revenue Code" means the
2 Internal Revenue Code in effect as of December 31, 1981.
- 3 (2) *For taxable years beginning before January 1, 2028,* there shall be allowed as a
4 credit for any taxpayer against the tax imposed by KRS 141.020 or 141.040 and
5 141.0401 for any taxable year, with the ordering of the credits as provided in KRS
6 141.0205, an amount equal to one hundred dollars (\$100) for each person hired by
7 the taxpayer, if that person has been classified as unemployed by the Office of
8 Unemployment Insurance in the Education and Labor Cabinet and has been so
9 classified for at least sixty (60) days prior to his employment by the taxpayer, and if
10 further that person has remained in the employ of the taxpayer for at least one
11 hundred eighty (180) consecutive days during the taxable year in which the
12 taxpayer claims the credit.
- 13 (3) No credit shall be allowed to any taxpayer for any person hired under any of the
14 following circumstances:
- 15 (a) A person for whom the taxpayer receives federally funded payments for on-
16 the-job training;
- 17 (b) For any person who bears any of the relationships to the taxpayer described in
18 paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or,
19 if the taxpayer is a corporation, to an individual who owns, directly or
20 indirectly, more than fifty percent (50%) in value of the outstanding stock of
21 the corporation as determined with the application of Section 267(c) of the
22 code;
- 23 (c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary,
24 or fiduciary of the estate or trust, or is an individual who bears any of the
25 relationships described in paragraphs (1) through (8) of Section 152(a) of the
26 code to a grantor, beneficiary, or fiduciary of the estate or trust; or
- 27 (d) To any person who is a dependent of the taxpayer as described in code

1 Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor,
2 beneficiary, or fiduciary of the estate or trust.

3 (4) For purposes of this section, all employees of all corporations which are members
4 of the same controlled group of corporations shall be treated as employed by a
5 single employer. In no instance shall the credit, if any, allowable by subsection (2)
6 of this section for any employee qualified thereunder be claimed more than once for
7 any taxable year by such a controlled group of corporations. For purposes of this
8 subsection, the term "controlled group of corporations" has the meaning given to
9 that term by code Section 1563(a), except that "more than fifty percent (50%)" shall
10 be substituted for "at least eighty percent (80%)" each place it appears in code
11 Section 1563(a)(1), and the determination shall be made without regard to
12 subsections (a)(4) and (e)(3)(c) of code Section 1563.

13 (5) For purposes of this section, all employees of trades or businesses (whether or not
14 incorporated) which are under common control shall be treated as employed by a
15 single employer, and in no instance shall the credit, if any, allowable by subsection
16 (2) of this section for any employee qualified thereunder be claimed more than once
17 for any taxable year.

18 (6) No credit shall be allowed under subsection (2) of this section to any organization
19 which is exempt from income tax by this chapter.

20 (7) In the case of a pass-through entity, the amount of the credit determined under this
21 section for any taxable year shall be applied at the entity level against the limited
22 liability entity tax imposed by KRS 141.0401 and shall also be apportioned pro rata
23 among the members, partners, or shareholders of the limited liability entity on the
24 last day of the taxable year, and any person to whom an amount is so apportioned
25 shall be allowed, subject to code Section 53, a credit under subsection (2) of this
26 section for that amount.

27 (8) In the case of an estate or trust, the amount of the credit determined under this

1 section for any taxable year shall be apportioned between the estate or trust and the
2 beneficiaries on the basis of income of the estate or trust allocable to each, and any
3 beneficiary to whom any amount has been apportioned under this subsection shall
4 be allowed, subject to code Section 53, a credit under subsection (2) of this section
5 for that amount.

6 (9) In no event shall the credit allowed, pursuant to this section, for any taxable year
7 exceed the tax liability of the taxpayer for the taxable year.

8 **(10) (a) By November 1, 2026, and each November 1 thereafter as long as credit is**
9 **claimed under this section, the department shall report to the Legislative**
10 **Research Commission for referral to the Interim Joint Committee on**
11 **Appropriations and Revenue:**

12 **1. The total number of returns claiming the credit for the taxable year;**

13 **2. The total amount of credit claimed for the taxable year;**

14 **3. By county, the total number of unemployed persons hired for which**
15 **credit is claimed for the taxable year;**

16 **4. By taxpayer:**

17 **a. The name and location of the taxpayer claiming the credit as**
18 **listed on the tax return;**

19 **b. The total number of tax credits claimed for the taxable year;**

20 **c. The total amount of credit claimed for the taxable year; and**

21 **d. The total number of unemployed persons hired in which credit is**
22 **claimed for the taxable year;**

23 **5. a. In the case of taxpayers other than corporations, based on**
24 **ranges of adjusted gross income of no larger than five thousand**
25 **dollars (\$5,000) for the taxable year, the total amount of credit**
26 **claimed and the total number of returns claiming this credit for**
27 **each adjusted gross income range; and**

1 **b. In the case of corporations, based on ranges of net income of no**
2 **larger than fifty thousand dollars (\$50,000) for the taxable year,**
3 **the total amount of credit claimed and the total number of**
4 **returns claiming this credit for each net income range.**

5 **(b) The Office of Unemployment Insurance shall assist by providing the**
6 **department with the information necessary to help fulfill the requirements**
7 **under this subsection.**

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

12 ➔Section 53. KRS 141.412 is amended to read as follows:

- 13 (1) **For taxable years beginning before January 1, 2028,** a qualified farming operation
14 shall be entitled to a nonrefundable credit against the Kentucky income tax liability
15 established pursuant to the provisions of this chapter on any income of the qualified
16 farming operation generated by or arising out of the qualified farming operation's
17 participation in a networking project, and against the limited liability entity tax
18 imposed by KRS 141.0401 on any Kentucky gross profits or Kentucky gross
19 receipts of the qualified farming operation generated by or arising out of the
20 qualified farming operation's participation in a networking project. The credits shall
21 be applied as provided in KRS 141.0205. The annual credit shall be available for
22 the first five (5) years that the farming operation is involved in the networking
23 project. The annual credit shall be equal to the approved costs incurred by the
24 qualified farming operation during the tax year and shall not exceed the income,
25 Kentucky gross profits or Kentucky gross receipts, as the case may be, of the
26 qualified farming operation generated by or arising out of the qualified farming
27 operation's participation in a networking project.

1 (2) Any credit not used in the tax year in which it first becomes available may be
2 carried forward to the next succeeding five (5) tax years until the credit has been
3 fully used. The aggregate credit used in any tax year shall not exceed the income,
4 Kentucky gross profits or Kentucky gross receipts, as the case may be, of the
5 qualified farming operation generated by or arising out of the qualified farming
6 operation's participation in a networking project in that tax year.

7 **(3) (a) By November 1, 2026, and each November 1 thereafter as long as a**
8 **qualified farming operation credit is claimed under this section, the**
9 **department shall report to the Legislative Research Commission for referral**
10 **to the Interim Joint Committee on Appropriations and Revenue:**

11 **1. The total number of returns claiming the credit for the taxable year;**

12 **2. The total amount of credit claimed for the taxable year;**

13 **3. By taxpayer:**

14 **a. The name and location of the taxpayer claiming the credit as**
15 **listed on the tax return;**

16 **b. The total number of tax credits claimed for the taxable year;**

17 **c. The total amount of credit claimed for the taxable year;**

18 **d. The name and location, by county, of the networking project;**

19 **e. Type of food or product produced; and**

20 **f. Type of raw materials provided for food-producing facilities in**
21 **this state;**

22 **4. a. In the case of taxpayers other than corporations, based on**
23 **ranges of adjusted gross income of no larger than five thousand**
24 **dollars (\$5,000) for the taxable year, the total amount of credit**
25 **claimed and the total number of returns claiming this credit for**
26 **each adjusted gross income range; and**

27 **b. In the case of corporations, based on ranges of net income of no**

1 larger than fifty thousand dollars (\$50,000) for the taxable year,
 2 the total amount of credit claimed and the total number of
 3 returns claiming this credit for each net income range.

4 (b) The Cabinet for Economic Development shall assist by providing the
 5 department with information on the approved farming operations or
 6 networking projects to help fulfill the requirements under this subsection.

7 (c) The information required to be reported under this subsection shall not be
 8 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 54. KRS 141.0101 is amended to read as follows:

12 (1) (a) The provisions of subsections (2) to (11) of this section shall apply to taxable
 13 years beginning before January 1, 1994.

14 (b) The provisions of subsections (12) to (15) of this section shall apply to taxable
 15 years beginning after December 31, 1993.

16 (c) The provisions of subsection (16) of this section apply to property placed in
 17 service after September 10, 2001.

18 (2) For property placed in service prior to January 1, 1990, in lieu of the depreciation
 19 and expense deductions allowed under Internal Revenue Code Sections 168 and
 20 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and
 21 tear, and obsolescence of property used in a trade or business shall be allowed and
 22 computed as set out in subsections (3) to (11) of this section. For property placed in
 23 service after December 31, 1989, the depreciation and expense deductions allowed
 24 under Sections 168 and 179 of the Internal Revenue Code shall be allowed.

25 (3) Effective August 1, 1985, "reasonable allowance" as used in subsection (2) of this
 26 section shall mean depreciation computed in accordance with Section 167 of the
 27 Internal Revenue Code and related regulations in effect on December 31, 1980, for

1 all property placed in service on or after January 1, 1981, except as provided in
2 subsections (6) to (8) of this section.

3 (4) Depreciation of property placed in service prior to January 1, 1981, shall be
4 computed under Section 167 of the Internal Revenue Code, and the method elected
5 thereunder at the time the property was first placed in service or as changed with
6 the approval of the Commissioner of Internal Revenue Service or as required by
7 changes in federal regulations.

8 (5) Taxpayers other than corporations shall be allowed to deduct as depreciation on
9 recovery property placed in service before August 1, 1985, an amount calculated
10 under Section 168 of the Internal Revenue Code subject to the provisions of
11 subsections (6) and (8) of this section. Corporations with a taxable year beginning
12 on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for
13 depreciation on recovery property placed in service prior to August 1, 1985, using
14 either of the following alternative methods:

15 (a) Dividing the total of the deductions allowed under Internal Revenue Code
16 Section 168 by one and four tenths (1.4); and

17 (b) Calculating the deduction that would be allowed or allowable under the
18 provisions of Section 167 of the Internal Revenue Code.

19 (6) Recovery property placed in service on or after January 1, 1981, and before August
20 1, 1985, and subject to transition under subsection (8) of this section, shall be
21 subject to depreciation under Section 167 of the Internal Revenue Code, restricted
22 to the straight line method therein provided over the remaining useful life of such
23 assets.

24 (7) Depreciation of property placed in service on or after August 1, 1985, shall be
25 computed under Section 167 of the Internal Revenue Code.

26 (8) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost
27 Recovery System (ACRS) depreciation, to the depreciation allowed or allowable

1 under this section shall be reported in the first taxable year beginning on or after
2 August 1, 1985. To implement the transition, the following adjustments shall be
3 made:

- 4 (a) Taxpayers other than corporations shall use the adjusted Kentucky basis for
5 property placed in service on or after January 1, 1981. "Adjusted Kentucky
6 basis" means the basis used for determining depreciation under Section 168 of
7 the Internal Revenue Code less the allowed or allowable depreciation and
8 adjustment for election to expense an asset (Section 179 of the Internal
9 Revenue Code);
- 10 (b) Corporations shall adjust the federal unadjusted basis by increasing such basis
11 by the ACRS depreciation not allowed as a deduction in determining
12 Kentucky net income for tax years beginning after June 30, 1984, less allowed
13 or allowable ACRS depreciation for federal income tax purposes.
14 Corporations will not be permitted to adjust the basis by the ACRS
15 depreciation not allowed for Kentucky income tax purposes in tax years
16 beginning on or before June 30, 1984.
- 17 (9) A taxpayer may elect to treat the cost of property placed in service on or before July
18 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in
19 effect on December 31, 1981, except that the aggregate cost which may be
20 expensed for corporations shall not exceed five thousand dollars (\$5,000). A
21 taxpayer may elect to treat the cost of property placed in service on or after August
22 1, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in
23 effect on December 31, 1980. Computations, limitations, definitions, exceptions,
24 and other provisions of Section 179 of the Internal Revenue Code and related
25 regulations shall be construed to govern the computation of the allowable
26 deduction.
- 27 (10) Upon the sale, exchange, or disposition of any depreciable property placed in

1 service on or after January 1, 1981, capital gains or losses and the amount of
2 ordinary income determined under the provisions of the Internal Revenue Code
3 shall be computed for Kentucky income tax purposes as follows:

- 4 (a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced
5 by any basis adjustment made by the taxpayer under Section 48(q)(1) of the
6 Internal Revenue Code and any expense allowed and utilized under Section
7 179 of the Internal Revenue Code (First Year Expense) in determining
8 Kentucky net income in prior years, and
- 9 (b) Compute the adjusted basis by subtracting the depreciation allowed or
10 allowable for Kentucky income tax purposes from the unadjusted basis,
11 except corporations will not be permitted to adjust the basis of assets by the
12 ACRS depreciation not allowed for Kentucky income tax purposes in the tax
13 years beginning on or before June 30, 1984, and
- 14 (c) Compute the gain or loss by subtracting the adjusted basis from the value
15 received from the disposition of the depreciable property, and
- 16 (d) Compute the recapture of depreciation required under Sections 1245 through
17 1256 of the Internal Revenue Code and related regulations, and
- 18 (e) Unless otherwise provided in this subsection the provisions of the Internal
19 Revenue Code and related regulations governing the determination of capital
20 gains or losses shall apply for Kentucky income tax purposes.
- 21 (11) Unless otherwise provided by this chapter, the basis of property placed in service
22 prior to January 1, 1990, for purposes of Kentucky income tax shall be the basis,
23 adjusted or unadjusted, required to be used under Section 167 of the Internal
24 Revenue Code in effect on December 31, 1980.
- 25 (12) As used in this subsection to subsection (14) of this section:
- 26 (a) "Transition property" means any property placed in service before the first
27 day of the first taxable year beginning after December 31, 1993, and owned

1 by the taxpayer on the first day of the first taxable year beginning after
2 December 31, 1993.

3 (b) "Adjusted Kentucky basis" means the amount computed in accordance with
4 the provisions of paragraph (b) of subsection (10) of this section for transition
5 property.

6 (c) "Adjusted federal basis" means the original cost, or, in the case of Section 338
7 property, the adjusted grossed-up basis of transition property less:

8 1. Any basis adjustments required by the Internal Revenue Code for
9 credits; and

10 2. The total accumulated depreciation and election to expense deductions
11 allowed or allowable for federal income tax purposes.

12 (d) "Section 338 property" means property to which an adjusted grossed-up basis
13 has been allocated pursuant to a valid election made by a purchasing
14 corporation under the provisions of Section 338 of the Internal Revenue Code.

15 (e) "Transition amount" means the net difference between the adjusted Kentucky
16 basis and the adjusted federal basis of all transition property determined as of
17 the first day of the first taxable year beginning after December 31, 1993.

18 (13) For taxable years beginning after December 31, 1993, the amounts of depreciation
19 and election to expense deductions, allowed or allowable, the basis of assets,
20 adjusted or unadjusted, and the gain or loss from the sale or other disposition of
21 assets shall be the same for Kentucky income tax purposes as determined under
22 Chapter 1 of the Internal Revenue Code.

23 (14) For taxable years beginning after December 31, 1993, the transition amount
24 computed in accordance with the provisions of paragraph (e) of subsection (12) of
25 this section shall be reported by the taxpayer as follows:

26 (a) In the first taxable year beginning after December 31, 1993, and the eleven
27 (11) succeeding taxable years, the taxpayer shall include in gross income one-

1 twelfth (1/12) of the transition amount if:

- 2 1. The adjusted federal basis of transition property exceeds the adjusted
3 Kentucky basis of transition property;
- 4 2. The transition amount exceeds five million dollars (\$5,000,000);
- 5 3. The transition amount includes property for which an election was made
6 under Section 338 of the Internal Revenue Code; and
- 7 4. The taxpayer elects the provisions of this paragraph with the filing of an
8 amended income tax return for the first taxable year beginning after
9 December 31, 1993.

10 (b) In the first taxable year beginning after December 31, 1993 and the three (3)
11 succeeding taxable years, if the transition amount exceeds one hundred
12 thousand dollars (\$100,000), or if the transition amount does not exceed one
13 hundred thousand dollars (\$100,000) and the taxpayer elects the provision of
14 this paragraph with the filing of the income tax return for the first taxable year
15 beginning after December 31, 1993, the taxpayer shall:

- 16 1. Deduct from gross income twenty-five percent (25%) of the transition
17 amount if the adjusted Kentucky basis of transition property exceeds the
18 adjusted federal basis of transition property; or
- 19 2. Add to gross income twenty-five percent (25%) of the transition amount
20 if the adjusted federal basis of transition property exceeds the adjusted
21 Kentucky basis of transition property.

22 (c) In the first taxable year beginning after December 31, 1993, if the transition
23 amount does not exceed one hundred thousand dollars (\$100,000) and the
24 taxpayer does not elect the provisions of paragraph (b) of this subsection, the
25 taxpayer shall:

- 26 1. Deduct from gross income the total transition amount if the adjusted
27 Kentucky basis of transition property exceeds the adjusted federal basis

1 of transition property; or

2 2. Add to gross income the total transition amount if the adjusted federal
3 basis of transition property exceeds the adjusted Kentucky basis of
4 transition property.

5 (15) **For taxable years beginning before January 1, 2028,** notwithstanding any other
6 provision of this section to the contrary, any qualified farming operation, as defined
7 in KRS 141.410, shall be allowed to compute the depreciation deduction for new
8 buildings and equipment purchased to enable participation in a networking project,
9 as defined in KRS 141.410, on an accelerated basis at two (2) times the rate that
10 would otherwise be permitted under the provisions of this section. The accumulated
11 depreciation allowed under this subsection shall not exceed the taxpayer's basis in
12 such property.

13 (16) (a) For property placed in service after September 10, 2001, only the depreciation
14 deduction allowed under Section 168 of the Internal Revenue Code in effect
15 on December 31, 2001, exclusive of any amendments made subsequent to that
16 date, shall be allowed.

17 (b) For property placed in service after September 10, 2001, but prior to January
18 1, 2020, only the expense deduction allowed under Section 179 of the Internal
19 Revenue Code in effect on December 31, 2001, exclusive of any amendments
20 made subsequent to that date, shall be allowed.

21 (c) For property placed in service on or after January 1, 2020, only the expense
22 deduction allowed under Section 179 of the Internal Revenue Code in effect
23 on December 31, 2003, exclusive of any amendments made subsequent to that
24 date, shall be allowed, except that the phase-out provisions of Section 179 of
25 the Internal Revenue Code, limiting the qualifying investment in property,
26 shall not apply.

27 ➔Section 55. KRS 151B.402 is amended to read as follows:

- 1 (1) The General Assembly recognizes the critical condition of the educational level of
2 Kentucky's adult population and seeks to stimulate the attendance at, and successful
3 completion of, programs that provide a High School Equivalency Diploma.
4 Incentives shall be provided to full-time employees who complete a High School
5 Equivalency Diploma program within one (1) year and their employers.
- 6 (2) The Office of Adult Education within the Department of Workforce Development
7 in the Education and Labor Cabinet shall promulgate administrative regulations to
8 establish the operational procedures for this section. The administrative regulations
9 shall include but not be limited to the criteria for:
- 10 (a) A learning contract that includes the process to develop a learning contract
11 between the student and the adult education instructor with the employer's
12 agreement to participate and support the student;
- 13 (b) Attendance reports that validate that the student is enrolled and studying for
14 the High School Equivalency Diploma during the release time from work; and
- 15 (c) Final reports that qualify the student for the tuition discounts under subsection
16 (3)(a) of this section and that qualify the employer for tax credits under
17 subsection (4) of the section.
- 18 (3) (a) An individual who has been out of secondary school for at least three (3)
19 years, develops and successfully completes a learning contract that requires a
20 minimum of five (5) hours per week to study for the High School Equivalency
21 Diploma program, and successfully earns a High School Equivalency
22 Diploma shall earn a tuition discount of two hundred fifty dollars (\$250) per
23 semester for a maximum of four (4) semesters at one (1) of Kentucky's public
24 postsecondary institutions.
- 25 (b) The program shall work with the postsecondary institutions to establish
26 notification procedures for students who qualify for the tuition discount.
- 27 (4) **For taxable years beginning before January 1, 2028,** an employer who assists an

1 individual to complete his or her learning contract under the provisions of this
2 section shall receive a state tax credit against the income tax imposed by KRS
3 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401,
4 with credit ordering as provided in KRS 141.0205 for a portion of the released time
5 given to the employee to study for the tests. The application for the tax credit shall
6 be supported with attendance documentation provided by the Office of Adult
7 Education and calculated by multiplying fifty percent (50%) of the hours released
8 for study by the student's hourly salary, and not to exceed a credit of one thousand
9 two hundred fifty dollars (\$1250).

10 **(5) (a) By November 1, 2026, and each November 1 thereafter as long as the**
11 **employer High School Equivalency Diploma program incentive credit is**
12 **claimed under this section, the department shall report to the Legislative**
13 **Research Commission for referral to the Interim Joint Committee on**
14 **Appropriations and Revenue:**

15 **1. The total number of returns claiming the credit for the taxable year;**

16 **2. The total amount of credit claimed for the taxable year;**

17 **3. By county, the total:**

18 **a. Number of employers participating in the High School**
19 **Equivalency Diploma program;**

20 **b. Amount of High School Equivalency Diploma program incentive**
21 **credit claimed; and**

22 **c. Number of full-time employees who complete the High School**
23 **Equivalency Diploma program;**

24 **4. By taxpayer:**

25 **a. The name and location of the taxpayer claiming the credit as**
26 **listed on the tax return;**

27 **b. The total number of tax credits claimed for the taxable year;**

- 1 c. The total amount of credit claimed for the taxable year; and
- 2 d. The number of individuals assisted with completion of the High
- 3 School Equivalency Diploma for the taxable year;
- 4 5. a. In the case of taxpayers other than corporations, based on
- 5 ranges of adjusted gross income of no larger than five thousand
- 6 dollars (\$5,000) for the taxable year, the total amount of credit
- 7 claimed and the total number of returns claiming this credit for
- 8 each adjusted gross income range; and
- 9 b. In the case of corporations, based on ranges of net income of no
- 10 larger than fifty thousand dollars (\$50,000) for the taxable year,
- 11 the total amount of credit claimed and the total number of
- 12 returns claiming this credit for each net income range.
- 13 (b) The Office of Adult Education shall assist by providing the department with
- 14 the information necessary to help fulfill the requirements under this
- 15 subsection.
- 16 (c) The information required to be reported under this section shall not be
- 17 considered confidential taxpayer information and shall not be subject to
- 18 KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes
- 19 prohibiting disclosure or reporting of information.

20 ➔Section 56. KRS 171.396 is amended to read as follows:

21 As used in this section and KRS 171.3961 and 171.397 and Section 58 of this Act:

- 22 (1) "Certified historic structure" means a structure that is located within the
- 23 Commonwealth of Kentucky that is:
- 24 (a) Listed individually on the National Register of Historic Places; or
- 25 (b) Located in a historic district listed on the National Register of Historic Places
- 26 and is certified by the council as contributing to the historic significance of
- 27 the district;

1 (2) "Certified rehabilitation" means a completed substantial rehabilitation of a certified
 2 historic structure that the council certifies meets the United States Secretary of the
 3 Interior's Standards for Rehabilitation;

4 (3) "Certified rehabilitation credit cap" means an annual amount of ~~£:~~
 5 ~~(a) Three million dollars (\$3,000,000) for applications received prior to April 30,~~
 6 ~~2010;~~

7 ~~(b) Five million dollars (\$5,000,000) for applications received on or after April~~
 8 ~~30, 2010, but before April 30, 2022; and~~

9 ~~(c) One hundred million dollars (\$100,000,000) for applications received on or after:~~

10 (a) April 30, 2022, **but before April 30, 2026**, allocated with:

11 1. Twenty-five percent (25%) of the credit cap awarded to owner-occupied
 12 residential property; and

13 2. Seventy-five percent (75%) of the credit cap awarded to property other
 14 than owner-occupied residential property, which includes the major
 15 certified rehabilitation allowed under KRS 171.3963; and

16 (b) **April 30, 2026, but before April 15, 2027, and on or before each April 15**
 17 **thereafter, allocated with:**

18 1. **Fifteen percent (15%) of the credit cap awarded to owner-occupied**
 19 **residential property; and**

20 2. **Eighty-five percent (85%) of the credit cap awarded to property other**
 21 **than owner-occupied residential property;**

22 plus any amounts~~[amount]~~ added to the certified rehabilitation credit cap pursuant
 23 to KRS 171.397(2)(c) and Section 58 of this Act;

24 (4) "Commercial residential property" means a certified historic structure that:

25 (a) **Is not owner-occupied residential property; and**

26 (b) **Has a minimum of fifty percent (50%) of its square footage designated to**
 27 **residential space which shall be available for lease, rent, or sale upon**

1 **completion of the rehabilitation;**

2 **(5)** "Council" means the Kentucky Heritage Council;

3 **(6)**~~(5)~~ "Disqualifying work" means work that is performed within three (3) years of
4 the completion of the certified rehabilitation that, if performed as part of the
5 rehabilitation certified under KRS 171.397 **and Section 58 of this Act**, would have
6 made the rehabilitation ineligible for certification;

7 **(7)**~~(6)~~ "Exempt entity" means any tax exempt organization pursuant to sec. 501(c)(3)
8 of the Internal Revenue Code, any political subdivision of the Commonwealth, any
9 state or local agency, board, or commission, or any quasi-governmental entity;

10 **(8)**~~(7)~~ "Local government" means a city, county, urban-county, charter county, or
11 consolidated local government;

12 **(9)**~~(8)~~ **"Median family income" means the median family income for the county in**
13 **which the residence is located as determined by the most recent American**
14 **Community Survey Five-Year Estimate;**

15 **(10)** "Owner-occupied residential property" means a building or portion thereof,
16 condominium, or cooperative occupied by the owner as his or her principal
17 residence;

18 **(11)**~~(9)~~ "Qualified rehabilitation expense" means any amount that is properly
19 chargeable to a capital account, whether or not depreciation is allowed under
20 Section 168 of the Internal Revenue Code, and is expended in connection with the
21 certified rehabilitation of a certified historic structure. It shall include the cost of
22 restoring landscaping and fencing that contributes to the historic significance of this
23 structure, but shall not include the cost of acquisition of a certified historic
24 structure, enlargement of or additions to an existing building, or the purchase of
25 personal property;

26 **(12)**~~(10)~~ "Substantial rehabilitation" means rehabilitation of a certified historic
27 structure for which the qualified rehabilitation expenses, during a twenty-four (24)

1 month period selected by the taxpayer or exempt entity, ending with or within the
2 taxable year, exceed:

3 (a) Twenty thousand dollars (\$20,000) for an owner-occupied residential
4 property; or

5 (b) For all other property, the greater of:

6 1. The adjusted basis of the structure; or

7 2. Twenty thousand dollars (\$20,000);

8 ~~(13)~~~~(14)~~ "Taxpayer" means any individual, corporation, limited liability company,
9 business development corporation, partnership, limited partnership, sole
10 proprietorship, association, joint stock company, receivership, trust, professional
11 service organization, or other legal entity through which business is conducted that:

12 (a) Elects to claim the credit on a return and receive a refund as provided in KRS
13 171.397(2)(b)2.a. **and Section 58 of this Act**; or

14 (b) Is the recipient of a credit which is transferred as provided in KRS
15 171.397(2)(b)2.b. **and Section 58 of this Act**; and

16 ~~(14)~~~~(12)~~ "Qualified purchased historic home" means any substantially rehabilitated
17 certified historic structure if:

18 (a) The taxpayer claiming the credit authorized under KRS 171.397 **and Section**
19 **58 of this Act** is the first purchaser of the structure after the date of
20 completion of the substantial rehabilitation;

21 (b) The structure or a portion thereof will be the principal residence of the
22 taxpayer; and

23 (c) No credit was allowed to the seller under this section.

24 A qualified purchased historic home shall be deemed owner-occupied residential
25 property for purposes of this section.

26 ➔Section 57. KRS 171.397 is amended to read as follows:

27 (1) (a) For all applications for a preliminary approval received prior to April 30,

1 2010, there shall be allowed as a credit against the taxes imposed by KRS
2 141.020, 141.040, 141.0401, or 136.505, an amount equal to:

- 3 1. Thirty percent (30%) of the qualified rehabilitation expenses, in the case
4 of owner-occupied residential property; and
- 5 2. Twenty percent (20%) of the qualified rehabilitation expenses, in the
6 case of all other property.

7 In the case of an exempt entity that has incurred qualified rehabilitation
8 expenses, the credit provided in this subsection shall be available to transfer
9 or assign as provided under subsection (8) or (9) of this section.

10 (b) For applications for preliminary approval received on or after April 30, 2010,
11 the credit shall be refundable if the taxpayer makes an election under
12 subsection (2)(b) of this section.

13 (2) (a) A taxpayer seeking the credit provided under subsection (1) of this section
14 shall file an application for a preliminary determination of maximum credit
15 eligibility before April 30 of the year in which the proposed project will
16 begin. The application shall describe the project and shall include
17 documentation supporting the qualification of the project for the credit, the
18 proposed start date, the proposed completion date, the projected qualified
19 rehabilitation expenses, and any other information the council may require.
20 The council shall determine the preliminary maximum credit available for
21 each taxpayer and shall notify the taxpayer of that amount by June 30 of the
22 year in which the application was filed. If total credits applied for in any year
23 exceed the certified rehabilitation credit cap, plus any amounts added to the
24 cap pursuant to paragraph (c) of this subsection, the provisions of subsection
25 (5) of this section shall be applied to reduce the approved credits for all
26 taxpayers with qualifying applications for that year.

27 (b) 1. An application for a final determination of credit shall be submitted to

- 1 the council upon completion of the project.
- 2 2. The application shall include an irrevocable election by the taxpayer to:
- 3 a. Use the credit, in which case, the credit shall be refundable; or
- 4 b. Transfer the credit.
- 5 3. The council shall determine the final amount of credit approved for each
- 6 taxpayer based upon the actual expenditures, preliminary determination
- 7 of maximum credit, and a determination that the expenditures are
- 8 qualified rehabilitation expenses.
- 9 4. The council shall notify the taxpayer and Department of Revenue of the
- 10 final approved credit amount within sixty (60) days of the receipt of a
- 11 completed application from the taxpayer.
- 12 (c) 1. If the total amount of credits finally approved for a taxpayer under
- 13 paragraph (b) of this subsection are less than the credits initially
- 14 approved for a taxpayer under paragraph (a) of this subsection, the
- 15 difference between the two (2) amounts shall be added to the certified
- 16 rehabilitation credit cap for the next calendar year.
- 17 2. If the total amount of credits approved under paragraph (a) of this
- 18 subsection in any calendar year is less than the certified rehabilitation
- 19 credit cap, the difference between the credits actually awarded and the
- 20 certified rehabilitation credit cap shall be added to the certified
- 21 rehabilitation credit cap for the next calendar year.
- 22 (3) (a) The maximum credit which may be claimed with regard to owner-occupied
- 23 residential property shall be one hundred twenty thousand dollars (\$120,000)
- 24 subject to subsection (5) of this section. The credit in this section shall be
- 25 claimed for the taxable year in which the certified rehabilitation is completed.
- 26 (b) The maximum credit which may be claimed with regard to all other property
- 27 that is not owner-occupied residential shall be ten million dollars

1 (\$10,000,000) subject to subsection (5) of this section. The credit in this
2 section shall be claimed for the taxable year in which the certified
3 rehabilitation is completed.

4 (4) In the case of a husband and wife filing separate returns or filing separately on a
5 joint return, the credit may be taken by either or divided equally, but the combined
6 credit shall not exceed one hundred twenty thousand dollars (\$120,000) if subject to
7 the limitation in subsection (3)(a) of this section, or ten million dollars
8 (\$10,000,000) if subject to the limitation in subsection (3)(b) of this section, subject
9 to the provisions of subsection (5) of this section.

10 (5) The credit amount approved for a calendar year for all taxpayers under subsection
11 (2)(a) of this section shall be limited to the certified rehabilitation credit cap. When
12 the total credits applied for and approved in any year under subsection (2)(a) of this
13 section exceed the certified rehabilitation credit cap, the council shall apportion the
14 certified rehabilitation credit cap as follows: The certified rehabilitation credit cap
15 for the year under consideration shall be multiplied by a fraction, the numerator
16 which is the approved credit amount for an individual taxpayer for a calendar year
17 and the denominator which is the total approved credits for all taxpayers for a
18 calendar year.

19 (6) (a) For all applications received prior to April 30, 2010, if the credit amount that
20 may be claimed in any tax year as determined under subsections (3) to (5) of
21 this section exceeds the taxpayer's total tax liabilities under KRS 136.505,
22 141.020, or 141.040 and 141.0401, the taxpayer may carry the excess tax
23 credit forward until the tax credit is used, provided that any tax credits not
24 used within seven (7) years of the taxable year the certified rehabilitation was
25 complete shall be lost.

26 (b) For all applications received on or after April 30, 2010, if the credit amount
27 that may be claimed in any tax year as determined under subsections (3) to (5)

1 of this section exceeds the taxpayer's total tax liabilities under KRS 136.505,
2 141.020, or 141.040 and 141.0401, the taxpayer may receive a refund, if the
3 taxpayer elected to take the credit as required by subsection (2)(b) of this
4 section.

5 (7) (a) The credit shall apply against both the tax imposed by KRS 141.020 or
6 141.040 and the limited liability entity tax imposed by KRS 141.0401, with
7 the ordering of credits as provided in KRS 141.0205.

8 (b) 1. For applications received prior to April 30, 2010, if the taxpayer is a
9 pass-through entity not subject to the tax imposed by KRS 141.040, the
10 taxpayer shall apply the credit at the entity level against the limited
11 liability tax entity imposed by KRS 141.0401, and shall also pass the
12 credit through in the same proportion as the distributive share of income
13 or loss is passed through.

14 2. For applications received on or after April 30, 2010, if the taxpayer is a
15 pass-through entity not subject to the tax imposed by KRS 141.040, the
16 taxpayer shall apply the credit at the entity level against the limited
17 liability tax entity imposed by KRS 141.0401, and may receive a refund
18 if the taxpayer elected to take the credit as required by subsection
19 (2)(b)2.a. of this section.

20 (8) Credits received under this section may be transferred or assigned if an election is
21 made under subsection (2)(b) of this section, for some or no consideration, along
22 with any related benefits, rights, responsibilities, and liabilities to a financial
23 institution as defined in KRS 141.010 subject to the taxes imposed by KRS
24 136.505, 141.040, or 141.0401. Within thirty (30) days of the date of any transfer of
25 credits, the party transferring the credits shall notify the Department of Revenue of:

26 (a) The name, address, employer identification number, and bank routing and
27 transfer number, of the party to which the credits are transferred;

1 (b) The amount of credits transferred; and

2 (c) Any additional information the Department of Revenue deems necessary.

3 The provisions of this subsection shall apply to any credits that pass through to a
4 successor or beneficiary of a taxpayer.

5 (9) For purposes of this section, a lessee of a certified historic structure shall be treated
6 as the owner of the structure if the remaining term of the lease is not less than the
7 minimum period promulgated by administrative regulation by the council.

8 (10) The taxes imposed in KRS 141.020, 141.040, and 141.0401 shall not apply to any
9 consideration received for the transfer, sale, assignment, or use of a tax credit
10 approved under this section.

11 (11) The Department of Revenue shall assess a penalty on any taxpayer or exempt entity
12 that performs disqualifying work, as determined by the Kentucky Heritage Council,
13 on a certified historic structure for which a rehabilitation has been certified under
14 this section in an amount equal to one hundred percent (100%) of the tax credit
15 allowed on the rehabilitation. Any penalties shall be assessed against the property
16 owner who performs the disqualifying work and not against any transferee of the
17 credits.

18 (12) The council may impose fees for processing applications for tax credits, not to
19 exceed the actual cost associated with processing the applications.

20 (13) The council may authorize a local government to perform an initial review of
21 applications for the credit allowed under this section and forward the applications to
22 the council with its recommendations.

23 (14) The council and the Department of Revenue may promulgate administrative
24 regulations in accordance with the provisions of KRS Chapter 13A to establish
25 policies and procedures to implement the provisions of subsections (1) to (13) of
26 this section.

27 (15) The tax credit authorized by this section shall apply to tax periods ending on or

1 after December 31, 2005.

2 **(16) This section applies to applications received before April 30, 2026.**

3 ➔SECTION 58. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO
4 READ AS FOLLOWS:

5 **(1) This section applies to applications received on or after April 30, 2026, but before**
6 **April 15, 2027, and on or after each April 15 thereafter.**

7 **(2) (a) There shall be allowed as a credit against the taxes imposed in KRS 141.020**
8 **or 141.040 and 141.0401 an amount equal to:**

9 **1. Thirty percent (30%) of the qualified rehabilitation expenses, in the**
10 **case of owner-occupied residential property;**

11 **2. Thirty percent (30%) of the qualified rehabilitation expenses, if the**
12 **commercial residential property is affordable to households earning a**
13 **median family income; or**

14 **3. Twenty percent (20%) of the qualified rehabilitation expenses, in the**
15 **case of all other property.**

16 **(b) In the case of an exempt entity that has incurred qualified rehabilitation**
17 **expenses, the credit provided in this subsection shall be available to transfer**
18 **or assign as provided under subsection (9) or (10) of this section.**

19 **(c) The credit shall be refundable if the taxpayer makes an election under**
20 **subsection (3)(b) of this section.**

21 **(3) (a) 1. A taxpayer seeking the credit provided under subsection (2) of this**
22 **section shall file an application for a preliminary determination of**
23 **maximum credit eligibility before:**

24 **a. April 15; or**

25 **b. August 15;**

26 **of the year in which the proposed project will begin.**

27 **2. The certified rehabilitation credit cap shall be allocated as follows:**

- 1 a. Fifty million dollars (\$50,000,000) for applications received
2 before the date established in subparagraph 1.a. of this
3 paragraph, except that the amount shall not exceed one hundred
4 million dollars (\$100,000,000), including any amounts added
5 under paragraph (c) from a prior allocation period; and
- 6 b. Fifty million dollars (\$50,000,000) for applications received
7 before the date established in subparagraph 1.b. of this
8 paragraph, except that the amount shall not exceed one hundred
9 million dollars (\$100,000,000), including any amounts added
10 under paragraph (c) from a prior allocation period.
- 11 3. The application shall describe the project and shall include
12 documentation supporting the qualification of the project for the
13 credit, the proposed start date, the proposed completion date, the
14 projected qualified rehabilitation expenses, and any other information
15 the council may require.
- 16 4. The council shall determine the preliminary maximum credit available
17 for each taxpayer and shall notify the taxpayer of that amount by:
- 18 a. June 30 for applications received on or before April 15 of the
19 year in which the application was filed; or
- 20 b. October 30 for applications received on or before August 15 of
21 the year in which the application was filed.
- 22 5. If total credits applied for in any year exceed the certified
23 rehabilitation credit cap, plus any amounts added to the cap pursuant
24 to paragraph (c) of this subsection, the provisions of subsection (6) of
25 this section shall be applied to reduce the approved credits for all
26 taxpayers with qualifying applications for that year.
- 27 (b) 1. An application for a final determination of credit shall be submitted to

- 1 *the council upon completion of the project.*
- 2 *2. The application shall include an irrevocable election by the taxpayer*
- 3 *to:*
- 4 *a. Use the credit, in which case, the credit shall be refundable; or*
- 5 *b. Transfer the credit.*
- 6 *3. The council shall determine the final amount of credit approved for*
- 7 *each taxpayer based upon the actual expenditures, preliminary*
- 8 *determination of maximum credit, and a determination that the*
- 9 *expenditures are qualified rehabilitation expenses.*
- 10 *4. The council shall notify the taxpayer and Department of Revenue of*
- 11 *the final approved credit amount within sixty (60) days of the receipt*
- 12 *of a completed application from the taxpayer.*
- 13 *(c) 1. If the total amount of credits preliminarily approved for all taxpayers*
- 14 *under paragraph (a)2.a. of this subsection are less than the allocated*
- 15 *amount under paragraph (a)2.a. of this subsection, the difference*
- 16 *between the two (2) amounts shall be added to the allocated amount*
- 17 *under paragraph (a)2.b. of this subsection, except that in no case shall*
- 18 *the amount allocated under paragraph (a)2.a. or b. of this subsection*
- 19 *exceed one hundred million dollars (\$100,000,000), including any*
- 20 *amounts added to the certified rehabilitation credit cap from prior*
- 21 *calendar years. Any amount exceeding the one hundred million*
- 22 *dollars (\$100,000,000) threshold is null and void as a carryover to any*
- 23 *other allocation period.*
- 24 *2. If the total amount of credits finally approved for a taxpayer under*
- 25 *paragraph (b) of this subsection are less than the credits initially*
- 26 *approved for a taxpayer under paragraph (a) of this subsection, the*
- 27 *difference between the two (2) amounts shall be added to the certified*

1 rehabilitation credit cap for the next calendar year.

2 3. If the total amount of credits approved under paragraph (a) of this
3 subsection in any calendar year is less than the certified rehabilitation
4 credit cap, the difference between the credits actually awarded and the
5 certified rehabilitation credit cap shall be added to the certified
6 rehabilitation credit cap for the next calendar year.

7 (4) (a) The maximum credit which may be claimed with regard to owner-occupied
8 residential property shall be one hundred twenty thousand dollars
9 (\$120,000) subject to subsection (6) of this section. The credit in this section
10 shall be claimed for the taxable year in which the certified rehabilitation is
11 completed.

12 (b) The maximum credit which may be claimed with regard to all other
13 property that is not owner-occupied residential shall be ten million dollars
14 (\$10,000,000) subject to subsection (6) of this section. The credit in this
15 section shall be claimed for the taxable year in which the certified
16 rehabilitation is completed.

17 (5) In the case of two (2) spouses filing separate returns or filing separately on a
18 joint return, the credit may be taken by either or divided equally, but the
19 combined credit shall not exceed one hundred twenty thousand dollars (\$120,000)
20 if subject to the limitation in subsection (4)(a) of this section, or ten million
21 dollars (\$10,000,000) if subject to the limitation in subsection (4)(b) of this
22 section, subject to the provisions of subsection (6) of this section.

23 (6) The credit amount approved for a calendar year for all taxpayers under
24 subsection (3)(a) of this section shall be limited to the certified rehabilitation
25 credit cap. When the total credits applied for and approved in any year under
26 subsection (3)(a) of this section exceed the certified rehabilitation credit cap, the
27 council shall apportion the certified rehabilitation credit cap as follows: The

1 certified rehabilitation credit cap for the year under consideration shall be
2 multiplied by a fraction, the numerator which is the approved credit amount for
3 an individual taxpayer for a calendar year and the denominator which is the total
4 approved credits for all taxpayers for a calendar year.

5 (7) (a) If the credit amount that may be claimed in any tax year as determined
6 under subsections (4) to (6) of this section exceeds the taxpayer's total tax
7 liabilities under KRS 141.020, or 141.040 and 141.0401, the taxpayer may
8 carry the excess tax credit forward until the tax credit is used, provided that
9 any tax credits not used within seven (7) years of the taxable year the
10 certified rehabilitation was complete shall be lost.

11 (b) If the credit amount that may be claimed in any tax year as determined
12 under subsections (4) to (6) of this section exceeds the taxpayer's total tax
13 liabilities under KRS 141.020, or 141.040 and 141.0401, the taxpayer may
14 receive a refund, if the taxpayer elected to take the credit as required by
15 subsection (3)(b) of this section.

16 (8) (a) The credit shall apply against both the tax imposed by KRS 141.020 or
17 141.040 and the limited liability entity tax imposed by KRS 141.0401, with
18 the ordering of credits as provided in KRS 141.0205.

19 (b) If the taxpayer is a pass-through entity not subject to the tax imposed by
20 KRS 141.040, the taxpayer shall apply the credit at the entity level against
21 the limited liability tax entity imposed by KRS 141.0401, and shall also pass
22 the credit through in the same proportion as the distributive share of
23 income or loss is passed through.

24 (9) Credits received under this section may be transferred or assigned if an election is
25 made under subsection (3)(b) of this section, for some or no consideration, along
26 with any related benefits, rights, responsibilities, and liabilities to a financial
27 institution as defined in KRS 141.010 subject to the taxes imposed by KRS

1 141.040, or 141.0401. Within thirty (30) days of the date of any transfer of credits,
2 the party transferring the credits shall notify the Department of Revenue of:

3 (a) The name, address, employer identification number, and bank routing and
4 transfer number, of the party to which the credits are transferred;

5 (b) The amount of credits transferred; and

6 (c) Any additional information the Department of Revenue deems necessary.

7 The provisions of this subsection shall apply to any credits that pass through to a
8 successor or beneficiary of a taxpayer.

9 (10) For purposes of this section, a lessee of a certified historic structure shall be
10 treated as the owner of the structure if the remaining term of the lease is not less
11 than the minimum period promulgated by administrative regulation by the
12 council.

13 (11) The taxes imposed by KRS 141.020, 141.040, and 141.0401 shall not apply to any
14 consideration received for the transfer, sale, assignment, or use of a tax credit
15 approved under this section.

16 (12) The Department of Revenue shall assess a penalty on any taxpayer or exempt
17 entity that performs disqualifying work, as determined by the Kentucky Heritage
18 Council, on a certified historic structure for which a rehabilitation has been
19 certified under this section in an amount equal to one hundred percent (100%) of
20 the tax credit allowed on the rehabilitation. Any penalties shall be assessed
21 against the property owner who performs the disqualifying work and not against
22 any transferee of the credits.

23 (13) The council may impose fees for processing applications for tax credits, not to
24 exceed the actual cost associated with processing the applications.

25 (14) The council may authorize a local government to perform an initial review of
26 applications for the credit allowed under this section and forward the applications
27 to the council with its recommendations.

1 **(15) The council and the Department of Revenue may promulgate administrative**
2 **regulations in accordance with the provisions of KRS Chapter 13A to establish**
3 **policies and procedures to implement the provisions of subsections (1) to (14) of**
4 **this section.**

5 ➔Section 59. KRS 141.382 is amended to read as follows:

6 (1) As used in this section:

7 (a) "Certified historic structure" means the same as defined in KRS 171.396;

8 (b) "Qualified rehabilitation expense" means the same as defined in KRS
9 171.396; and

10 (c) "Substantial rehabilitation" means the same as defined in KRS 171.396.

11 (2) A refundable or transferable credit in the amount determined in KRS 171.397 **and**
12 **Section 58 of this Act** shall be allowed against the taxes imposed by KRS 136.505
13 or 141.020 or 141.040 and 141.0401, with the ordering of credits provided in KRS
14 141.0205, for qualified rehabilitation expenses incurred by the taxpayer and used
15 for substantial rehabilitation to a certified historic structure.

16 ➔Section 60. KRS 171.3961 is amended to read as follows:

17 (1) For taxable years beginning on or after January 1, 2014, a taxpayer completing a
18 certified rehabilitation to a certified historic structure shall be allowed a credit
19 against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the
20 ordering of credits as provided in KRS 141.0205, or KRS 136.505 if:

21 (a) The certified historic structure is located within the jurisdiction of a
22 consolidated local government or urban-county government;

23 (b) The amount of qualified rehabilitation expenses exceeds fifteen million
24 dollars (\$15,000,000);

25 (c) The certified historic structure is located within one-half (1/2) mile of a tax
26 increment financing development area which has received at least preliminary
27 approval under KRS 65.490 or 154.30-050; and

- 1 (d) Substantial rehabilitation of the certified historic structure begins prior to July
2 1, 2015.
- 3 (2) (a) The credit shall:
- 4 1. Equal the percentage of qualified rehabilitation expenses as provided in
5 KRS 171.397(1)(a) **and Section 58 of this Act**;
- 6 2. Only apply to the first thirty million dollars (\$30,000,000) of qualified
7 rehabilitation expenses; and
- 8 3. Be refundable and transferable.
- 9 (b) Any projects approved for a credit under this section shall not be subject to
10 any caps established by KRS 171.397 and shall not be considered in
11 determining whether the certified rehabilitation credit cap has been met in any
12 year.
- 13 (3) The taxpayer seeking the credit shall file the applications for preliminary
14 determination and final determination as provided by KRS 171.397(2) **and Section**
15 **57 of this Act**.
- 16 (4) The total approved credit shall be available over a four (4) year period and the
17 maximum credit which may be claimed in a taxable year shall not exceed twenty-
18 five percent (25%) of the total approved credit.
- 19 (5) The provisions of KRS 171.397(9) to (14) **and Section 58 of this Act** shall also
20 apply to this section.
- 21 ➔Section 61. KRS 441.135 is amended to read as follows:
- 22 (1) The jailer may maintain a canteen for the benefit of prisoners lodged in the jail and
23 may assign such jail employees and prisoners to operate the canteen as are
24 necessary for efficient operation.
- 25 (2) All profits from the canteen shall be used:
- 26 (a) For the benefit and to enhance the well-being of the prisoners; or
27 (b) To enhance safety and security within the jail.

1 The jailer shall keep books of accounts of all receipts and disbursements from the
2 canteen and shall annually report to the county treasurer on the canteen account.

3 (3) Allowable expenditures from a canteen account shall include but not be limited to
4 recreational, vocational, and medical purposes.

5 (4) Except in counties containing an urban-county government or a consolidated local
6 government, in order to ensure adequate, ongoing funding of jail canteen accounts,
7 beginning July 1, 2007, and on the first day of each fiscal year thereafter, the jail
8 canteen account balance shall at least equal the following amounts based on the
9 average daily inmate population of the jail:

- 10 (a) 300 prisoners or more\$6,000
- 11 (b) 200 to 299 prisoners.....\$4,000
- 12 (c) 100 to 199 prisoners.....\$2,000
- 13 (d) 99 or fewer prisoners.....\$1,000

14 (5) For purposes of calculating the amount to be transferred to the jail canteen account,
15 the average daily number of inmates shall be equal to the average daily inmate
16 population of the jail in the immediately preceding fiscal year.

17 **(6) Notwithstanding KRS 67.0802(6)(a), compensation resulting from the disposal of**
18 **real or personal property that was purchased from a canteen account shall be**
19 **returned to the canteen account from which the real or personal property was**
20 **originally purchased. The jailer shall report all proceeds received from the**
21 **disposal of property for the year to the Legislative Research Commission for**
22 **referral to the Interim Joint Committee on Appropriations and Revenue by**
23 **December 1 of each year.**

24 ➔SECTION 62. A NEW SECTION OF KRS CHAPTER 224A IS CREATED
25 TO READ AS FOLLOWS:

26 **A one-half of one percent (0.5%) administrative fee shall be paid to the Kentucky**
27 **Infrastructure Authority for the administration of each project funded by the**

1 infrastructure for economic development fund for coal-producing counties and the
2 infrastructure for economic development fund for tobacco counties. These
3 administrative fees shall be paid, upon inception of the project, out of the fund from
4 which the project was allocated.

5 ➔Section 63. KRS 43.050 is amended to read as follows:

6 (1) The Auditor constitutes an agency independent of the administrative departments
7 enumerated in KRS 12.020, it being the policy of the General Assembly to provide
8 for the independent auditing of the accounts, financial transactions, and
9 performance of all spending agencies of the state through a disinterested auditor,
10 who is entirely independent of the state administration whose affairs he is called
11 upon to audit.

12 (2) The Auditor may:

13 (a) Audit annually, and at such other times as may be deemed expedient, the
14 accounts of all state agencies, all private and semiprivate agencies receiving
15 state aid or having responsibility for the handling of any state funds, the
16 accounts, records, and transactions of the budget units, and the general
17 accounts of the state;

18 (b) Make a complete audit and verification of all moneys handled for the account
19 of the state government by local officials charged with the collection of fees
20 or other money for or on behalf of the state, when an audit is demanded in
21 writing by the Legislative Research Commission, the secretary of the Finance
22 and Administration Cabinet, or the Governor, and may make an audit when it
23 is not so demanded;

24 (c) Examine periodically the performance, management, conduct, and condition
25 of all asylums, prisons, institutions for the intellectually disabled, and
26 eleemosynary institutions; public works owned, operated, or partly owned by
27 the state, or in the conduct or management of which the state has any financial

- 1 interest or legal power; and state agencies. The examinations shall give
2 special attention to the faithful and economical application of any money
3 appropriated by the state to the institution, public works, or state agency
4 examined, or of any money in which the state has an interest;
- 5 (d) Examine annually the management and condition of the offices of the Finance
6 and Administration Cabinet, the State Treasurer, and the chief state school
7 officer, to determine whether the laws regulating their duties are being fully
8 complied with, and all money received by them for the state fully accounted
9 for;
- 10 (e) Examine, at least biennially, the Finance and Administration Cabinet's
11 compliance with this section and KRS 48.111 and 56.800 to 56.823. Within
12 sixty (60) days of the completion of each examination, the Auditor shall
13 report his findings and recommendations to the Capital Projects and Bond
14 Oversight Committee;
- 15 (f) Audit periodically all state revenue collections, and, if he finds that
16 collections are not being satisfactorily made, report that fact to the authority
17 whose duty it is to make the collections;
- 18 (g) Make special audits and investigations when required by the Governor;
- 19 (h) Investigate the means of accounting for, controlling, and insuring the safe
20 custody of all property of the state, and verify the existence and condition of
21 such property charged to, or held in the custody of any state agency;
- 22 (i) Audit the statements of financial condition and operations of the state
23 government, and certify in writing the results of the audit and examination
24 with the comments he deems necessary for the information of the General
25 Assembly;
- 26 (j) Report immediately in writing to the Governor, the Legislative Research
27 Commission, and the secretary of the Finance and Administration Cabinet,

- 1 any unauthorized, illegal, irregular, or unsafe handling or expenditure of state
2 funds, or other improper practice of financial administration, or evidence that
3 any such handling, expenditure, or practice is contemplated, and any
4 obstruction of the Auditor or his agents during the conduct of any audit or
5 investigation of a state agency; and
- 6 (k) Assist the Legislative Research Commission at hearings and investigations
7 conducted by it and cooperate with the Legislative Research Commission in
8 the preparation of its reports to the General Assembly.
- 9 (3) The Auditor may investigate and examine into the conduct of all state and county
10 officers who are authorized to receive, collect, or disburse any money for the state,
11 or who manage or control any property belonging to the state or in which the state
12 is interested, or who make estimates or records that are used as a basis by any state
13 agency in the disbursement of public funds.
- 14 (4) The Auditor may conduct a special audit or examination of a city government or
15 any of its agencies or departments.
- 16 (5) **The Auditor may receive appropriations from the general fund for audits of the**
17 **statewide systems of personnel and payroll, cash and investments, revenue**
18 **collection, and the state accounting system.** Except where otherwise provided, any
19 expenses incurred by the Auditor for **any other audit, examination, investigation,**
20 **or review, including a required audit of federal funds,** ~~audits, examinations,~~
21 ~~investigations, or reviews~~ shall be charged to the entity that is the subject of the
22 audit, examination, investigation, or review. The Auditor shall maintain a record of
23 all time expenses for each audit, examination, investigation, or review.
- 24 (6) The Auditor may provide consulting services, in accordance with auditing standards
25 generally accepted in the United States and government auditing standards, to state
26 or local government entities and associations of such entities, including special
27 purpose governmental entities, and may charge a mutually agreed upon rate for

1 those services, including:

2 (a) Providing training and technical presentations;

3 (b) Developing audit guides applicable to those entities;

4 (c) Developing question and answer documents to promote understanding of
5 technical issues or standards; and

6 (d) Collaborating with other professional organizations to advance auditing of
7 government entities and programs.

8 (7) The Auditor shall not be responsible for the keeping of any accounts of the state,
9 except accounts relating to his own operations. The Auditor shall not be responsible
10 for the collection of any money due the state, or for the handling or custody of any
11 state funds or property except in the process of counting and verifying the amounts
12 of the funds or property in the course of the audits provided for in this section.

13 ➔Section 64. KRS 18A.080 is amended to read as follows:

14 (1) (a) Except as provided in KRS 18A.200, members of the board shall receive
15 compensation of one hundred dollars (\$100) per diem for each meeting of the
16 board and reimbursement for actual and necessary expenses in accordance
17 with state regulations and standards applicable to state employees.

18 ~~(b)(2)~~ In addition to payments for attendance at board meetings all board
19 members may also be paid one hundred dollars (\$100) for each day spent in
20 the preparation of recommended orders, the review of transcripts or other
21 matters related to appeals before the board.

22 ~~(c)(3)~~ Any board member missing three (3) consecutive regular meetings shall
23 be deemed to have vacated his office. Replacements to the board shall be
24 made as provided in KRS 18A.050(2) and 18A.060.

25 **(2) Each agency of the executive branch of state government with employees covered**
26 **by this chapter shall be annually assessed for the amount required for the**
27 **operation of the Personnel Board. The agency assessment shall be determined by**

1 *the secretary of the Finance and Administration Cabinet based on the authorized*
2 *full-time positions of each agency on July 1 of each year of the biennium. The*
3 *Finance and Administration Cabinet shall collect the assessment.*

4 ➔Section 65. KRS 151.723 is amended to read as follows:

5 (1) The rate of the water use fees collected by the authority shall be set for each year of
6 the biennium based upon a total amount of funds necessary to carry out only those
7 functions, projects, and expenses authorized by the General Assembly in the
8 authority's biennial budget.

9 (2) At the time the authority submits its budget to the Governor's Office of Policy and
10 Management, it shall certify to the General Assembly the total amount of water use
11 reported for the preceding biennium by users subject to the water use fees. At least
12 thirty (30) days prior to the effective date of the authority's budget, the authority
13 shall establish a rate for each water use fee based upon an amount of water use
14 projected for each year of the biennium from the amount reported, calculated to
15 generate the amount of funds necessary to carry out the functions, projects, and
16 expenses which have been authorized by the General Assembly to be funded by the
17 fees. The rate shall be an amount for each one thousand (1,000) gallons of water use
18 and shall be effective for at least one (1) year.

19 (3) The authority shall define by administrative regulation those uses of the Kentucky
20 River or the waters of the Kentucky River basin subject to a water use fee. Water
21 use fees shall not apply to facilities using water for agricultural purposes. The
22 authority shall collect the fees on a quarterly basis and pay the collected fees into
23 the State Treasury to the credit of a restricted fund for use by the authority.

24 *(4) Water withdrawal fees imposed by the authority shall not be subject to state and*
25 *local taxes. Notwithstanding KRS 151.710(10), Tier 1 water withdrawal fees shall*
26 *be used to support the operations of the authority and for contractual services for*
27 *water supply and quality studies.*

1 ➔Section 66. KRS 304.17B-021 is amended to read as follows:

2 (1) In addition to the other powers enumerated in KRS 304.17B-001 to 304.17B-031,
3 the Office of Health Data and Analytics shall assess insurers in the amounts
4 specified in this section. The assessment shall be used for the purpose of funding
5 GAP losses and Kentucky Access.

6 (a) The amount of the assessment for each calendar year shall be as follows:

7 1. From each stop-loss carrier, an amount that is equal to two dollars (\$2)
8 upon each one hundred dollars (\$100) of health insurance stop-loss
9 premiums;

10 2. From all insurers, an amount based on the total amount of all health
11 benefit plan premiums earned during the prior assessment period and
12 paid by all insurers who received any of the health benefit plan
13 premiums on which the annual assessment is based. The percentage rate
14 used for the annual assessment shall be the same percentage rate as
15 calculated in the GAP risk adjustment process for the six (6) month
16 period of July 1, 1998, through December 31, 1998;

17 3. If determined necessary by the office, a second assessment may be
18 assessed in the same manner as the annual assessment in subparagraph
19 2. of this paragraph; and

20 4. In no event shall the sum of the first assessment provided for in
21 subparagraph 2. of this paragraph and the second assessment provided
22 for in subparagraph 3. of this paragraph be greater than one percent
23 (1%) of the total amount of all assessable health benefit plan premiums
24 earned during the prior assessment period.

25 (b) The first assessment shall be for the period from January 1, 2000, through
26 December 31, 2000, and shall be paid on or before March 31, 2001.
27 Subsequent annual assessments shall be paid on or before March 31 of the

1 year following the assessment period.

2 (2) Every supporting insurer shall report to the office, in a form and at the time as the
3 office may specify, the following information for the specified period:

4 (a) The insurer's total stop-loss premiums and health benefit plan premiums in the
5 individual, small group, large group, and association markets; and

6 (b) Other information as the office may require.

7 (3) As part of the assessment process, the office shall establish and maintain the
8 Kentucky Access fund. All funds shall be held at interest, in a single depository
9 designated in accordance with KRS 304.8-090(1) under a written trust agreement in
10 accordance with KRS 304.8-095. All expense and revenue transactions of the fund
11 shall be posted to the Management Administrative Reporting System (MARS) and
12 its successors.

13 (4) The Kentucky Access fund shall be funded from the following sources:

14 (a) Premiums paid by Kentucky Access enrollees;

15 (b) The funds designated for Kentucky Access in the Kentucky Health Care
16 Improvement fund;

17 (c) Appropriations from the General Assembly;

18 (d) ~~[All premium taxes collected under KRS Chapter 136 from any insurer, and~~
19 ~~any retaliatory taxes collected under KRS 304.3-270 from any insurer, for~~
20 ~~accident and health premiums that are in excess of the amount of the premium~~
21 ~~taxes and retaliatory taxes collected for the calendar year 1997;~~

22 ~~(e)~~ Annual assessments from supporting insurers;

23 (e)~~[(f)]~~ A second assessment from supporting insurers;

24 (f)~~[(g)]~~ Gifts, grants, or other voluntary contributions;

25 (g)~~[(h)]~~ Interest or other earnings on the investment of the moneys held in the
26 account; and

27 (h)~~[(i)]~~ Any funds remaining on January 1, 2001, in the guaranteed acceptance

1 program account may be transferred to the Kentucky Access fund.

2 (5) The office shall determine on behalf of Kentucky Access the premiums, the
3 expenses for administration, the incurred losses, taking into account investment
4 income and other amounts needed to satisfy reserves, estimated claim liabilities,
5 and other obligations for each calendar year. The office shall also determine the
6 amount of the actual guaranteed acceptance program plan losses for each calendar
7 year. The office shall assess insurers as follows:

8 (a) On or before March 31 of each year, the amount set forth in subsection
9 (1)(a)1. and (1)(a)2. of this section.

10 (b) If the amount of actual guaranteed acceptance program plan losses exceeds
11 the assessment provided for in paragraph (a) of this subsection, a second
12 assessment shall be authorized under subsection (1)(a)3. of this section. If the
13 amount of GAP losses exceeds the assessments provided under subsection
14 (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, moneys
15 received and available from the Kentucky Health Care Improvement Fund
16 after the office determines available funding for Kentucky Access for the
17 current calendar year pursuant to subsection (6) of this section, shall be used
18 to reimburse GAP participating insurers for any actual guaranteed acceptance
19 program losses. If the amount of GAP losses exceeds the amount in the
20 Kentucky Health Care Improvement Fund after reserving sufficient funds for
21 Kentucky Access for the current year, each GAP participating insurer shall be
22 reimbursed up to the amount of its proportional share of actual guaranteed
23 acceptance program plan losses from the fund. Effective for any assessment
24 on or after January 1, 2001, in calculating GAP losses, total premiums and
25 total claims of the GAP participating insurer shall be used. Actual guaranteed
26 acceptance program losses shall be calculated as the difference between the
27 total GAP claims and the total GAP premiums on an aggregate basis.

- 1 (c) If GAP losses are fully covered by the assessment process provided for in
2 subsection (1)(a)1. and (1)(a)2. of this section and the second assessment
3 provided for in subsection (1)(a)3. of this section is not necessary to cover
4 GAP losses, and as determined by the office using reasonable actuarial
5 principles Kentucky Access funding is needed, a second assessment provided
6 for in subsection (1)(a)3. of this section shall be completed.
- 7 (6) After the end of each calendar year, GAP losses shall be reimbursed only after the
8 office determines that appropriate funding is available for Kentucky Access for the
9 current calendar year. GAP losses shall be reimbursed after reserving sufficient
10 funds for Kentucky Access.
- 11 (7) With respect to a GAP participating insurer who reasonably will be expected both
12 to pay assessments and to receive payments from the assessment fund, the office
13 shall calculate the net amount owed to or to be received from the fund, and the
14 office shall only collect assessments for or make payments from the fund based
15 upon net amounts.
- 16 (8) Insurers paying an assessment may include in any health insurance rate filing the
17 amount of these assessments as provided for in Subtitle 17A of this chapter.
- 18 (9) Insurers shall pay any assessment amounts authorized in KRS 304.17B-001 to
19 304.17B-031 within thirty (30) days of receiving notice from the office of the
20 assessment amount.
- 21 (10) Any surpluses remaining in the Kentucky Access fund after completion of the
22 assessment process for a calendar year shall be maintained for use in the assessment
23 process for future calendar years and such funds shall not lapse. The general fund
24 appropriations to the Kentucky Access fund shall not lapse.
- 25 (11) Assessments on health benefit plan premiums that are required under KRS
26 304.17B-001 to 304.17B-031 shall not be applied to premiums received by an
27 insurer for state employees, Medicaid recipients, Medicare beneficiaries, and

1 CHAMPUS insureds.

2 (12) The office shall direct that receipts of Kentucky Access be held at interest, and may
3 be used to offset future losses or to reduce plan premiums in accordance with the
4 terms of KRS 304.17B-001 to 304.17B-031. As used in this subsection, "future
5 losses" may include reserves for incurred but not reported claims.

6 (13) The office shall conduct examinations of insurers and stop-loss carriers reasonably
7 necessary to determine if the information provided by the insurers or stop-loss
8 carriers is accurate.

9 (14) The insurer, as a condition of conducting health insurance business in Kentucky,
10 shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.

11 (15) The stop-loss carrier, as a condition of doing health insurance business in Kentucky,
12 shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.

13 ➔Section 67. KRS 11.068 is amended to read as follows:

14 (1) There is created an agency of state government known as the Office of State Budget
15 Director. The office shall be attached for administrative purposes to the Office of
16 the Governor.

17 (2) The office shall include the following major organizational units:

18 (a) The Office of State Budget Director, headed by the state budget director. The
19 state budget director shall be appointed by the Governor pursuant to KRS
20 11.040 and shall serve, under direction of the Governor, as state budget
21 director and secretary of the state planning committee. The office shall
22 include such principal assistants and supporting personnel appointed pursuant
23 to KRS Chapter 12 as may be necessary to carry out the functions of the
24 office. The office shall have such duties, rights, and responsibilities as are
25 necessary to perform, without being limited to, the following functions:

26 1. Functions relative to the preparation, administration, and evaluation of
27 the executive budget as provided in KRS Chapters 45 and 48 and in

- 1 other laws, including but not limited to, capital construction budgeting,
2 evaluation of state programs, program monitoring, financial and policy
3 analysis and issue review, and executive policy implementation and
4 compliance;
- 5 2. Continuous evaluation of statewide management and administrative
6 procedures and practices, including but not limited to economic
7 forecasting, technical assistance to state agencies, forms control, and
8 special analytic studies as directed by the Governor; and
- 9 3. Staff planning functions of the state planning committee and evaluation
10 of statewide management and administrative practices and procedures.
- 11 (b) Governor's Office for Policy and Management, headed by the state budget
12 director. The state budget director shall maintain staff employed pursuant to
13 KRS Chapter 18A sufficient to carry out the functions of the office relating to
14 state budgeting as provided in paragraph (a) of this subsection and state
15 planning as provided in KRS Chapter 147, review of administrative
16 regulations proposed by executive agencies prior to filing pursuant to KRS
17 Chapter 13A and such other duties as may be assigned by the Governor.
- 18 (c) Governor's Office for Policy Research, headed by the state budget director.
19 The Governor's Office for Policy Research shall assist the state budget
20 director in providing policy research data, information, and analysis to the
21 Governor on public policy issues that impact the Commonwealth. The state
22 budget director shall identify and direct the research to be completed and
23 provided by the office. The state budget director shall maintain staff employed
24 in accordance with KRS Chapter 18A sufficient to carry out the functions of
25 the office.
- 26 (d) Governor's Office for Economic Analysis, headed by the state budget director.
27 The state budget director shall maintain staff employed in accordance with

1 KRS Chapter 18A sufficient to carry out the functions of the office. The
 2 Governor's Office for Economic Analysis shall carry out the revenue
 3 estimating and economic analysis functions and responsibilities, including but
 4 not limited to the functions and responsibilities assigned to the Office of State
 5 Budget Director by KRS Chapter 48. The Governor's Office for Economic
 6 Analysis shall perform the tax administrative function of using tax data to
 7 provide the Department of Revenue with studies, projections, statistical
 8 analyses, and any other information that will assist the Department of
 9 Revenue in performing its tax administrative functions.

10 (3) (a) As used in this subsection, "tax expenditure" means an exemption,
 11 exclusion, or deduction from the base of a tax, a credit against the tax, a
 12 deferral of a tax, or a preferential tax rate.

13 (b) On or before September 1, 2026, and every September 1 thereafter, the
 14 Office of State Budget Director shall publish on its website detailed
 15 estimates of the general fund and road fund for the current and next two (2)
 16 fiscal years of the revenue loss resulting from tax expenditures.

17 (c) The Department of Revenue shall provide assistance and furnish data that
 18 is not restricted by KRS 131.190.

19 (d) The estimates shall include for each tax expenditure:

20 1. The amount of revenue loss;

21 2. A citation of the legal authority for the tax expenditure;

22 3. The year in which the tax expenditure was enacted; and

23 4. The tax year in which the tax expenditure became effective.

24 ➔SECTION 68. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO
 25 READ AS FOLLOWS:

26 Notwithstanding any statute to the contrary, the department shall bill and accept
 27 payment from nonstate-operated event sponsors for security services provided by the

1 department.

2 ➔SECTION 69. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) In this section:

5 (a) "Consumer" means a:

6 1. Kentucky resident who purchases an event contract through a
7 prediction market; or

8 2. Person who is not a Kentucky resident who purchases an event
9 contract through a prediction market while in Kentucky;

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

11 (c) "Event contract" means:

12 1. An agreement, contract, transaction, or swap in an excluded
13 commodity described in 7 U.S.C. sec. 1a(19)(iv), as amended; or

14 2. A speculative position based on:

15 a. A binary outcome, such as "yes" or "no," which is tied to a
16 particular future event; or

17 b. One of several possible future outcomes tied to a particular
18 future event;

19 (d) "Gross receipts" means the total sum of transaction fees collected by a
20 prediction market operator from all consumers;

21 (e) "Person" has the same meaning as KRS 139.010;

22 (f) "Prediction market":

23 1. Means:

24 a. Any physical or electronic platform through which a consumer
25 may buy, sell, or exchange event contracts, whether the market is
26 located in or out of the state; or

27 b. Any platform or system that provides consumers with the ability

1 to open speculative positions on the outcomes of future events;

2 and

3 2. May be a board of trade designated as a contract market by the

4 Commodity Futures Trading Commission;

5 (g) "Prediction market operator":

6 1. Means a board of trade or other person, including any affiliate of the
7 person, that operates a prediction market; and

8 2. Includes but is not limited to a person that satisfies the requirements
9 of this subsection through the ownership, operation, or control of a
10 digital distribution service, digital distribution platform, online portal,
11 or application store where a prediction market may be accessed;

12 (h) "Speculative position" means a financial commitment made by a consumer
13 in a prediction market; and

14 (i) "Transaction fee" means:

15 1. The fee charged by the prediction market operator to complete a sale,
16 purchase, or trade of an event contract to a consumer; and

17 2. The amount paid by a consumer to purchase an event contract from a
18 prediction market operator.

19 (2) An excise tax is hereby imposed on a prediction market operator at the rate of
20 fifteen and one-quarter percent (15.25%) of the prediction market operator's
21 gross receipts. The accrual method of accounting shall be used for purposes of
22 calculating the amount of tax owed by the prediction market operator under this
23 subsection.

24 (3) The tax imposed by subsection (2) of this section is due and payable monthly and
25 shall be remitted to the department on or before the twentieth day of the next
26 succeeding calendar month.

27 (4) The prediction market operator's payment shall be accompanied by a return

1 prescribed by the department indicating the amount of tax due for the previous
 2 calendar month as well as any other information the department shall require
 3 through an administrative regulation promulgated in accordance with KRS
 4 Chapter 13A.

5 (5) Any prediction market operator who violates any provision of this section shall be
 6 subject to the uniform civil penalties imposed under KRS 131.180.

7 (6) In every case, any tax not paid on or before the due date shall bear interest at the
 8 tax interest rate as defined in KRS 131.010 from the due date until the date of
 9 payment.

10 (7) It is the purpose and intent of the General Assembly to levy taxes on persons
 11 engaged in the operations of a prediction market. It is not the intent of the
 12 General Assembly to legalize these activities.

13 ➔SECTION 70. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) (a) A fantasy contest operator shall be liable for the payment of the tax levied in
 16 Section 9 of this Act.

17 (b) A prediction market operator shall be liable for the payment of the tax
 18 levied in Section 69 of this Act.

19 (2) Notwithstanding anything in this chapter to the contrary, the president, vice
 20 president, secretary, treasurer, or any other person holding any equivalent
 21 corporate office of any corporation subject to Section 9 or 69 of this Act shall be
 22 personally and individually liable, both jointly and severally, for the taxes
 23 imposed by Section 9 or 69 of this Act.

24 (3) Corporate dissolution, withdrawal of the corporation from the state, or the
 25 cessation of holding any corporate office shall not discharge the liability of any
 26 person. The personal and individual liability shall apply to every person holding a
 27 corporate office at the time the tax becomes or became due.

1 (4) Notwithstanding any provision of this chapter or KRS 275.150, 362.1-306(3) or
 2 predecessor law, or 362.2-404(3) to the contrary, the managers of a limited
 3 liability company, the partners of a limited liability partnership, and the general
 4 partners of a limited liability limited partnership or any other person holding any
 5 equivalent office of a limited liability company, limited liability partnership, or
 6 limited liability limited partnership subject to Section 9 or 69 of this Act shall be
 7 personally and individually liable, both jointly and severally, for the fantasy
 8 sports operator or prediction market operator taxes.

9 (5) Dissolution, withdrawal of the limited liability company, limited liability
 10 partnership, or limited liability limited partnership from the state, or the cessation
 11 of holding any office shall not discharge the liability of any person. The personal
 12 and individual liability shall apply to every manager of a limited liability
 13 company, partner of a limited liability partnership, or general partner of a limited
 14 liability limited partnership at the time the tax becomes or became due.

15 (6) A person shall not be personally and individually liable under this section if the
 16 person had no authority to collect, truthfully account for, or pay over any tax at
 17 the time the taxes imposed become or became due.

18 (7) "Taxes," as used in this section, includes interest accrued at the rate provided by
 19 KRS 131.183, all applicable penalties imposed under this chapter, and all
 20 applicable penalties imposed under KRS 131.180, 131.410 to 131.445, and
 21 131.990.

22 ➔Section 71. KRS 132.017 is amended to read as follows:

23 (1) As used in this section:

24 (a) "Local governmental entity" includes a county fiscal court and legislative
 25 body of a city, urban-county government, consolidated local government,
 26 charter county government, unified local government, or other taxing district;
 27 and

1 (b) "Next regular election" means the regular election that occurs immediately
2 after all statutory requirements for levying a property tax rate have been met,
3 regardless of whether the election occurs in the same or a subsequent calendar
4 year as the levy of the property tax rate.

5 (2) (a) 1. Except as provided in subparagraph 2. of this paragraph, the portion of a
6 tax rate levied by an ordinance, order, resolution, or motion of a **taxing**
7 **district**~~[local governmental entity or district board of education]~~ subject
8 to recall as provided for in KRS 68.245, 132.023, 132.027, and 160.470,
9 shall go into effect forty-five (45) days after its passage **if a petition is**
10 **not filed to challenge the levy. If a petition is filed, the levy shall be**
11 **suspended in accordance with paragraph (e) of this subsection.**

12 2. When a tax rate is levied by a~~[district board of education or other]~~
13 taxing district that is primarily located in a county **with a population of**
14 **three hundred thousand (300,000) or more inhabitants**~~[containing an~~
15 ~~urban county government or a consolidated local government]~~, the
16 portion of a tax rate levied by an ordinance, order, resolution, or motion
17 of a ~~[district board of education or other]~~ taxing district subject to recall
18 as provided for in KRS 68.245, 132.023, 132.027, and 160.470, shall go
19 into effect fifty (50) days after its passage **if a petition is not filed to**
20 **challenge the levy. If a petition is filed, the levy shall be suspended in**
21 **accordance with paragraph (e) of this subsection.**

22 (b) During the same forty-five (45) day or fifty (50) day time period provided by
23 paragraph (a) of this subsection, any three (3) qualified voters, who reside in
24 the area where the tax levy will be imposed, may commence petition
25 proceedings to protest the passage of the ordinance, order, resolution, or
26 motion **levied by a taxing district** by filing an affidavit with the county clerk.

27 The affidavit shall state:

- 1 1. The three (3) qualified voters constitute the members of the petition
2 committee;
- 3 2. The petition committee will be responsible for circulating the petition;
- 4 3. The petition committee will file the petition in the proper form within
5 the same forty-five (45) day or fifty (50) day time period provided by
6 paragraph (a) of this subsection;
- 7 4. The names and addresses of the petition committee members;
- 8 5. The address to which all notices to the committee are to be sent; and
- 9 6. For petition committees filing petitions in response to a tax rate levied
10 by a ~~district board of education or other~~ taxing district that is primarily
11 located in a county **with a population of three hundred thousand**
12 **(300,000) or more inhabitants**~~[containing an urban county government~~
13 ~~or a consolidated local government]~~, whether or not the petition
14 committee is willing to incur all of the expenses associated with
15 electronic petition signatures. If the petition committee is not willing to
16 incur all of the expenses, then electronic petition signatures shall not be
17 allowed for the petition.
- 18 (c) Upon receipt of the affidavit, the county clerk shall immediately:
- 19 1. Notify the petition committee of all statutory requirements for the filing
20 of a valid petition under this section;
- 21 2. Notify the petition committee that the clerk will publish a notice
22 identifying the tax levy being challenged and providing the names and
23 addresses of the petition committee **in a banner posted near the top of**
24 **the home page of the clerk's website and** in a newspaper of general
25 circulation within the county, if:
- 26 a. There is a newspaper within the county in which to publish the
27 notice; and

1 b. The petition committee remits an amount equal to the cost of
 2 publishing the notice in the newspaper as determined in
 3 accordance with the provisions of KRS 424.160 at the time of the
 4 filing of the affidavit.

5 If the petition committee elects to have the notice published, the clerk
 6 shall publish the notice within five (5) days of receipt of the affidavit;
 7 and

8 3. Deliver a copy of the affidavit to the taxing district levying the
 9 tax~~[appropriate local governmental entity or district board of education].~~

10 (d) The petition shall meet the following requirements:

11 1. All papers of the petition shall be substantially uniform in size and style
 12 and shall be assembled in one (1) instrument for filing;

13 2. Each sheet of the petition may contain the names of voters from more
 14 than one (1) voting precinct;

15 3. Each nonelectronic petition signature shall be executed in ink or
 16 indelible pencil;

17 4. Each electronic petition signature shall comply with the requirements of
 18 the Uniform Electronic Transactions Act, KRS 369.101 to 369.120;

19 5. Each petition signature shall be followed by the printed name, street
 20 address, birth month, and birth year of the person signing; and

21 6. a. i. Except for petitions filed in response to a tax rate levied by a
 22 local~~district~~ board of education, The petition shall be
 23 signed by a number of registered and qualified voters
 24 residing in the affected jurisdiction equal to at least ten
 25 percent (10%) of the total number of votes cast in the last
 26 preceding presidential election.

27 ii. For petitions filed in response to a tax rate levied by a

1 ~~local~~^{local}~~district~~ board of education, the petition shall be signed
 2 by at least five thousand (5,000) registered and qualified
 3 voters residing in the affected jurisdiction or signed by a
 4 number of registered and qualified voters residing in the
 5 affected jurisdiction equal to at least ten percent (10%) of the
 6 total number of votes cast in the last preceding presidential
 7 election, whichever is less.

8 b. Electronic petition signatures shall be included in determining
 9 whether the required number of petition signatures has been
 10 obtained when:

11 i. The expenses associated with the electronic petition
 12 signatures have been incurred in accordance with paragraph
 13 (b)6. of this subsection;

14 ii. The electronic petition signatures comply with the
 15 requirements of this subsection; and

16 iii. The petition was filed in response to a tax rate levied by a ~~at~~
 17 ~~district board of education or other~~ taxing district that is
 18 primarily located in a county **with a population of three**
 19 **hundred thousand (300,000) or more**
 20 **inhabitants**~~[containing an urban county government or a~~
 21 ~~consolidated local government].~~

22 c. The inclusion of an invalid petition signature on a page shall not
 23 invalidate the entire page of the petition, but shall instead result in
 24 the invalid petition signature being stricken and not counted.

25 (e) Upon the filing of the petition with the county clerk, the ordinance, order,
 26 resolution, or motion shall be suspended from going into effect until after the
 27 election referred to in subsection (3) of this section is held, or until the

1 petition is finally determined to be insufficient and no further action may be
2 taken pursuant to paragraph (i) of this subsection.

3 (f) The county clerk shall immediately notify the presiding officer of the **taxing**
4 **district**~~[appropriate local governmental entity or district board of education]~~
5 that the petition has been received and shall, within thirty (30) days of the
6 receipt of the petition, make a determination of whether the petition contains
7 enough signatures of qualified voters to place the ordinance, order, resolution,
8 or motion before the voters.

9 (g) If the county clerk finds the petition to be sufficient, the clerk shall certify to
10 the petition committee and the **taxing district**~~[local governmental entity or~~
11 ~~district board of education]~~ within the thirty (30) day period provided for in
12 paragraph (f) of this subsection that the petition is properly presented and in
13 compliance with the provisions of this section, and that the ordinance, order,
14 resolution, or motion levying the tax will be placed before the voters for
15 approval.

16 (h) If the county clerk finds the petition to be insufficient, the clerk shall, within
17 the thirty (30) day period provided for in paragraph (f) of this subsection,
18 notify, in writing, the petition committee and the **taxing district levying the**
19 **tax**~~[local governmental entity or district board of education]~~ of the specific
20 deficiencies found. Notification shall be sent by certified mail and shall be
21 published **in a banner posted near the top of the home page of the clerk's**
22 **website and** at least one (1) time in a newspaper of general circulation within
23 the county containing the **taxing district**~~[local governmental entity or district~~
24 ~~board of education]~~ levying the tax. If there is not a newspaper within the
25 county in which to publish the notification, then the notification shall be
26 posted at the courthouse door.

27 (i) A final determination of the sufficiency of a petition shall be subject to final

1 review by the Circuit Court of the county in which the taxing district levying
 2 the tax~~[local governmental entity or district board of education]~~ is located,
 3 and shall be limited to the validity of the county clerk's determination. Any
 4 petition challenging the county clerk's final determination shall be filed within
 5 ten (10) days of the issuance of the clerk's final determination.

- 6 (j) The local governmental entity levying the tax~~[or district board of education]~~
 7 may cause the cancellation of the election by reconsidering and amending the
 8 ordinance, order, resolution, or motion to levy a tax rate which will produce
 9 no more revenue from real property, exclusive of revenue from new property~~[~~
 10 ~~as defined in KRS 132.010]~~, than four percent (4%) over the amount of
 11 revenue produced by the compensating tax rate~~[defined in KRS 132.010]~~
 12 from real property. The action by the local governmental entity or
 13 local~~[district]~~ board of education to cancel an election shall be valid only if
 14 taken within fifteen (15) days following the date the clerk finds the petition to
 15 be sufficient.

- 16 (3) (a) If an election is necessary under the provisions of subsection (2) of this
 17 section:

- 18 1. The local governmental entity shall cause to be submitted to the voters
 19 of the district at the next regular election, the question as to whether the
 20 property tax rate shall be levied; or
 21 2. The local~~[district]~~ board of education shall cause to be submitted to the
 22 voters of the district in a called common school election not less than
 23 thirty-five (35) days nor more than forty-five (45) days from the date the
 24 signatures on the petition are validated by the county clerk, or at the next
 25 regular election, at the option of the local~~[district]~~ board of education,
 26 the question as to whether the property tax rate shall be levied. The cost
 27 of a called common school election shall be borne by the school district

1 holding the election. Any called common school election shall comply
2 with the provisions of KRS 118.025.

3 (b) If an election under paragraph (a) of this subsection is held in conjunction
4 with a regular election, the question as to whether the property tax rate shall
5 be levied shall be submitted to the county clerk no later than the second
6 Tuesday in August preceding the regular election.

7 (c) In an election held under paragraph (a) of this subsection, the question shall
8 be framed to ask whether the voter is for the levy of the property tax rate. If a
9 majority of the votes cast upon the question oppose its passage, the ordinance,
10 order, resolution, or motion shall not go into effect. If a majority of the votes
11 cast upon the question favor its passage, the ordinance, order, resolution, or
12 motion shall become effective.

13 (d) If the ordinance, order, resolution, or motion fails to pass pursuant to an
14 election held under paragraph (a) of this subsection, the property tax rate
15 which will produce four percent (4%) more revenues from real property,
16 exclusive of revenue from new property~~[as defined in KRS 132.010]~~, than the
17 amount of revenue produced by the compensating tax rate~~[defined in KRS~~
18 ~~132.010]~~, shall be levied without further approval by the local governmental
19 entity or local~~[district]~~ board of education.

20 (e) Local, state, and federal tax dollars shall not be used to advocate, in partial
21 terms, for or against any public question that appears on the ballot in this
22 subsection. For purposes of this section, "local" means and includes any city,
23 county, urban-county government, consolidated local government, unified
24 local government, charter county, or special district.

25 (4) Notwithstanding any statutory provision to the contrary, if a taxing district~~[local~~
26 ~~governmental entity or district board of education]~~ has not established a final tax
27 rate as of September 15, due to the recall provisions of this section, KRS 68.245,

1 132.023, 132.027, or 160.470, regular tax bills shall be prepared as required in KRS
 2 133.220 for all districts having a tax rate established by that date; and a second set
 3 of bills shall be prepared and collected in the regular manner, according to the
 4 provisions of KRS Chapter 132, upon establishment of final tax rates by the
 5 remaining districts.

6 (5) If a second billing is necessary, the collection period shall be extended to conform
 7 with the second billing date.

8 (6) All costs associated with the second billing shall be paid by the taxing district ~~or~~
 9 ~~districts~~ requiring the second billing.

10 ➔Section 72. KRS 160.470 is amended to read as follows:

11 (1) (a) Notwithstanding any statutory provisions to the contrary, a local~~no district~~
 12 board of education shall not levy a general tax rate which will produce more
 13 revenue, exclusive of revenue from net assessment growth as defined in KRS
 14 132.010, than would be produced by application of the general tax rate that
 15 could have been levied in the preceding year to the preceding year's
 16 assessment, except as provided in subsections ~~(10)~~~~(9)~~ and ~~(11)~~~~(10)~~ of this
 17 section and KRS 157.440.

18 (b) If an election is held as provided for in KRS 132.017 and the question should
 19 fail, such failure shall not reduce the "...general tax rate that could have been
 20 levied in the preceding year..." referred to in subsection (1)(a) of this section,
 21 for purposes of computing the general tax rate for succeeding years.

22 In the event of a merger of school districts, the limitations contained in this
 23 section shall be based upon the combined revenue of the merging districts, as
 24 computed under the provisions of this section.

25 (2) A local~~No district~~ board of education shall not levy a general tax rate within the
 26 limits imposed in subsection (1) of this section which respectively exceeds the
 27 compensating tax rate defined in KRS 132.010, except as provided in subsections

1 ~~(10)~~⁽⁹⁾ and ~~(11)~~⁽¹⁰⁾ of this section and, KRS 157.440 and ~~KRS~~ 157.621,
2 until the local~~district~~ board of education has complied with the provisions of
3 subsection ~~(8)~~⁽⁷⁾ of this section.

4 (3) Upon receipt of property assessments from the Department of Revenue, the
5 commissioner of education shall certify the following to each local~~district~~ board
6 of education:

7 (a) The general tax rate that a local~~district~~ board of education could levy under
8 the provisions of subsection (1) of this section, and the amount of revenue
9 expected to be produced;

10 (b) The compensating tax rate as defined in KRS 132.010 for a district's general
11 tax rate the amount of revenue expected to be produced; and

12 (c) The general tax rate which will produce, respectively, no more revenue from
13 real property, exclusive of revenue from new property, than four percent (4%)
14 over the amount of revenue produced by the compensating tax rate defined in
15 KRS 132.010, and the amount of revenue expected to be produced.

16 (4) Upon completion of action on property assessment data, the Department of
17 Revenue shall submit certified property assessment data as required in KRS
18 133.125 to the chief state school officer.

19 (5) Within thirty (30) days after the local~~district~~ board of education has received its
20 assessment data, the rates levied shall be forwarded to the Kentucky Board of
21 Education for its approval or disapproval. The failure of the local~~district~~ board of
22 education to furnish the rates within the time prescribed shall not invalidate any
23 levy made thereafter.

24 (6) (a) Each local~~district~~ board of education shall, on or before January 31 of each
25 calendar year, formally and publicly examine detailed line item estimated
26 revenues and proposed expenditures for the subsequent fiscal year. On or
27 before May 30 of each calendar year, each local~~district~~ board of education

1 shall adopt a tentative working budget which shall include a minimum reserve
2 of two percent (2%) of the total budget.

3 (b) Each local~~[district]~~ board of education shall submit to the Kentucky Board of
4 Education no later than September 30, a close estimate or working budget
5 which shall conform to the administrative regulations prescribed by the
6 Kentucky Board of Education.

7 (7) *A local board of education proposing to levy a general tax rate shall publish for*
8 *at least two (2) consecutive weeks in a banner posted near the top of the home*
9 *page of its website and in the newspaper of largest circulation in the county, a*
10 *display type advertisement of not less than twelve (12) column inches:*

11 *(a) The general tax rate levied in the preceding year and the revenue produced*
12 *by that rate;*

13 *(b) The proposed tax rate for the current year and the revenue expected to be*
14 *produced by that rate;*

15 *(c) A clear explanation if the proposed tax rate is expected to produce more or*
16 *less revenue generated for the school district than received from the general*
17 *tax rate in the preceding year and the general areas to which any increase*
18 *in revenue will be allocated;*

19 *(d) A specific reference to this section and Section 71 of this Act, along with a*
20 *statement as to whether any portion of the proposed tax rate, if adopted,*
21 *would be subject to recall; and*

22 *(e) A statement to the effect that the General Assembly has required publication*
23 *of the information contained herein.*

24 **(8)** (a) Except as provided in subsections ~~(10)~~~~(9)~~ and ~~(9)~~~~(10)~~ of this section and
25 KRS 157.440, a local~~[district]~~ board of education proposing to levy a general
26 tax rate within the limits of subsection (1) of this section which
27 exceeds~~[exceed]~~ the compensating tax rate defined in KRS 132.010 shall hold

1 a public hearing to hear comments from the public regarding the proposed tax
 2 rate. The hearing shall be held in the principal office of the taxing district or,
 3 in the event the taxing district does not have a~~has no office, or the office is~~
 4 ~~not~~ suitable office to hold the~~for such a~~ hearing, the hearing shall be held
 5 in a suitable facility as near as possible to the geographic center of the district.

6 (b) The local~~district~~ board of education shall include the following information
 7 in the publication required in subsection (7) of this section and
 8 advertisement of~~advertise~~ the hearing ~~by causing the following to be~~
 9 ~~published at least twice for two (2) consecutive weeks, in the newspaper of~~
 10 ~~largest circulation in the county, a display type advertisement of not less than~~
 11 ~~twelve (12) column inches~~]:

- 12 1. ~~[The general tax rate levied in the preceding year, and the revenue~~
 13 ~~produced by that rate;~~
- 14 2. ~~The general tax rate for the current year, and the revenue expected to be~~
 15 ~~produced by that rate;~~
- 16 3. ~~The compensating general tax rate, and the revenue expected from it;~~
- 17 2.~~[4.]~~ ~~The revenue expected from new property and personal property;~~]
- 18 5. ~~The general areas to which revenue in excess of the revenue produced in~~
 19 ~~the preceding year is to be allocated;~~]
- 20 3.~~[6.]~~ ~~A time and place for the public hearing which shall be held not less than~~
 21 ~~seven (7) days nor more than ten (10) days after the day that the second~~
 22 ~~advertisement is published; and~~
- 23 4.~~[7.]~~ ~~The purpose of the hearing;~~ and
- 24 8. ~~A statement to the effect that the General Assembly has required~~
 25 ~~publication of the advertisement and the information contained herein].~~

26 (c) In lieu of the two (2) published notices in the newspaper, a single notice
 27 containing the required information required by subsection (7) of this section

1 **and paragraph (b) of this subsection** may be sent by first-class mail to each
2 person owning real property, addressed to the property owner at his residence
3 or principal place of business as shown on the current year property tax roll.

4 (d) The hearing shall be open to the public. All persons desiring to be heard shall
5 be given an opportunity to present oral testimony. The **local**~~[district]~~ board of
6 education may set reasonable time limits for testimony.

7 ~~(9)~~~~(8)~~ (a) That portion of a general tax rate, except as provided in subsections
8 ~~(10)~~~~(9)~~ and ~~(11)~~~~(10)~~ of this section, KRS 157.440, and KRS 157.621,
9 levied by an action of a **local**~~[district]~~ board of education which will produce,
10 respectively, revenue from real property, exclusive of revenue from new
11 property, more than four percent (4%) over the amount of revenue produced
12 by the compensating tax rate defined in KRS 132.010, shall be subject to a
13 recall vote or reconsideration by the **local**~~[district]~~ board of education as
14 provided for in KRS 132.017, and shall be advertised as provided for in
15 **subsection (7) of this section and** paragraph (b) of this subsection.

16 (b) The **local**~~[district]~~ board of education shall, within seven (7) days following
17 adoption of an ordinance, order, resolution, or motion to levy a general tax
18 rate, except as provided in subsections ~~(10)~~~~(9)~~ and ~~(11)~~~~(10)~~ of this section
19 and KRS 157.440, which will produce revenue from real property, exclusive
20 of revenue from new property as defined in KRS 132.010, more than four
21 percent (4%) over the amount of revenue produced by the compensating tax
22 rate defined in KRS 132.010, cause the following to be published, **in a banner**
23 **posted near the top of the home page of its website and** in the newspaper of
24 largest circulation in the county, a display type advertisement of not less than
25 twelve (12) column inches:

26 1. The fact that the **local**~~[district]~~ board of education has adopted such a
27 rate;

- 1 2. The fact that the part of the rate which will produce revenue from real
2 property, exclusive of new property as defined in KRS 132.010, in
3 excess of four percent (4%) over the amount of revenue produced by the
4 compensating tax rate defined in KRS 132.010 is subject to recall; and
- 5 3. The name, address, and telephone number of the county clerk of the
6 county or urban-county in which the school district is located, with a
7 notation to the effect that that official can provide the necessary
8 information about the petition required to initiate recall of the tax rate.

9 ~~(10)~~~~(9)~~ (a) Notwithstanding any statutory provisions to the contrary, effective for
10 school years beginning after June 30, 1990, the board of education of each
11 school district shall levy a minimum equivalent tax rate of thirty cents (\$0.30)
12 for general school purposes. Equivalent tax rate is defined as the rate which
13 results when the income collected during the prior year from all taxes levied
14 by the local~~district~~ for school purposes is divided by the total assessed value
15 of property plus the assessment for motor vehicles certified by the Department
16 of Revenue. School districts collecting school taxes authorized by KRS
17 160.593 to 160.597, 160.601 to 160.617~~160.633~~, or 160.635 to 160.648 for
18 less than twelve (12) months during a school year shall have included in
19 income collected under this section the pro rata tax collection for twelve (12)
20 months.

21 (b) Failure of a board to comply with paragraph (a) of this subsection may
22 constitute a forfeiture of office by its members pursuant to KRS 415.050 and
23 415.060.

24 ~~(11)~~~~(10)~~ A local~~district~~ board of education may levy a general tax rate that will
25 produce revenue from real property, exclusive of revenue from new property, that is
26 four percent (4%) over the amount of the revenue produced by the compensating
27 tax rate as defined in KRS 132.010.

1 ➔Section 73. KRS 157.440 is amended to read as follows:

2 (1) (a) Notwithstanding any statutory provisions to the contrary, effective for school
3 years beginning after July 1, 1990, the board of education of each school
4 district may levy an equivalent tax rate as defined in subsection ~~(10)(9)~~(a) of
5 KRS 160.470 which will produce up to fifteen percent (15%) of those
6 revenues guaranteed by the program to support education excellence in
7 Kentucky. The levy for the 1990-91 school year shall be made no later than
8 October 1, 1989, and no later than October 1, 1990, for the 1991-92 school
9 year, and by October 1 of each odd-numbered year thereafter. Effective with
10 the 1990-91 school year, revenue generated by this levy shall be equalized at
11 one hundred fifty percent (150%) of the statewide average per pupil
12 assessment.

13 (b) To participate in the Facilities Support Program of Kentucky, the board of
14 education of each school district shall commit at least an equivalent tax rate of
15 five cents (\$0.05) to debt service, new facilities, or major renovations of
16 existing school facilities, or the purchase of land if approved by the
17 commissioner of education as provided in KRS 157.420(4)(b). The five cents
18 (\$0.05) shall be in addition to the thirty cents (\$0.30) required by KRS
19 160.470~~(10)(9)~~ and any levy pursuant to paragraph (a) of this subsection.
20 The levy shall be made no later than October 1 of each odd-numbered year.
21 Eligibility for equalization funds for the biennium shall be based on the
22 district funds committed to debt service on that date. The five cents (\$0.05)
23 shall be equalized at one hundred fifty percent (150%) of the statewide
24 average per pupil assessment. The equalization funds shall be committed to
25 debt service to the greatest extent possible, but any excess equalization funds
26 not needed for debt service shall be deposited to a restricted building fund
27 account. The funds may be escrowed for future debt service or used to address

1 categorical priorities listed in the approved facilities plan pursuant to KRS
2 157.420.

3 (c) The board of education of each school district may contribute the levy
4 equivalent tax rate of five cents (\$0.05) and equalization funds for energy
5 conservation measures under guaranteed energy savings contracts pursuant to
6 KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under
7 KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:

- 8 1. Energy conservation measures shall include facility alteration;
- 9 2. Energy conservation measures shall be identified in the district's
10 approved facility plan pursuant to KRS 157.420;
- 11 3. The current facility systems are consuming excess maintenance and
12 operating costs;
- 13 4. The savings generated by the energy conservation measures are
14 guaranteed;
- 15 5. The levy equivalent tax rate of five cents (\$0.05) and equalization funds
16 contributed to the energy conservation measures shall be defined as
17 capital cost avoidance as provided in KRS 45A.345(2) and shall be
18 subject to the restrictions on usage as specified in KRS 45A.352(9); and
- 19 6. The equipment that is replaced has exceeded its useful life as
20 determined by a life cycle cost analysis.

21 (d) The rate levied by a local~~district~~ board of education under the provisions of
22 this subsection shall not be subject to the public hearing provisions of KRS
23 160.470~~(8)~~~~(7)~~ or to the recall provisions of KRS 160.470~~(9)~~~~(8)~~.

24 (e) A school district which is at or above the equivalent tax rates permitted under
25 the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts
26 ch. 476, shall not be required to levy an equivalent tax rate which is lower
27 than the rate levied during the 1989-90 school year.

- 1 (2) (a) A district may exceed the maximum provided by subsection (1) of KRS
2 160.470 provided that, upon request of the board of education of the school
3 district, the county board of elections shall submit to the qualified voters of
4 the district, in the manner of submitting and voting as prescribed in paragraph
5 (b) of this subsection, the question whether a rate which would produce
6 revenues in excess of the maximum provided by subsection (1) of KRS
7 160.470 shall be levied. The rate that may be levied under this section may
8 produce revenue up to no more than thirty percent (30%) of the revenue
9 guaranteed by the program to support education excellence in Kentucky plus
10 the revenue produced by the tax authorized by this section. Revenue produced
11 by this levy shall not be equalized with state funds. If a majority of those
12 voting on the question favor the increased rate, the tax levying authority shall,
13 when the next tax rate for the district is fixed, levy a rate not to exceed the rate
14 authorized by the voters.
- 15 (b) The election shall be held not less than fifteen (15) or more than thirty (30)
16 days from the time the request of the board is filed with the county clerk, and
17 reasonable notice of the election shall be given. The election shall be
18 conducted and carried out in the school district in all respects as required by
19 the general election laws and shall be held by the same officers as required by
20 the general election laws. The expense of the election shall be borne by the
21 school district.
- 22 (3) For the 1966 tax year and for all subsequent years for levies which were approved
23 prior to December 8, 1965, no local~~district~~ board of education shall levy a tax at a
24 rate under the provisions of this section which exceeds the compensating tax rate as
25 defined in KRS 132.010, except as provided in subsection (4) of this section and
26 except that a rate which has been approved by the voters under this section but
27 which was not levied by the local~~district~~ board of education in 1965 may be

1 levied after it has been reduced to the compensating tax rate as defined in KRS
 2 132.010, and except that in any school district where the rate levied in 1965 was
 3 less than the maximum rate which had been approved by the voters, the
 4 compensating tax rate shall be computed and may be levied as though the
 5 maximum approved rate had been levied in 1965 and the amount of revenue which
 6 would have been produced from such maximum levy had been derived therefrom.

7 (4) Notwithstanding the limitations contained in subsection (3) of this section, no tax
 8 rate shall be set lower than that necessary to provide such funds as are required to
 9 meet principal and interest payments on outstanding bonded indebtedness and
 10 payments of rentals in connection with any outstanding school revenue bonds
 11 issued under the provisions of KRS Chapter 162.

12 (5) The chief state school officer shall certify the compensating tax rate to the levying
 13 authorities.

14 ➔Section 74. KRS 160.473 is amended to read as follows:

15 (1) In the event that a general tax rate applicable to real property levied by a
 16 local~~[district]~~ board of education will produce a percentage increase in revenue
 17 from personal property less than the percentage increase in revenue from real
 18 property, the local~~[district]~~ board of education may levy a general tax rate
 19 applicable to personal property which will produce the same percentage increase in
 20 revenue from personal property as the percentage increase in revenue from real
 21 property; however, in no event shall the general tax rate levied by the local~~[district]~~
 22 board of education applicable to personal property exceed the~~[prior year]~~ general
 23 tax rate applicable to personal property levied by the respective local~~[district]~~ board
 24 of education for the January 1, 2026, assessment date.

25 (2) The general tax rate applicable to personal property levied by a local~~[district]~~ board
 26 of education under the provisions of subsection (1) of this section shall not be
 27 subject to the public hearing provisions of KRS 160.470~~(8)~~~~(7)~~ and to the recall

1 provisions of KRS 160.470~~(9)~~~~[(8)]~~.

2 ➔Section 75. KRS 160.607 is amended to read as follows:

3 (1) The school tax authorized by KRS 160.482 to 160.488 and 160.605 shall be at a
4 single uniform rate not to exceed one-half of one percent (0.5%) and shall continue
5 from year to year until changed as prescribed in KRS 160.635 and 160.484.

6 (2) Any county having three hundred thousand (300,000) or more inhabitants is
7 authorized to increase the school tax rate to exceed the maximum set in subsection
8 (1) of this section by one-quarter of one percent (0.25%) ***before the effective date***
9 ***of this Act.***

10 ***(3) Beginning on or after January 1, 2026:***

11 ***(a) A school tax is not authorized to be imposed under KRS 160.482 to 160.488***
12 ***and 160.605 in a school district that does not already have one imposed;***
13 ***and***

14 ***(b) The rate of a school tax imposed under KRS 160.482 to 160.488 and***
15 ***160.605 shall never increase.***

16 ➔Section 76. KRS 160.613 is amended to read as follows:

17 (1) There is hereby authorized a utility gross receipts license tax for schools not to
18 exceed three percent (3%) of the gross receipts derived from the furnishing, within
19 the district, of utility services, except that "gross receipts" shall not include amounts
20 received for furnishing:

21 (a) Energy or energy-producing fuels to a person engaged in manufacturing or
22 industrial processing as provided in subsection (3) or (4) of this section, if that
23 person provides the utility services provider with a copy of its utility gross
24 receipts license tax energy direct pay authorization, as provided in subsection
25 (3) of this section, and the utility service provider retains a copy of the
26 authorization in its records;

27 (b) Utility services which are to be resold; or

1 (c) Notwithstanding subsection (2) of this section, electricity used or consumed at
2 a colocation facility in commercial mining of cryptocurrency:

3 1. If the facility operator provides the utility services provider with a copy
4 of its utility gross receipts license tax exemption certificate, as
5 authorized by subsection (6) of this section, and the utility service
6 provider retains a copy of the exemption certificate in its records; or

7 2. If the utility service provider is a governmental agency, the facility
8 operator shall retain the exemption certificate in its records.

9 **(2) Beginning on or after January 1, 2026:**

10 **(a) A utility gross receipts license tax is not authorized to be imposed in a**
11 **school district that does not already have one imposed; and**

12 **(b) The rate of a utility gross receipts license tax imposed under this section**
13 **shall never increase.**

14 ~~(3)~~ If any user of utility services purchases the utility services directly from any
15 supplier who is exempt either by state or federal law from the utility gross receipts
16 license tax, then the user of the utility services, if the tax has been levied in the
17 user's school district, shall be liable for the tax and shall register with and pay
18 directly to the department, in accordance with the provisions of KRS 160.615, a
19 utility gross receipts license tax for schools computed by multiplying the gross cost
20 of all utility services received by the tax rate levied under the provisions of this
21 section.

22 ~~(4)~~ A person engaged in manufacturing or industrial processing whose cost of
23 energy or energy-producing fuels used in the course of manufacturing or industrial
24 processing exceeds an amount equal to three percent (3%) of the cost of production
25 may apply to the department for a utility gross receipts license tax energy direct pay
26 authorization. Cost of production shall be computed on the basis of a plant facility,
27 which shall include all operations within the continuous, unbroken, integrated

1 manufacturing or processing production process that ends with a product packaged
2 and ready for sale. If the person receives confirmation of eligibility from the
3 department, the person shall:

4 (a) Provide the utility services provider with a copy of the utility gross receipts
5 license tax energy direct pay authorization issued by the department for all
6 purchases of energy and energy-producing fuels; and

7 (b) Report and pay directly to the department, in accordance with the provisions
8 of KRS 160.615, the utility gross receipts license tax due.

9 ~~(5)~~~~(4)~~ A person who performs a manufacturing or industrial processing activity for a
10 fee and does not take ownership of the tangible personal property that is
11 incorporated into, or becomes the product of, the manufacturing or industrial
12 processing activity is a toller. For periods on or after July 1, 2018, the costs of the
13 tangible personal property shall be excluded from the toller's cost of production at a
14 plant facility with tolling operations in place as of July 1, 2018.

15 ~~(6)~~~~(5)~~ For plant facilities that begin tolling operations after July 1, 2018, the costs of
16 tangible personal property shall be excluded from the toller's cost of production if
17 the toller:

18 (a) Maintains a binding contract for periods after July 1, 2018, that governs the
19 terms, conditions, and responsibilities with a separate legal entity, which
20 holds title to the tangible personal property that is incorporated into, or
21 becomes the product of, the manufacturing or industrial processing activity;

22 (b) Maintains accounting records that show the expenses it incurs to fulfill the
23 binding contract that include but are not limited to energy or energy-
24 producing fuels, materials, labor, procurement, depreciation, maintenance,
25 taxes, administration, and office expenses;

26 (c) Maintains separate payroll, bank accounts, tax returns, and other records that
27 demonstrate its independent operations in the performance of its tolling

1 responsibilities;

2 (d) Demonstrates one (1) or more substantial business purposes for the tolling
3 operations germane to the overall manufacturing, industrial processing
4 activities, or corporate structure at the plant facility. A business purpose is a
5 purpose other than the reduction of utility gross receipts license tax liability
6 for the purchases of energy and energy-producing fuels; and

7 (e) Provides information to the department upon request that documents
8 fulfillment of the requirements in paragraphs (a) to (d) of this subsection and
9 gives an overview of its tolling operations with an explanation of how the
10 tolling operations relate and connect with all other manufacturing or industrial
11 processing activities occurring at the plant facility.

12 ~~(Z)(6)~~ (a) The operator of a colocation facility primarily engaged in the
13 commercial mining of cryptocurrency may apply to the department for a
14 utility gross receipts license tax exemption certificate. If the operator receives
15 confirmation of eligibility from the department, it:

16 1. Shall provide the utility services provider with a copy of the utility gross
17 receipts license tax exemption certificate issued by the department for
18 all purchases of electricity; or

19 2. Keep the certificate on file if the utility service provider is a
20 governmental agency.

21 (b) The utility gross receipts license tax exemption shall be effective from the
22 date of confirmation of eligibility until June 30, 2030.

23 ➔Section 77. KRS 160.483 is amended to read as follows:

24 (1) (a) The license fees imposed under KRS 160.482 to 160.488 on businesses,
25 trades, occupations, and professions shall be at a single, uniform percentage
26 rate not to exceed one-half of one percent (0.5%) of:

27 ~~1.(a)~~ Salaries, wages, and commissions, and other compensations

1 earned by persons within the county for work done and services
2 performed or rendered in the county; and

3 ~~2.[(b)]~~ The net profits of all businesses, trades, occupations, and
4 professions, for activities conducted in the county.

5 **(b) Beginning on or after January 1, 2026:**

6 **1. A school tax is not authorized to be imposed under KRS 160.482 to**
7 **160.488 and 160.605 in a school district that does not already have**
8 **one imposed; and**

9 **2. The rate of a school tax imposed under KRS 160.482 to 160.488 and**
10 **160.605 shall never increase.**

11 (2) The license fees, once imposed, shall continue from year to year until changed as
12 prescribed in KRS 160.484.

13 (3) ~~[No public service company which pays an ad valorem tax is required to pay a~~
14 ~~license fee.~~

15 ~~(4)~~ (a) It is the intent of the General Assembly to continue the exemption from local
16 license fees and occupational taxes that existed on January 1, 2006, for
17 providers of multichannel video programming services or communications
18 services as defined in KRS 136.602 that were taxed under KRS 136.120 prior
19 to January 1, 2006.

20 (b) To further this intent, no company providing multichannel video
21 programming services or communications services as defined in KRS 136.602
22 shall be required to pay a license fee. If only a portion of an entity's business
23 is providing multichannel video programming services or communications
24 services, including products or services that are related to and provided in
25 support of the multichannel video programming services or communications
26 services, this exclusion applies only to that portion of the business that
27 provides multichannel video programming services or communications

1 services, including products or services that are related to and provided in
2 support of the multichannel video programming services or communications
3 services.

4 ~~(4)~~~~(5)~~ No license fee shall be imposed upon or collected from:

5 (a) Any bank, trust company, combined bank and trust company, combined trust,
6 banking and title business in this state;

7 (b) Any savings and loan association whether state or federally chartered;

8 (c) Any income received by members of the Kentucky National Guard for active
9 duty training, unit training assemblies, and annual field training;~~or~~

10 (d) Any income received by precinct workers for election training or work at
11 election booths in state, county, and local primary, regular, or special
12 elections;

13 (e) A public service company which pays an ad valorem tax; or

14 (f) Any individual who is not a resident of the county of the tax-levying
15 authority imposing the tax.

16 ~~(6) No license tax shall be collected from any individual who is not a resident of the~~
17 ~~county of the tax-levying authority imposing the tax.]~~

18 ~~(5)~~~~(7)~~ Pursuant to this section, no tax-levying authority shall regulate any aspect of
19 the manner in which any duly ordained, commissioned, or denominationally
20 licensed minister of religion may perform his or her duties and activities as a
21 minister of religion. Duly ordained, commissioned, or denominationally licensed
22 ministers of religion shall be subject to the same license fees imposed on others by
23 the tax-levying authority on salaries, wages, commissions, and other compensation
24 earned for work done and services performed or rendered.

25 ➔Section 78. KRS 160.484 is amended to read as follows:

26 (1) Except as provided in subsections (2), (3), and (4) of this section the fiscal court
27 has discretion to impose or not impose the license fees authorized by KRS 160.482

1 to 160.488 at a percentage rate, not to exceed one-half of one percent (0.5%),
 2 determined by the fiscal court. A fiscal court shall not proceed under this subsection
 3 without first giving all boards of education in the county thirty (30) days notice of
 4 its intention.

5 (2) If one (1) or more boards of education of school districts within the county which
 6 contain at least ninety percent (90%) of county's inhabitants, in the same calendar
 7 year certify to the fiscal court requests for a license fee at an identical percentage
 8 rate, not to exceed one-half of one percent (0.5%), then the fiscal court shall impose
 9 such license fees at the requested rate.

10 (3) Any license fees imposed under subsection~~subsections~~ (1) or (2) ***of this section***
 11 shall remain in full effect from year to year until all boards of education within the
 12 county have certified to the fiscal court requests for a reduction in the percentage
 13 rate theretofore imposed. Thereafter, the fiscal court shall reduce the rate to the
 14 highest rate certified as yet necessary by any ***local*** board of education in the county.
 15 The fiscal court may require each ***local*** board of education to make no more than
 16 one (1) certificate annually.

17 (4) ***Beginning on or after January 1, 2026:***

18 ***(a) A school tax is not authorized to be imposed under KRS 160.482 to 160.488***
 19 ***and 160.605 in a school district that does not already have one imposed;***
 20 ***and***

21 ***(b) The rate of a school tax imposed under KRS 160.482 to 160.488 and***
 22 ***160.605 shall never increase.***~~In any calendar year in which one (1) or more~~
 23 ~~boards of education of school districts containing at least ninety percent~~
 24 ~~(90%) of the county's inhabitants make a certification pursuant to subsection~~
 25 ~~(2) for a rate which is at a higher percentage than any currently imposed, the~~
 26 ~~fiscal court shall impose the license fee at the higher rate and any rate~~
 27 ~~imposed pursuant to subsections (1), (2), or (3) shall be rescinded upon the~~

1 ~~date the new rate takes effect].~~

2 ➔Section 79. KRS 160.505 is amended to read as follows:

3 KRS 160.500 to the contrary notwithstanding, if a tax authorized by KRS 160.593 to
4 160.597, 160.601 to 160.617~~[160.633]~~, and 160.635 to 160.648 shall be collected by a
5 local board of education, the local board of education shall appoint a person who shall be
6 responsible for collection and administration of such tax. If one (1) or more boards of
7 education agree in writing to levy identical taxes authorized by the statutes mentioned
8 hereinabove, the boards of education so agreeing shall jointly appoint a person who shall
9 be responsible for collection and administration of such tax as provided for in KRS
10 160.593(2). The position may be full-time or part-time and his compensation shall be
11 fixed by the board and/or boards of education. The bond of this person shall be made to
12 cover his duties as tax collector.

13 ➔Section 80. KRS 160.593 is amended to read as follows:

- 14 (1) Any board of education of a school district may, after compliance with the public
15 hearing requirement contained in KRS 160.603, levy school taxes authorized by
16 KRS 160.593 to 160.597, 160.601 to 160.617~~[160.633]~~, and 160.635 to 160.648.
17 The imposition of any tax levied under the provisions of 160.593 to 160.597,
18 160.601 to 160.617~~[160.633]~~, and 160.635 to 160.648 shall be limited to the
19 territory of the school district except as provided in subsection (2) of this section.
- 20 (2) Two (2) or more boards of education may agree in writing to levy identical school
21 taxes authorized by KRS 160.605 to 160.611 and~~[,]~~ 160.613 to 160.617~~[, and~~
22 ~~160.621 to 160.633]~~. After the levying in each district so agreeing of a tax under the
23 terms of such agreement, the receipts from said tax shall be held in a common fund
24 and disbursed therefrom to each district on the basis of average daily attendance, as
25 set forth in KRS 160.644. Any districts levying taxes under the terms of such an
26 agreement shall be deemed to constitute a combined taxing district for the purposes
27 of reference in KRS Chapter 160.

1 ➔Section 81. KRS 160.597 is amended to read as follows:

2 Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.617~~[160.633]~~,
3 and 160.635 to 160.648 may be recalled as follows:

4 (1) (a) The order or resolution levying any of the school taxes designated in this
5 section shall go into effect not less than forty-five (45) days nor more than
6 ninety (90) days after its passage.

7 (b) During the forty-five (45) days immediately following the passage of the
8 order or resolution, any five (5) qualified voters who reside in the school
9 district levying the tax may commence petition proceedings to protest the
10 passage of the order or resolution by filing with the county clerk an affidavit
11 stating that they constitute the petition committee and that they will be
12 responsible for circulating the petition and filing it in the proper form within
13 forty-five (45) days from the passage of the order or resolution. The affidavit
14 shall state their names and addresses and specify the address to which all
15 notices to the committee are to be sent. Upon receipt of the affidavit, the
16 county clerk shall:

- 17 1. At the time of filing of the affidavit, notify the petition committee of all
18 statutory requirements for the filing of a valid petition under this
19 section;
- 20 2. At the time of the filing of the affidavit, notify the petition committee
21 that the clerk will publish a notice identifying the tax levy being
22 challenged and providing the names and addresses of the petition
23 committee in a newspaper of general circulation within the county, if
24 such publication exists, if the petition committee remits an amount equal
25 to the cost of publishing the notice determined in accordance with the
26 provisions of KRS 424.160 at the time of the filing of the affidavit. If
27 the petition committee elects to have the notice published, the clerk shall

1 publish the notice within five (5) days of receipt of the affidavit; and

2 3. Deliver a copy of the affidavit to the local board of education~~[school~~
3 ~~board]~~ or combined taxing district.

4 (c) The petition shall be filed with the county clerk within forty-five (45) days of
5 the passage of the order or resolution. All papers of the petition shall be
6 uniform in size and style and shall be assembled in one (1) instrument for
7 filing. Each sheet of the petition shall contain the names of voters from one
8 (1) voting precinct only, and shall include the name, number and designation
9 of the precinct in which the voters signing the petition live. The inclusion of
10 an invalid signature on a page shall not invalidate the entire page of the
11 petition, but shall instead result in the invalid signature being stricken and not
12 counted. Each signature shall be executed in ink or indelible pencil and shall
13 be followed by the printed name, street address, and Social Security number
14 or birthdate of the person signing. The petition shall be signed by a number of
15 registered and qualified voters residing in the affected jurisdiction equal to at
16 least ten percent (10%) of the total number of votes cast in the last preceding
17 presidential election, except in consolidated local governments, where the
18 petition shall be signed by a number of registered and qualified voters equal to
19 at least five percent (5%) of the total number of votes cast in the last
20 preceding presidential election.

21 (d) Upon the filing of the petition with the county clerk, the order or resolution
22 shall be suspended from going into effect for that district until after the
23 election provided for in subsection (2) of this section is held, or until the
24 petition is finally determined to be insufficient and no further action may be
25 taken pursuant to paragraph (h) of this subsection.

26 (e) The county clerk shall immediately notify the local board of
27 education~~[school board]~~ or combined taxing district that the petition has been

1 received and shall, within thirty (30) days of receipt of the petition, make a
2 determination of whether the petition contains enough signatures of qualified
3 voters to place the order or resolution before the voters.

4 (f) If the county clerk finds the petition to be sufficient, the clerk shall certify to
5 the **local board of education**~~[school board]~~ or combined taxing district and
6 the petition committee within the thirty (30) day period provided for in
7 paragraph (e) of this subsection, that the petition is properly presented and in
8 compliance with the provisions of this section, and that the order or resolution
9 levying the tax will be placed before the voters for approval.

10 (g) If the county clerk finds the petition to be insufficient, the clerk shall, within
11 the thirty (30) day period provided for in paragraph (e) of this subsection,
12 notify, in writing, the petition committee and the school district or combined
13 taxing district levying the tax of the specific deficiencies found. Notification
14 shall be sent by certified mail, and shall be published at least one (1) time in a
15 newspaper of general circulation within the county containing the school
16 district levying the tax or, if there is no such newspaper, shall be posted at the
17 courthouse door.

18 (h) A final determination of the sufficiency of a petition shall be subject to final
19 review by the Circuit Court of the county in which the school district is
20 located, and shall be limited to the validity of the county clerk's
21 determination. Any petition challenging the county clerk's final determination
22 shall be filed within ten (10) days of the issuance of the clerk's final
23 determination.

24 (2) If the petition is sufficient, the county clerk shall, at the option of the **local**~~[district]~~
25 board of education, either submit the question to the voters of the school district at
26 the next regular election or submit the question to the voters of the school district at
27 a called common school election, which is to be held not less than thirty-five (35)

1 days nor more than forty-five (45) days from the date the signatures on the petition
 2 are validated by the county clerk. Any called common school election shall comply
 3 with the provisions of KRS 118.025. If the election is to be held in conjunction with
 4 a regular election, the question shall be submitted to the county clerk not later than
 5 the second Tuesday in August preceding the regular election. The question shall be
 6 so framed that the voter may by his vote answer, "for" or "against." If a majority of
 7 the votes cast in a district or combined taxing district upon the question oppose its
 8 passage, the order or resolution shall not go into effect in that district or combined
 9 taxing district. If a majority of the votes cast in a district or combined taxing district
 10 upon the question favor its passage, the order or resolution shall go into effect in
 11 that district. If the election is to be held in more than one (1) school district within a
 12 county, the votes shall be counted separately. The cost of a called common school
 13 election shall be borne by the school district causing the election to be held.

14 (3) If any statute in existence on June 17, 1978, is found to be in conflict with any
 15 provision of this section, the provisions of this section shall prevail.

16 ➔Section 82. KRS 160.601 is amended to read as follows:

17 The school taxes authorized by KRS 160.605 to 160.611 and 160.613 to 160.617, ~~and~~
 18 ~~160.621 to 160.633~~ shall be known as an occupational license tax for schools and a
 19 utility gross receipts tax for schools, ~~and an excise tax for schools~~ as set out in the
 20 following sections.

21 ➔Section 83. KRS 160.603 is amended to read as follows:

22 No local ~~school district~~ board of education shall levy any of the school taxes authorized
 23 by KRS 160.593 to 160.597, 160.601 to 160.617 ~~160.633~~, and 160.635 to 160.648,
 24 except the levy required by KRS 160.614(3) and (6), until after compliance with the
 25 following:

26 (1) The local ~~school district~~ board of education desiring to levy any one (1) of these
 27 taxes shall give notice of any proposed levy of one (1) of the school taxes.

1 Notwithstanding any statutory provisions to the contrary, notice shall be given by
2 causing to be published, at least one (1) time in a newspaper of general circulation
3 published in the county or by posting at the courthouse door if there be no such
4 newspaper, the fact that such levy is being proposed. The advertisement shall state
5 that the local~~[district]~~ board of education will meet at a place and on a day fixed in
6 the advertisement, not earlier than one (1) week and not later than two (2) weeks
7 from the date of the advertisement, for the purpose of hearing comments and
8 complaints regarding the proposed increase and explaining the reasons for such
9 proposal.

10 (2) The local~~[school district]~~ board of education shall conduct a public hearing at the
11 place and on the date advertised for the purpose of hearing comments and
12 complaints regarding the proposed levy and explaining the reasons for such
13 proposal.

14 (3) In the event that a combined taxing district desires to levy any one (1) of these
15 taxes, the boards of education shall make a joint advertisement and hold a joint
16 hearing in the manner prescribed heretofore for an individual school district.

17 ➔Section 84. KRS 160.614 is amended to read as follows:

18 (1) A utility gross receipts license tax initially levied by a local~~[school district]~~ board
19 of education on or after July 13, 1990, ***but before January 1, 2036***, shall be levied
20 on the gross receipts derived from the furnishing of cable service in addition to the
21 gross receipts derived from the furnishing of the utility services defined in KRS
22 160.6131.

23 (2) A utility gross receipts license tax initially levied by a local~~[school district]~~ board
24 of education prior to July 13, 1990, shall be levied on the gross receipts derived
25 from the furnishing of cable service, in addition to the gross receipts derived from
26 the furnishing of the utility services defined in KRS 160.6131, if the local~~[school
27 district]~~ board of education repeats the notice and hearing requirements of KRS

1 160.603, but only as to the levy of the tax on the gross receipts derived from the
2 furnishing of cable service.

3 (3) A utility gross receipts license tax initially levied by a local~~[school-district]~~ board
4 of education on or after July 1, 2005, **but before January 1, 2036**, shall include the
5 gross receipts derived from the furnishing of direct satellite broadcast and wireless
6 cable service in addition to the gross receipts derived from the furnishing of utility
7 services defined in KRS 160.6131 and cable service.

8 (4) Any school district that has cable service included in the base of a utility gross
9 receipts tax levied prior to July 1, 2005, shall, as of July 1, 2005, **but before**
10 **January 1, 2036**, include gross receipts derived from the furnishing of direct
11 satellite broadcast and wireless cable service in the base of its utility gross receipts
12 tax at the same rate as applied to cable service, unless the local~~[school-district]~~
13 board of education chooses to opt out of this requirement by following the
14 procedures set forth in subsection (5) of this section.

15 (5) Any local~~[school-district]~~ board of education may elect to opt out of the base
16 expansion required by subsection (4) of this section. However, any district electing
17 to opt out of the provisions of subsection (4) of this section shall also remove from
18 the base of its utility gross receipts tax all gross receipts from the furnishing of
19 cable service. To opt out of the provisions of subsection (4) of this section, a
20 local~~[school-district]~~ board of education shall, before May 1, 2005, **but before**
21 **January 1, 2036**:

22 (a) Determine the amount of revenue that will be lost from removing gross
23 receipts of cable service from the base of the utility gross receipts tax, and
24 how that revenue will be replaced; and

25 (b) Provide written notice of the intent to opt out of the base expansion required
26 by subsection (4) of this section to the Department of Revenue, the
27 Department of Education, all cable service providers operating in the district,

1 and the public.

2 1. Notice to the public shall be accomplished through the publication at
3 least one (1) time in a newspaper of general circulation in the county, or
4 by a posting at the courthouse door if there is no such newspaper, of the
5 fact that the local~~[district]~~ board has elected to opt out of the base
6 expansion required by subsection (4) of this section. The notice shall
7 include the following information:

8 a. The amount of revenue that will be lost from removing gross
9 receipts of cable service from the base of the utility gross receipts
10 tax and how that revenue will be replaced; and

11 b. The date, time, and location of a meeting of the board, not earlier
12 than one (1) week or later than two (2) weeks from the date of the
13 notice, for the purpose of hearing comments regarding the
14 proposed action of the board, and explaining the reasons for the
15 proposed action.

16 2. The local board of education shall conduct a public hearing at the place
17 and on the date and time provided in the notice for the purpose of
18 hearing comments regarding the proposed action of the board, and
19 explaining the reasons for the proposed action.

20 (6) A utility gross receipts license tax initially levied by a local~~[school-district]~~ board
21 of education on or after July 1, 2009, **but before January 1, 2036**, shall include the
22 gross receipts derived from the furnishing of multichannel video programming
23 service in addition to the gross receipts derived from the furnishing of utility
24 services.

25 (7) Any local~~[school-district]~~ board of education that has cable service and direct
26 satellite broadcast and wireless cable service included in the base of a utility gross
27 receipts tax levied prior to July 1, 2009, shall, as of July 1, 2009, **but before**

1 January 1, 2036, include gross receipts derived from the furnishing of Internet
 2 protocol television service provided through wireline facilities without regard to
 3 delivery technology, in the base of its utility gross receipts tax at the same rate as
 4 applied to cable service and direct satellite broadcast and wireless cable service.

5 ➔Section 85. KRS 160.635 is amended to read as follows:

6 School taxes imposed under~~[the provisions of]~~ KRS 160.593 to 160.597, 160.601 to
 7 160.617~~[160.633]~~, and 160.635 to 160.648 shall remain in full force and effect from year
 8 to year until the *local* board of education reduces the rate in effect; however, at the time
 9 the tax is first levied the board may set a date on which the tax shall expire.

10 ➔Section 86. KRS 160.637 is amended to read as follows:

11 ~~[(1) "Requesting school districts" shall mean those school districts for which the
 12 Department of Revenue is requested to act as tax collector under the authority of
 13 KRS 160.627(2).~~

14 ~~(2)]~~Reasonable expenses not to exceed the actual costs of collection incurred by any
 15 tax collector, except the Department of Revenue, for the administration or collection of
 16 the school taxes authorized by KRS 160.605 to 160.611 and~~[,]~~ 160.613 to 160.617~~[, and
 17 160.621 to 160.633]~~ shall be reimbursed by the school *local*~~[district]~~ boards of education
 18 on a monthly basis or on the basis agreed upon by the boards of education and the tax
 19 collector. The expenses shall be borne by the school districts on a basis proportionate to
 20 the revenue received by the districts.

21 ~~[(3) The following shall apply only when the Department of Revenue is acting as tax
 22 collector under the authority of KRS 160.627(2):~~

23 ~~(a) When the department is initially requested to be the tax collector under KRS
 24 160.627(2), the department shall estimate the costs of implementing the
 25 administration of the tax so requested, and shall inform the requesting school
 26 district of this estimated cost. The requesting school district shall pay to the
 27 department ten percent (10%) of this estimated cost referred to as "start up~~

1 ~~costs" within thirty (30) days of notification by the department. Subsequent~~
2 ~~requesting school districts shall pay their pro rata share, or ten percent (10%),~~
3 ~~whichever is less, of the unpaid balance of the initial "start-up costs" until the~~
4 ~~department has fully recovered the costs. The payment shall be made within~~
5 ~~thirty (30) days of notification by the department.~~

6 ~~(b) The Department of Revenue shall also be reimbursed by each school district~~
7 ~~for its proportionate share of the actual operational expenses incurred by the~~
8 ~~department in collecting the excise tax. The expenses, which shall be~~
9 ~~deducted by the Department of Revenue from payments to school districts~~
10 ~~made under the provisions of KRS 160.627(2), shall be allocated by the~~
11 ~~department to school districts on a basis proportionate to the number of~~
12 ~~returns processed by the Department of Revenue for each district compared to~~
13 ~~the total processed by the Department of Revenue for all districts.~~

14 ~~(c) All funds received by the department under the authority of paragraphs (a)~~
15 ~~and (b) of this subsection shall be deposited into an account entitled the~~
16 ~~"school tax fund account," an account created within the restricted fund group~~
17 ~~set forth in KRS 45.305. The use of these funds shall be restricted to paying~~
18 ~~the department for the costs described in paragraphs (a) and (b) of this~~
19 ~~subsection. This account shall not lapse.~~

20 ~~(d) The department may retain a portion of the school tax revenues collected in a~~
21 ~~special account entitled the "school tax refund account" which is an account~~
22 ~~created within the restricted fund group set forth in KRS 45.305. The sole~~
23 ~~purpose of this account shall be to authorize the Department of Revenue to~~
24 ~~refund school taxes. This account shall not lapse. Refunds shall be made in~~
25 ~~accordance with the provisions in KRS 134.580(6), and when the taxpayer has~~
26 ~~made an overpayment or a payment where no tax was due as defined in KRS~~
27 ~~134.580(7), within four (4) years of payment.~~

1 ~~(e) KRS 160.621 notwithstanding, when the department is acting as tax collector~~
2 ~~under the authority of KRS 160.627(2), the requesting school district may~~
3 ~~enact the tax enumerated in KRS 160.621 only at the following rates: five~~
4 ~~percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent~~
5 ~~(20%) on a school district resident's state individual income tax liability as~~
6 ~~computed under KRS Chapter 141.~~

7 ~~(f) Beginning August 1, 1982, any school district which requests the department~~
8 ~~to collect taxes under the authority of KRS 160.627(2) shall inform the~~
9 ~~department of this request not less than one hundred fifty (150) days prior to~~
10 ~~January 1.~~

11 ~~(g) The department shall not be required to collect taxes authorized in KRS~~
12 ~~160.621 of an individual when the department is not pursuing collection of~~
13 ~~that individual's state income taxes. The department shall not be required to~~
14 ~~collect or defend the tax set forth in KRS 160.621 in any board or court of this~~
15 ~~state.~~

16 ~~(h) Any overpayments of the tax set forth in KRS 141.020 or payments made~~
17 ~~when no tax was due may be applied to any tax liability arising under KRS~~
18 ~~160.621 before a refund is authorized to the taxpayer. No individual's tax~~
19 ~~payment shall be credited to the tax set forth in KRS 160.621 until all~~
20 ~~outstanding state income tax liabilities of that individual have been paid.~~

21 ~~(i) KRS 160.510 notwithstanding, the State Auditor shall be the only party~~
22 ~~authorized to audit the Department of Revenue with respect to the~~
23 ~~performance of its duties under KRS 160.621.]~~

24 ➔ Section 87. KRS 160.640 is amended to read as follows:

25 Any person having custody of the proceeds of any school tax authorized by KRS 160.605
26 to 160.611 and,] 160.613 to 160.617,] ~~and 160.621 to 160.633,]~~ except the Department
27 of Revenue, shall be required to secure a corporate surety bond in an amount to be set by

1 the Kentucky Board of Education. The cost of the surety bond shall be considered a part
2 of the cost of the administration of the school taxes authorized under KRS 160.605 to
3 160.611 and 160.613 to 160.617 ~~and 160.621 to 160.633~~.

4 ➔Section 88. KRS 160.642 is amended to read as follows:

5 Any person having custody of the proceeds of any school tax authorized by KRS 160.605
6 to 160.611 and 160.613 to 160.617 ~~160.621 to 160.633~~ shall be audited as provided
7 by KRS 156.265 to 156.285.

8 ➔Section 89. KRS 160.644 is amended to read as follows:

9 The school taxes and penalties collected under KRS 160.593 to 160.597, 160.601 to
10 160.617~~160.633~~, 160.635 to 160.648 shall be distributed to the treasurer of the board of
11 education of the school district. In the event that more than one (1) local board of
12 education within the county is participating in one (1) of these tax levies, the funds
13 collected shall be distributed in proportion to the tax rate levied and the number of pupils
14 in average daily attendance in the participating districts as shown by the final certification
15 by the chief state school officer for the previous school year pursuant to the provisions of
16 KRS 157.310 to 157.440.

17 ➔Section 90. KRS 160.648 is amended to read as follows:

18 (1) Any person, individual, or corporation required by the provisions of KRS 160.605
19 to 160.611 ~~and 160.621 to 160.633~~ to file any return or report or furnish any
20 information requested under the authority of KRS 160.605 to 160.611 ~~and 160.621~~
21 ~~to 160.633~~ who fails to file such return or report or furnish such information on or
22 before the date required shall pay a penalty in the amount of ten dollars (\$10) for
23 each failure.

24 (2) Any person, individual, or corporation who fails to pay, on or before the due date,
25 any school tax authorized by KRS 160.605 to 160.611 ~~and 160.621 to 160.633~~
26 and levied by the local ~~district~~ board of education shall pay a penalty of one
27 percent (1%) per month of the amount of such tax past due until paid.

1 ➔Section 91. KRS 157.621 is amended to read as follows:

2 (1) In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities
3 Support Program of Kentucky, local school districts that have made the levy
4 required by KRS 157.440(1)(b) are authorized to levy the following additional
5 equivalent rates to support debt service, new facilities, or major renovations of
6 existing school facilities, which levies shall not be subject to recall under any
7 provision of the Kentucky Revised Statutes, or to voter approval under the
8 provisions of KRS 157.440(2):

9 (a) 1. Prior to April 24, 2008, local school districts that have experienced
10 student population growth during a five (5) year period may levy an
11 additional five cents (\$0.05) equivalent rate for debt service and new
12 facilities. The tax rate levied by the district under this provision shall not
13 be equalized by state funding, except as provided in paragraph (b) of
14 this subsection. Any levy imposed under this paragraph prior to April
15 24, 2008, by a local school district shall continue until removed by the
16 local school district.

17 2. A local school district shall meet the following criteria in order to levy
18 the tax provided in subparagraph 1. of this paragraph:

19 a. Growth of at least one hundred fifty (150) students in average
20 daily attendance and three percent (3%) overall growth for the five
21 (5) preceding years;

22 b. Bonded debt to the maximum capability of at least eighty percent
23 (80%) of capital outlay from the Support Education Excellence in
24 Kentucky funding program, all revenue from the local facility tax,
25 and all receipts from state equalization on the local facility tax;

26 c. Current student enrollment in excess of available classroom space;
27 and

1 d. A local school facility plan that has been approved by the
2 Kentucky Board of Education and certified to the School Facilities
3 Construction Commission;

4 (b) 1. In addition to the levy authorized by paragraph (a) of this subsection, a
5 local school district may levy an additional five cents (\$0.05) equivalent
6 rate under the same terms and conditions established by paragraph (a) of
7 this subsection beginning in fiscal year 2003-2004 if the levy was made
8 prior to April 24, 2008, and if the local school district:

9 a. Levied the five cents (\$0.05) equivalent rate authorized by
10 paragraph (a) of this subsection; and

11 b. Still meets the requirements established by paragraph (a)2. of this
12 subsection.

13 2. Any school district that imposes both the levy authorized by paragraph
14 (a) of this subsection and the additional levy authorized by subparagraph
15 1. of this paragraph shall receive equalization funding from the state for
16 the levy imposed by paragraph (a) of this subsection beginning in fiscal
17 year 2003-2004. Equalization shall be provided at one hundred fifty
18 percent (150%) of the statewide average per pupil assessment, subject to
19 subsection (6) of this section~~[the provision of funding by the General~~
20 ~~Assembly].~~ Equalization funds shall be used as provided in KRS
21 157.440(1)(b).

22 3. Any levy imposed under this paragraph prior to April 24, 2008, by a
23 local school district shall continue until removed by the local school
24 district; and

25 (c) 1. A local school district that meets the following conditions may levy an
26 additional five cents (\$0.05) equivalent rate on and after April 24, 2008:

27 a. The local school district is located in a county that will have more

1 students as a direct result of the new mission established for Fort
 2 Knox by the Base Realignment and Closure (BRAC) 2005 issued
 3 by the United States Department of Defense pursuant to the
 4 Defense Base Closure and Realignment Act of 1990, Pub. L. No.
 5 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec.
 6 2687 note; and

7 b. The commissioner of education has determined, based upon the
 8 presentation of credible data, that the projected increased number
 9 of students is sufficient to require new facilities or the major
 10 renovation of existing facilities to accommodate the new students,
 11 and has approved the imposition of the additional levy.

12 2. Any local school district that imposes both the levy authorized by
 13 paragraph (a) of this subsection and the additional levy authorized by
 14 subparagraph 1. of this paragraph, and that has not received equalization
 15 funding under subsection (2) or (3) of this section, shall receive
 16 equalization funding from the state for the levy imposed by paragraph
 17 (a) of this subsection beginning in the fiscal year following the fiscal
 18 year in which the levy authorized by subparagraph 1. of this paragraph
 19 is imposed. Equalization shall be provided at one hundred fifty percent
 20 (150%) of the statewide average per pupil assessment, subject to
 21 subsection (6) of this section~~[the provision of funding by the General~~
 22 ~~Assembly].~~ Equalization funds shall be used as provided in KRS
 23 157.440(1)(b).

24 3. Any levy imposed under this paragraph by a local school district shall
 25 continue until removed by the local school district.

26 (2) (a) Any local school district that, prior to April 27, 2016, levied an equivalent rate
 27 that:

- 1 1. Was subject to recall at the time it was levied; and
- 2 2. Included a rate of at least five cents (\$0.05) equivalent rate for the
- 3 purpose of debt service for school construction or major renovation of
- 4 existing school facilities;

5 shall be eligible for retroactive equalization from the state for that levy at one

6 hundred fifty percent (150%) of the statewide average per pupil assessment

7 beginning in fiscal year 2003-2004, subject to subsection (6) of this

8 ~~section~~section~~[the fiscal condition of the Commonwealth and the provision of~~

9 ~~funding by the General Assembly]~~. Equalization funds shall be used as

10 provided in KRS 157.440(1)(b).

- 11 (b) It is the intent of the General Assembly that for levies described in this
- 12 subsection that are imposed on or after April 27, 2016, equalization funds, if
- 13 provided by the General Assembly, shall terminate upon the earlier of June
- 14 30, 2038, or the date the bonds for the local school district supported by this
- 15 equalization funding are retired. Equalization shall be subject to subsection
- 16 (6)(b) and (c) of this section, the fiscal condition of the Commonwealth, and~~[~~
- 17 ~~the provision of]~~ funding by the General Assembly.

18 (3) Any local school district that:

- 19 (a) Levied an equivalent tax rate as of April 24, 2008, that included at least ten
- 20 cents (\$0.10) that was devoted to building purposes, or that had debt service
- 21 corresponding to a ten cents (\$0.10) equivalent rate;
- 22 (b) Did not receive equalized growth funding pursuant to subsection (1)(b)2. of
- 23 this section; and
- 24 (c) Has been approved by the commissioner of education;

25 shall be eligible for equalization from the state for that levy at one hundred fifty

26 percent (150%) of the statewide average per pupil assessment beginning in fiscal

27 year 2005-2006, subject to subsection (6)(b) and (c) of this section~~[the provision of~~

1 ~~funding by the General Assembly~~. Equalization funds shall be used as provided in
2 KRS 157.440(1)(b). Equalization funds shall be available to a local school district
3 pursuant to this subsection until the earlier of June 30, 2038, or the date the bonds
4 for the local school district supported by this equalization funding are retired.

5 (4) (a) Notwithstanding any other provision of this section, any local school district
6 receiving equalization funding prior to April 27, 2016, related to an equivalent
7 rate levy described in subsection (1), (2), (3), or (5) of this section shall
8 continue to receive the equalization funding related to the applicable
9 equivalent rate levy, subject to **subsection (6) of this section**, the limitations
10 established by subsections (1), (2), (3), and (5) of this section, ~~and subject to~~
11 the fiscal condition of the Commonwealth, and the provision of funding by
12 the General Assembly, until amended by subsequent action of the General
13 Assembly. A local school district described in this paragraph shall not be
14 eligible to receive equalization for any additional equivalent rate levies made
15 by it on or after April 27, 2016.

16 (b) Notwithstanding any other provision of this section, any local school district
17 that has imposed an equivalent rate levy described in subsection (1)(a) or (b)
18 or (2) of this section prior to April 27, 2016, that qualifies for equalization but
19 that has not yet received equalization funding shall be eligible for equalization
20 funding as provided in subsection (1)(a) or (b) or (2) of this section, subject to
21 **subsection (6) of this section and** the provision of funding by the General
22 Assembly.

23 (c) On and after April 24, 2008, a local school district not included in paragraph
24 (a) or (b) of this subsection shall be prohibited from imposing an equivalent
25 rate levy under the provisions of subsection (1)(a) or (b) of this section, and
26 shall not be eligible for equalization funding under the provisions of this
27 section.

- 1 (d) On and after April 24, 2008, a local school district meeting the requirements
2 of subsection (1)(c) of this section may impose the levy authorized by
3 subsection (1)(c) of this section, and shall qualify for equalization as provided
4 in subsection (1)(c) of this section, subject to subsection (6) of this
5 section~~[the provision of funding by the General Assembly]~~.
- 6 (5) (a) Any local school district that:
- 7 1. Had school facilities classified as Category 5 on May 18, 2010, by the
8 Kentucky Department of Education; and
 - 9 2. Levied an additional five cents (\$0.05) equivalent tax rate prior to April
10 27, 2016, for debt service, new construction, and major renovation
11 beyond the five cents (\$0.05) equivalent tax rate required by KRS
12 157.440(1)(b), except as provided in paragraph (b) of this subsection;
13 shall be eligible for equalization from the state for that levy at one hundred
14 fifty percent (150%) of the statewide average per pupil assessment beginning
15 in the fiscal year following the fiscal year in which the levy was imposed
16 subject to subsection (6) of this section. This levy shall be subject to the
17 recall provisions of KRS 132.017.
- 18 (b) School districts that levied a five cents (\$0.05) equivalent tax rate for debt
19 service, new construction, and major renovation, beyond the rate required by
20 KRS 157.440(1)(b) prior to May 18, 2010, shall not be required to levy an
21 additional tax to receive the equalization funds provided in paragraph (a) of
22 this subsection.
- 23 (c) If the school district utilizes the equalization funds to support a bond issue for
24 construction purposes, equalization funds shall be provided until the earlier of
25 twenty (20) years or date the bonds are retired.
- 26 (d) In the event that a school district receives funding pursuant to this subsection
27 to support construction of a new school facility and subsequently, as a result

1 of litigation, receives funding for the same facility for which state funds were
 2 provided, that school district shall reimburse the Commonwealth an amount
 3 equal to the amount provided under paragraph (a) of this subsection. Any
 4 funds received in this manner shall be deposited in the budget reserve trust
 5 fund account established in KRS 48.705.

6 **(6) (a) For equivalent tax rates levied under this section prior to January 1, 2026,**
 7 **equalization funds authorized under this section shall terminate upon the**
 8 **earlier of twenty (20) years or the date the bonds supported by the**
 9 **equalization funding are retired. Equalization shall be subject to the fiscal**
 10 **condition of the Commonwealth and funding by the General Assembly.**

11 **(b) For equivalent tax rates levied under this section on or after January 1,**
 12 **2026, equalized funds shall not be authorized under this section or provided**
 13 **by the state.**

14 **(c) The commissioner of education shall compile a list of every equivalent tax**
 15 **rate levied by a school district under the authority of this section, the bonds**
 16 **or debt service to which the equivalent tax rate revenues and any related**
 17 **equalized funds are dedicated, and the date those bonds or debt service are**
 18 **scheduled to be retired. This list shall be submitted to the Legislative**
 19 **Research Commission for referral to the Appropriations and Revenue**
 20 **Committee by September 1 of each year until the equalization funds are**
 21 **terminated under paragraph (a) of this subsection.**

22 ➔Section 92. KRS 11A.211 is amended to read as follows:

23 (1) Each executive agency lobbyist, employer, and real party in interest shall file with
 24 the commission within ten (10) days following the engagement of an executive
 25 agency lobbyist, an initial registration statement showing all of the following:

- 26 (a) The name, business address, and occupation of the executive agency lobbyist;
 27 (b) The name and business address of the employer and of any real party in

1 interest on whose behalf the executive agency lobbyist is acting, if it is
2 different from the employer. However, if a trade association or other
3 charitable or fraternal organization that is exempt from federal income
4 taxation under Section 501(c) of the Internal Revenue Code is the employer,
5 the statement need not list the names and addresses of every member of the
6 association or organization, so long as the association or organization itself is
7 listed;

8 (c) A brief description of the executive agency decision to which the engagement
9 relates;

10 (d) The name of the executive agency or agencies to which the engagement
11 relates;

12 (e) Certification by the employer and executive agency lobbyist that the
13 information contained in the registration statement is complete and accurate;

14 (f) Compensation paid to, or received by, each executive agency lobbyist,
15 employer, and real party in interest as part of the engagement; and

16 (g) Certification that the employer and agent have complied with KRS 11A.236.

17 (2) In addition to the initial registration statement required by subsection (1) of this
18 section, each executive agency lobbyist, employer, and real party in interest shall
19 file with the commission, not later than the last day of July of each year, an updated
20 registration statement that confirms the continuing existence of each engagement
21 described in an initial registration statement, that lists the specific executive agency
22 decisions the executive agency lobbyist sought to influence under the engagement
23 during the period covered by the updated statement, and the compensation paid to,
24 or received by, each executive agency lobbyist, employer, and real party in interest
25 as part of the engagement, and with it any statement of expenditures required to be
26 filed by KRS 11A.216 and any details of financial transaction required to be filed
27 by KRS 11A.221.

- 1 (3) Compensation paid under subsection (1)(f) of this section shall be reported after it
2 is received by, or paid to, each executive agency lobbyist, employer, and real party
3 in interest as determined by the terms of the engagement, and shall be listed by the
4 amount paid or received, the intervals on which the payment is paid or received,
5 and shall include any other compensation received or paid as part of the
6 engagement.
- 7 (4) If an executive agency lobbyist is engaged by more than one (1) employer, the
8 executive agency lobbyist shall file a separate initial and updated registration
9 statement for each engagement and list compensation paid to, or received by each
10 executive agency lobbyist, employer, and real party in interest as part of the
11 engagement. If an employer engages more than one (1) executive agency lobbyist,
12 the employer shall file only one (1) updated registration statement under subsection
13 (2) of this section, which shall contain the information required by subsection (2) of
14 this section regarding all executive agency lobbyists engaged by the employer.
- 15 (5) (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2)
16 of this section shall be reflected in the next updated registration statement
17 filed under subsection (2) of this section.
- 18 (b) Within thirty (30) days following the termination of an engagement, the
19 executive agency lobbyist who was employed under the engagement shall file
20 written notice of the termination with the commission.
- 21 (6) Each employer of one (1) or more executive agency lobbyists, and each real party
22 in interest, shall pay a registration fee of seven hundred fifty dollars (\$750)~~five~~
23 ~~hundred dollars (\$500)~~ upon the filing of an updated registration statement. All
24 fees collected by the commission under the provisions of this subsection shall be
25 deposited in the State Treasury in a trust and agency fund account to the credit of
26 the commission. These agency funds shall be used to supplement general fund
27 appropriations for the operations of the commission and shall not lapse. No part of

- 1 the trust and agency fund account shall revert to the general funds of this state.
- 2 (7) Upon registration pursuant to this section, an executive agency lobbyist shall be
3 issued a card annually by the commission showing the executive agency lobbyist is
4 registered. The registration card shall be valid from the date of its issuance through
5 the thirty-first day of July of the following year.
- 6 (8) The commission shall review each registration statement filed with the commission
7 under this section to determine if the statement contains all of the required
8 information. If the commission determines the registration statement does not
9 contain all of the required information or that an executive agency lobbyist,
10 employer, or real party in interest has failed to file a registration statement, the
11 commission shall send written notification of the deficiency by certified mail to the
12 person who filed the registration statement or to the person who failed to file the
13 registration statement regarding the failure. Any person so notified by the
14 commission shall, not later than fifteen (15) days after receiving the notice, file a
15 registration statement or an amended registration statement that includes all of the
16 required information. If any person who receives a notice under this subsection fails
17 to file a registration statement or an amended registration statement within the
18 fifteen (15) day period, the commission may initiate an investigation of the person's
19 failure to file. If the commission initiates an investigation pursuant to this section,
20 the commission shall also notify each elected executive official and the secretary of
21 each cabinet listed in KRS 12.250 of the pending investigation.
- 22 (9) In the biennial report published under KRS 11A.110(13), the commission shall, in
23 the manner and form the commission determines, include a report containing
24 statistical information on the registration statements filed under this section during
25 the preceding biennium.
- 26 (10) If an employer who engages an executive agency lobbyist, or a real party in interest
27 on whose behalf the executive agency lobbyist was engaged is the recipient of a

1 contract, grant, lease, or other financial arrangement pursuant to which funds of the
2 state or of an executive agency are distributed or allocated, the executive agency or
3 any aggrieved party may consider the failure of the real party in interest, the
4 employer, or the executive agency lobbyist to comply with this section as a breach
5 of a material condition of the contract, grant, lease, or other financial arrangement.

6 (11) Executive agency officials may require certification from any person seeking the
7 award of a contract, grant, lease, or financial arrangement that the person, his or her
8 employer, and any real party in interest are in compliance with this section.

9 ➔Section 93. KRS 278.010 is amended to read as follows:

10 As used in KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and
11 278.990, unless the context otherwise requires:

12 (1) "Corporation" includes private, quasipublic, and public corporations, and all boards,
13 agencies, and instrumentalities thereof, associations, joint-stock companies, and
14 business trusts;

15 (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more
16 persons having a joint or common interest;

17 (3) "Utility" means any person except a regional wastewater commission established
18 pursuant to KRS 65.8905 and, for purposes of paragraphs (a), (b), (c), (d), and (f) of
19 this subsection, a city or a municipal interlocal gas utility, who owns, controls,
20 operates, or manages any facility used or to be used for or in connection with:

21 (a) The generation, production, transmission, or distribution of electricity to or
22 for the public, for compensation, for lights, heat, power, or other uses;

23 (b) The production, manufacture, storage, distribution, sale, or furnishing of
24 natural or manufactured gas, or a mixture of same, to or for the public, for
25 compensation, for light, heat, power, or other uses;

26 (c) The transporting or conveying of gas, crude oil, or other fluid substance by
27 pipeline to or for the public, for compensation;

- 1 (d) The diverting, developing, pumping, impounding, distributing, or furnishing
2 of water to or for the public, for compensation;
- 3 (e) The transmission or conveyance over wire, in air, or otherwise, of any
4 message by telephone or telegraph for the public, for compensation; or
- 5 (f) The collection, transmission, or treatment of sewage for the public, for
6 compensation, if the facility is a subdivision collection, transmission, or
7 treatment facility plant that is affixed to real property and is located in a
8 county containing a city of the first class or is a sewage collection,
9 transmission, or treatment facility that is affixed to real property, that is
10 located in any other county, and that is not subject to regulation by a
11 metropolitan sewer district or any sanitation district created pursuant to KRS
12 Chapter 220;
- 13 (4) "Retail electric supplier" means any person, firm, corporation, association, or
14 cooperative corporation, excluding municipal corporations, engaged in the
15 furnishing of retail electric service;
- 16 (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS
17 278.017;
- 18 (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is
19 being or has been substantially used to supply retail electric service and includes all
20 lines from the distribution substation to the electric consuming facility but does not
21 include any transmission facilities used primarily to transfer energy in bulk;
- 22 (7) "Retail electric service" means electric service furnished to a consumer for ultimate
23 consumption, but does not include wholesale electric energy furnished by an
24 electric supplier to another electric supplier for resale;
- 25 (8) "Electric-consuming facilities" means everything that utilizes electric energy from a
26 central station source;
- 27 (9) "Generation and transmission cooperative" or "G&T" means a utility formed under

- 1 KRS Chapter 279 that provides electric generation and transmission services;
- 2 (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that
3 provides retail electric service;
- 4 (11) "Facility" includes all property, means, and instrumentalities owned, operated,
5 leased, licensed, used, furnished, or supplied for, by, or in connection with the
6 business of any utility;
- 7 (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation
8 for service rendered or to be rendered by any utility, and any rule, regulation,
9 practice, act, requirement, or privilege in any way relating to such fare, toll, charge,
10 rental, or other compensation, and any schedule or tariff or part of a schedule or
11 tariff thereof;
- 12 (13) "Service" includes any practice or requirement in any way relating to the service of
13 any utility, including the voltage of electricity, the heat units and pressure of gas,
14 the purity, pressure, and quantity of water, and in general the quality, quantity, and
15 pressure of any commodity or product used or to be used for or in connection with
16 the business of any utility, but does not include Voice over Internet Protocol (VoIP)
17 service;
- 18 (14) "Adequate service" means having sufficient capacity to meet the maximum
19 estimated requirements of the customer to be served during the year following the
20 commencement of permanent service and to meet the maximum estimated
21 requirements of other actual customers to be supplied from the same lines or
22 facilities during such year and to assure such customers of reasonable continuity of
23 service;
- 24 (15) "Commission" means the Public Service Commission of Kentucky;
- 25 (16) "Commissioner" means one (1) of the members of the commission;
- 26 (17) "Demand-side management" means any conservation, load management, or other
27 utility activity intended to influence the level or pattern of customer usage or

- 1 demand, including home energy assistance programs;
- 2 (18) "Affiliate" means a person that controls or that is controlled by, or is under common
3 control with, a utility;
- 4 (19) "Control" means the power to direct the management or policies of a person
5 through ownership, by contract, or otherwise;
- 6 (20) "CAM" means a cost allocation manual which is an indexed compilation and
7 documentation of a company's cost allocation policies and related procedures;
- 8 (21) "Nonregulated activity" means the provision of competitive retail gas or electric
9 services or other products or services over which the commission exerts no
10 regulatory authority;
- 11 (22) "Nonregulated" means that which is not subject to regulation by the commission;
- 12 (23) "Regulated activity" means a service provided by a utility or other person, the rates
13 and charges of which are regulated by the commission;
- 14 (24) "USoA" means uniform system of accounts which is a system of accounts for
15 public utilities established by the FERC and adopted by the commission;
- 16 (25) "Arm's length" means the standard of conduct under which unrelated parties, each
17 party acting in its own best interest, would negotiate and carry out a particular
18 transaction;
- 19 (26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class
20 of customer, activity, or business unit that is attributable to another;
- 21 (27) "Solicit" means to engage in or offer for sale a good or service, either directly or
22 indirectly and irrespective of place or audience;
- 23 (28) "USDA" means the United States Department of Agriculture;
- 24 (29) "FERC" means the Federal Energy Regulatory Commission;
- 25 (30) "SEC" means the Securities and Exchange Commission;
- 26 (31) "Commercial mobile radio services" has the same meaning as in 47 C.F.R. sec. 20.3
27 and includes the term "wireless" and service provided by any wireless real time two

1 (2) way voice communication device, including radio-telephone communications
 2 used in cellular telephone service, personal communications service, and the
 3 functional or competitive equivalent of a radio-telephone communications line used
 4 in cellular telephone service, a personal communications service, or a network radio
 5 access line;~~and~~

6 (32) "Voice over Internet Protocol" or "VoIP" has the same meaning as in federal law;

7 and

8 (33) "Municipal interlocal gas utility" has the same meaning as in Section 94 of this

9 Act.

10 ➔Section 94. KRS 65.230 is amended to read as follows:

11 As used in KRS 65.210 to 65.300, unless the context otherwise requires:

12 (1) "Interlocal agency" means a separate legal or administrative entity with a governing
 13 board that is created in an agreement entered into by public agencies pursuant to the
 14 provisions of KRS 65.210 to 65.300;

15 (2) "Local government" means any:

16 (a) City;

17 (b) County;

18 (c) Consolidated local government;

19 (d) Urban-county government;

20 (e) Charter county government; or

21 (f) Unified local government;

22 (3) "Municipal interlocal gas utility" means an interlocal agency whose membership
 23 is only composed of city governments formed for the purpose of constructing and
 24 operating a system that is capable of acquiring, distributing, transmitting,
 25 furnishing, or selling natural gas to a federal military installation and other
 26 customers; and

27 (4) "Public agency" means:

- 1 (a) Any local government;
- 2 (b) Any political subdivision of this state or of another state;
- 3 (c) Any agency, board instrumentality, or commission created by a local
4 government;
- 5 (d) Any taxing district as defined by KRS 65.180;
- 6 (e) Any special purpose government entity as defined in KRS 65A.010(9)(a) to
7 (c), including those entities that are exempt from the definition of special
8 purpose governmental entity under the provisions of KRS 65A.010(9)(d)7. to
9 9.;
- 10 (f) Any interlocal agency;
- 11 (g) The Commonwealth or any agency or instrumentality of the state government
12 or of the United States, including but not limited to a state-supported
13 institution of higher education;
- 14 (h) Any county school district or independent school district; and
- 15 (i) Any private institution of higher education entering into an agreement
16 authorized by KRS 65.240(4) with another public agency.

17 ➔SECTION 95. A NEW SECTION OF KRS 65.210 TO 65.300 IS CREATED
18 TO READ AS FOLLOWS:

19 **Municipal interlocal gas utilities shall be considered special purpose government**
20 **entities and shall comply with the requirements of KRS 65A.010 to 65A.110, including**
21 **but not limited to paying the annual fee to the Department for Local Government as**
22 **required under KRS 65A.020(5).**

23 ➔Section 96. KRS 65.240 is amended to read as follows:

- 24 (1) Any powers, privileges, or authorities exercised or capable of exercise by a public
25 agency of this state may be exercised and enjoyed jointly with any other public
26 agency of this state, and jointly with any public agency of any other state or of the
27 United States to the extent that the laws of the United States permit such joint

1 exercise or enjoyment. Any agency of the state government when acting jointly
2 with any public agency may exercise and enjoy all of the powers, privileges and
3 authority conferred by KRS 65.210 to 65.300 upon a public agency.

4 (2) Any two (2) or more public agencies may enter into agreements with one another
5 for joint or cooperative action pursuant to the provisions of KRS 65.210 to 65.300,
6 including but not limited to for the sharing of revenues and physical assets.
7 Appropriate action by ordinance, resolution or otherwise pursuant to law, of the
8 governing bodies of the participating public agencies shall be necessary before any
9 such agreement may enter into force.

10 (3) Any public agency may enter into agreements with another public agency or
11 agencies pursuant to KRS 65.210 to 65.300 to acquire by purchase or lease, any real
12 or personal property, or any interest, right, easement, or privilege therein, outside of
13 its municipal or jurisdictional boundaries, in connection with the acquisition,
14 construction, operation, repair, or maintenance of any water, sewage, wastewater,
15 natural gas, or storm water facilities, notwithstanding any other provision of the
16 Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do
17 so, except as set forth in KRS Chapter 278.

18 (4) A private institution of higher education and one (1) or more county school districts
19 or independent school districts may enter into agreements under KRS 65.210 to
20 65.300 for the purposes of establishing and operating a program or facility,
21 including a center for child learning and study, designed to help one (1) or more
22 schools meet the goals set out in KRS 158.6451, or for the investment of funds if
23 the Attorney General determines that the proposal is compatible with the United
24 States Constitution as part of the review of the agreement provided in KRS
25 65.260(2), notwithstanding any other provision of the statutes restricting, qualifying
26 or limiting their authority to do so.

27 ➔Section 97. KRS 96.5375 is amended to read as follows:

- 1 (1) Subject to the limitations of subsection (4) of this section and KRS 96.045 and
2 96.538, any city that owns and operates a municipal system for the acquisition,
3 distribution, or transmission of natural gas may extend the system **or construct a**
4 **new system as authorized in KRS 96.170 and 96.542, to** ~~into and~~ furnish and sell
5 natural gas to any person or entity within the boundaries of the city or within any
6 territory outside of the city's boundaries. **Municipal interlocal gas utilities shall**
7 **have the same authority to extend existing natural gas systems or construct new**
8 **systems to furnish and sell natural gas in territory inside or outside of their**
9 **constituent cities' boundaries.** In exercising the authority provided by this
10 subsection, the city may install the necessary apparatus to provide natural gas
11 distribution or transmission service and may also condemn or otherwise acquire
12 rights-of-way as private utilities may do. The provisions of this subsection shall
13 apply to all cities of this Commonwealth transporting or distributing natural gas as
14 well as any board, commission, or agency thereof.
- 15 (2) A city, other than a city of the first class or a consolidated local government, may
16 acquire the entire plant of an existing natural gas distribution system only under the
17 same process and subject to the same limitations established by KRS 96.580,
18 96.590, and 96.600.
- 19 (3) No property owned or operated by an existing natural gas distribution system
20 located within the Commonwealth may be condemned by a city from another state.
- 21 (4) A natural gas utility, which, for purposes of this subsection, means a public, private
22 or municipally owned gas utility distributing or transporting natural gas to
23 customers within this Commonwealth, shall not:
- 24 (a) Extend its system for the purposes of furnishing or selling natural gas to any
25 person or entity that is currently being served by another natural gas utility; or
- 26 (b) Extend its system to furnish or sell natural gas to any person or entity when
27 there is another natural gas utility in closer proximity to the person or entity to

1 be served, unless the natural gas utility in closer proximity has declined to
2 provide service.

3 (5) The provisions of subsection (4) of this section shall only apply to extension of
4 service issues between a municipally owned natural gas utility servicing customers
5 located outside its municipal boundaries and a private or investor-owned natural gas
6 utility. The term "municipally owned" shall include systems distributing or
7 transporting natural gas that are owned by a city from another state.

8 **(6) As used in this section, "municipal interlocal gas utility" has the same meaning**
9 **as in Section 94 of this Act.**

10 ➔Section 98. Notwithstanding KRS 45.777, a postsecondary institution's
11 governing board may elect to sell or dispose of real property purchased in whole or in
12 part with capital construction funds, or equipment purchased in whole or in part with
13 state moneys. If the governing board elects to sell the real property or equipment, a
14 detailed accounting of the cost of the real property or equipment, the maintenance of the
15 property or equipment using moneys from an asset preservation pool appropriation, and
16 the proceeds from the sale of the real property or equipment shall be submitted to the
17 Office of State Budget Director and the Interim Joint Committee on Appropriations and
18 Revenue within 30 days from the sale of the real property or equipment. Proceeds from
19 the sale of the real property or equipment shall be designated by the postsecondary
20 institution, on a proportionate basis, based on the funding sources used for the acquisition
21 and maintenance of the real property or equipment sold.

22 ➔Section 99. **Urgent Needs School Assistance:** If authorized in 2014 Ky. Acts
23 ch. 117, Part I, A., 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19), 2016 Ky. Acts ch.
24 149, Part I, A., 28., (4) and (5), 2018 Ky. Acts ch. 169, Part I, A., 27., (3), or 2021 Ky.
25 Acts ch. 169, Part I, A., 28., (3), and subsequently, as a result of litigation or insurance, it
26 receives funds for the original facility, the school district shall reimburse the
27 Commonwealth an amount equal to that received for such purposes. If the litigation or

1 insurance receipts are less than the amount received, the district shall reimburse the
2 Commonwealth an amount equal to that received as a result of litigation or insurance less
3 the district's costs and legal fees in securing the judgment or payment. Any funds
4 received in this manner shall be deposited in the General Fund.

5 ➔Section 100. The following KRS sections are repealed:

6 160.621 Excise tax on individual income for schools.

7 160.625 Excise tax returns -- Payment -- Form.

8 160.627 Information on state income tax liability of school district residents --
9 Department of Revenue as tax collector.

10 160.633 Deposit of excise tax proceeds.

11 ➔Section 101. The following KRS sections are repealed:

12 211.390 Definitions for KRS 211.392.

13 211.392 Fluidized bed combustion technology tax exemption certificate.

14 ➔Section 102. Sections 1, 10 to 16, and 43 of this Act take effect August 1, 2026.

15 ➔Section 103. Sections 9 and 69 to 70 of this Act take effect on January 1, 2027.

16 ➔Section 104. The exemption granted in Section 94 of this Act and the authority
17 granted in Sections 96 and 97 of this Act shall apply retroactively to January 1, 2020,
18 including with regard to any activities undertaken prior to the effective date of this Act by
19 an entity to which the exemption or authority is conferred.

20 ➔Section 105. Whereas funding the operations of state government is an essential
21 part of the Commonwealth's budget, an emergency is declared to exist, and Sections 17 to
22 20, 32 to 34, 36 to 40, 56 to 68, 71 to 91, and 98 to 100 of this Act take effect upon
23 passage and approval by the Governor or upon otherwise becoming a law.