

1 AN ACT relating to tax credits and declaring an emergency.

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

3 ➔Section 1. KRS 141.403 is amended to read as follows:

- 4 (1) As used in this section, unless the context requires otherwise:
- 5 (a) "Approved company" shall have the same meaning as set forth in KRS
6 154.26-010;
- 7 (b) "Economic revitalization project" shall have the same meaning as set forth in
8 KRS 154.26-010;
- 9 (c) "Tax credit" means the tax credit allowed in KRS 154.26-090;
- 10 (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
11 141.0401; and
- 12 (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
13 141.0401.
- 14 (2) An approved company shall determine the income tax credit as provided in this
15 section.
- 16 (3) An approved company which is an individual sole proprietorship subject to tax
17 under KRS 141.020 or a corporation or pass-through entity treated as a corporation
18 for federal income tax purposes subject to tax under KRS 141.040(1) shall:
- 19 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
20 141.020 or 141.040 on net income as defined by KRS 141.010(11) or
21 taxable net income as defined by KRS 141.010(14), including income
22 from the economic revitalization project;
- 23 2. Compute the limited liability entity tax imposed under KRS 141.0401,
24 including Kentucky gross profits or Kentucky gross receipts from the
25 economic revitalization project; and
- 26 3. Add the amounts computed under subparagraphs 1. and 2. of this
27 paragraph and, if applicable, subtract the credit permitted by KRS

- 1 141.0401(3) from that sum. The resulting amount shall be the net tax for
2 purposes of this paragraph.
- 3 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
4 141.020 or 141.040 on net income as defined by KRS 141.010(11) or
5 taxable net income as defined by KRS 141.010(14), excluding net
6 income attributable to the economic revitalization project;
- 7 2. Using the same method used under subparagraph 2. of paragraph (a) of
8 this subsection, compute the limited liability entity tax imposed under
9 KRS 141.0401, excluding Kentucky gross profits or Kentucky gross
10 receipts from the economic revitalization project; and
- 11 3. Add the amounts computed under subparagraphs 1. and 2. of this
12 paragraph and, if applicable, subtract the credit permitted by KRS
13 141.0401(3) from that sum. The resulting amount shall be the net tax for
14 purposes of this paragraph.
- 15 (c) The tax credit shall be the amount by which the net tax computed under
16 paragraph (a)3. of this subsection exceeds the tax computed under paragraph
17 (b)3. of this subsection; however, the credit shall not exceed the limits set
18 forth in KRS 154.26-090.
- 19 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
20 which is a pass-through entity not subject to the tax imposed by KRS 141.040
21 or trust not subject to the tax imposed KRS 141.040 shall be subject to income
22 tax on the net income attributable to an economic revitalization project at the
23 rates provided in KRS 141.020(2).
- 24 (b) The amount of the tax credit shall be determined as provided in subsection (3)
25 of this section. Upon the annual election of the approved company, in lieu of
26 the tax credit, an amount shall be applied as an estimated tax payment equal to
27 the tax computed in this section. Any estimated tax payment made pursuant to

1 this paragraph shall be in satisfaction of the tax liability of the partners,
2 members, shareholders, or beneficiaries of the pass-through entity or trust, and
3 shall be paid on behalf of the partners, members, shareholders, or
4 beneficiaries.

5 (c) The tax credit or estimated payment shall not exceed the limits set forth in
6 KRS 154.26-090.

7 (d) If the tax computed in this section exceeds the tax credit, the difference shall
8 be paid by the pass-through entity or trust at the times provided by KRS
9 141.160 for filing the returns.

10 (e) Any estimated tax payment made by the pass-through entity or trust in
11 satisfaction of the tax liability of partners, members, shareholders, or
12 beneficiaries shall not be treated as taxable income subject to Kentucky
13 income tax by the partner, member, shareholder, or beneficiary.

14 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
15 the tax credit, and the estimated tax payment determined under subsection (4) of
16 this section shall be excluded in determining each partner's, member's,
17 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
18 through entity or trust.

19 (6) If the economic revitalization project is a totally separate facility:

20 (a) Net income attributable to the project for the purposes of subsections (3), (4),
21 and (5) of this section shall be determined under the separate accounting
22 method reflecting only the gross income, deductions, expenses, gains, and
23 losses allowed under KRS Chapter 141 directly attributable to the facility and
24 overhead expenses apportioned to the facility; and

25 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
26 for purposes of subsection (3) of this section shall be determined under the
27 separate accounting method reflecting only the Kentucky gross receipts or

1 Kentucky gross profits directly attributable to the facility.

2 (7) If the economic revitalization project is an expansion to a previously existing
3 facility:

4 (a) Net income attributable to the entire facility shall be determined under the
5 separate accounting method reflecting only the gross income, deductions,
6 expenses, gains, and losses allowed under KRS Chapter 141 directly
7 attributable to the facility and overhead expenses apportioned to the facility,
8 and the net income attributable to the economic revitalization project for the
9 purposes of subsections (3), (4), and (5) of this section shall be determined by
10 apportioning the separate accounting net income of the entire facility to the
11 economic revitalization project by a formula approved by the Department of
12 Revenue; and

13 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire
14 facility shall be determined under the separate accounting method reflecting
15 only the Kentucky gross receipts or Kentucky gross profits directly
16 attributable to the facility. Kentucky gross receipts or Kentucky gross profits
17 attributable to the economic revitalization project for purposes of subsection
18 (3) of this section shall be determined by apportioning the separate accounting
19 Kentucky gross receipts or Kentucky gross profits of the entire facility to the
20 economic revitalization project pursuant to a formula approved by the
21 Department of Revenue.

22 (8) If an approved company can show to the satisfaction of the Department of Revenue
23 that the nature of the operations and activities of the approved company are such
24 that it is not practical to use the separate accounting method to determine the net
25 income, Kentucky gross receipts, or Kentucky gross profits from the facility at
26 which the economic revitalization project is located, the approved company shall
27 determine net income, Kentucky gross receipts, or Kentucky gross profits from the

1 economic revitalization project using an alternative method approved by the
2 Department of Revenue.

3 (9) The Department of Revenue may issue administrative regulations and require the
4 filing of forms designed by the Department of Revenue to reflect the intent of KRS
5 154.26-010 to 154.26-100 and the allowable income tax credit which an approved
6 company may retain under KRS 154.26-010 to 154.26-100.

7 **(10) After June 30, 2018, an eligible company that has not received preliminary**
8 **approval shall not receive final approval by the authority to become an approved**
9 **company and receive tax credits under Subchapter 26 of KRS Chapter 154.**
10 **Approved companies and outstanding eligible companies with preliminary**
11 **approval granted on or before June 30, 2018, shall continue to be governed by**
12 **Subchapter 26 of KRS Chapter 154 and subsections (1) to (8) of this section.**

13 ➔Section 2. KRS 141.415 is amended to read as follows:

14 (1) As used in this section, unless the context requires otherwise:

15 (a) "Approved company" means the same as defined in KRS 154.32-010~~[-or~~
16 ~~154.34-010]~~;

17 (b) "Economic development project" means the same as defined in KRS 154.32-
18 010;

19 (c) ~~["Reinvestment project" means the same as defined in KRS 154.34-010;~~

20 ~~(d) "Tax credit" means the tax credit allowed in [KRS 154.34-120 or the credit~~
21 ~~allowed in] KRS 154.32-070~~[-, as the case may be];~~~~

22 ~~(d)~~~~(e)~~ "Kentucky gross receipts" means the same as defined in KRS 141.0401;
23 and

24 ~~(e)~~~~(f)~~ "Kentucky gross profits" means the same as defined in KRS 141.0401.

25 (2) An approved company shall determine the income tax credit as provided in this
26 section.

27 (3) An approved company which is an individual sole proprietorship subject to tax

1 under KRS 141.020 or a corporation or pass-through entity treated as a corporation
2 for federal income tax purposes subject to tax under KRS 141.040(1) shall:

3 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
4 141.020 or 141.040 on net income as defined by KRS 141.010(11) or
5 taxable net income as defined by KRS 141.010(14), including income
6 from an[a reinvestment project or] economic development project;

7 2. Compute the limited liability entity tax imposed under KRS 141.0401
8 including Kentucky gross profits or Kentucky gross receipts from the
9 ~~reinvestment project or~~ economic development project; and

10 3. Add the amounts computed under subparagraphs 1. and 2. of this
11 paragraph and, if applicable, subtract the credit permitted by KRS
12 141.0401(3) from that sum. The resulting amount shall be the net tax for
13 purposes of this paragraph.

14 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
15 141.020 or 141.040 on net income as defined by KRS 141.010(11) or
16 taxable net income as defined by KRS 141.010(14), excluding net
17 income attributable to an[a reinvestment project or] economic
18 development project;

19 2. ~~[Using the same method used under paragraph (a)2. of this subsection,]~~
20 Compute the limited liability entity tax imposed under KRS 141.0401,
21 including Kentucky gross profits or Kentucky gross receipts from the
22 ~~reinvestment project or~~ economic development project; and

23 3. Add the amounts computed under subparagraphs 1. and 2. of this
24 paragraph and, if applicable, subtract the credit permitted by KRS
25 141.0401(3) from that sum. The resulting amount shall be the net tax for
26 purposes of this paragraph.

27 (c) The tax credit shall be the amount by which the tax computed under paragraph

- 1 (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this
2 subsection; however, the credit shall not exceed the limits set forth in KRS
3 154.32-070~~[or 154.34-120, as the case may be]~~.
- 4 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
5 which is a pass-through entity not subject to the tax imposed by KRS 141.040
6 or trust not subject to the tax imposed by KRS 141.040 shall be subject to
7 income tax on the net income attributable to an~~[a reinvestment project or]~~
8 economic development project at the rates provided in KRS 141.020(2).
- 9 (b) The amount of the tax credit shall be determined as provided in subsection (3)
10 of this section. Upon the annual election of the approved company, in lieu of
11 the tax credit, an amount shall be applied as an estimated tax payment equal to
12 the tax computed in this section. Any estimated tax payment made pursuant to
13 this paragraph shall be in satisfaction of the tax liability of the partners,
14 members, shareholders, or beneficiaries of the pass-through entity or trust, and
15 shall be paid on behalf of the partners, members, shareholders, or
16 beneficiaries.
- 17 (c) The tax credit or estimated payment shall not exceed the limits set forth in
18 KRS 154.32-070~~[or 154.34-120, as the case may be]~~.
- 19 (d) If the tax computed in this section exceeds the tax credit, the difference shall
20 be paid by the pass-through entity or trust at the times provided by KRS
21 141.160 for filing the returns.
- 22 (e) Any estimated tax payment made by the pass-through entity or trust in
23 satisfaction of the tax liability of partners, members, shareholders, or
24 beneficiaries shall not be treated as taxable income subject to Kentucky
25 income tax by the partner, member, shareholder, or beneficiary.
- 26 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
27 the tax credit, and the estimated tax payment determined under subsection (4) of

1 this section shall be excluded in determining each partner's, member's,
2 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
3 through entity or trust.

4 (6) If the ~~reinvestment project or~~ economic development project is a totally separate
5 facility:

6 (a) Net income attributable to the project for the purposes of subsections (3), (4),
7 and (5) of this section shall be determined under the separate accounting
8 method reflecting only the gross income, deductions, expenses, gains, and
9 losses allowed under KRS Chapter 141 directly attributable to the facility and
10 overhead expenses apportioned to the facility; and

11 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
12 for the purposes of subsection (3) of this section shall be determined under the
13 separate accounting method reflecting only the Kentucky gross receipts or
14 Kentucky gross profits directly attributable to the facility.

15 (7) If the ~~reinvestment project or~~ economic development project is an expansion to a
16 previously existing facility:

17 (a) Net income attributable to the entire facility shall be determined under the
18 separate accounting method reflecting only the gross income, deductions,
19 expenses, gains, and losses allowed under KRS Chapter 141 directly
20 attributable to the facility and overhead expenses apportioned to the facility,
21 and the net income attributable to the ~~reinvestment project or~~ economic
22 development project for the purposes of subsections (3), (4), and (5) of this
23 section shall be determined by apportioning the separate accounting net
24 income of the entire facility to the ~~reinvestment project or~~ economic
25 development project by a formula approved by the department; and

26 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire
27 facility shall be determined under the separate accounting method reflecting

1 only the Kentucky gross receipts or Kentucky gross profits directly
 2 attributable to the facility, and Kentucky gross receipts or Kentucky gross
 3 profits attributable to the ~~reinvestment project or~~ economic development
 4 project for the purposes of subsection (3) of this section shall be determined
 5 by apportioning the separate accounting Kentucky gross receipts or Kentucky
 6 gross profits of the entire facility to the ~~reinvestment project or~~ economic
 7 development project by a formula approved by the department.

8 (8) If an approved company can show to the satisfaction of the department that the
 9 nature of the operations and activities of the approved company are such that it is
 10 not practical to use the separate accounting method to determine the net income,
 11 Kentucky gross receipts, or Kentucky gross profits from the facility at which the ~~reinvestment project or~~
 12 ~~reinvestment project or~~ economic development project is located, the approved
 13 company shall determine net income, Kentucky gross receipts, or Kentucky gross
 14 profits from the ~~reinvestment project or~~ economic development project using an
 15 alternative method approved by the department.

16 (9) The department may promulgate administrative regulations and require the filing of
 17 forms designed by the department to reflect the intent of ~~KRS 154.34-010 to~~
 18 ~~154.34-100 and~~ Subchapter 32 of KRS Chapter 154, and the allowable income tax
 19 credit which an approved company may retain under ~~KRS 154.34-010 to 154.34-~~
 20 ~~100 or~~ Subchapter 32 of KRS Chapter 154.

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

23 **(1) As used in this section, unless the context requires otherwise:**

24 **(a) "Approved company" has the same meaning as in Section 5 of this Act;**

25 **(b) "Kentucky gross profits" has the same meaning as in KRS 141.0401;**

26 **(c) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;**

27 **(d) "Reinvestment project" has the same meaning as in Section 5 of this Act;**

1 and

2 (e) "Tax credit" means the tax credit allowed in Section 10 of this Act.

3 (2) An approved company shall determine the income tax credit as provided in this
4 section.

5 (3) An approved company which is an individual sole proprietorship subject to tax
6 under KRS 141.020 or a corporation or pass-through entity treated as a
7 corporation for federal income tax purposes subject to tax under KRS 141.040(1)
8 shall:

9 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
10 141.020 or 141.040 on net income as defined in KRS 141.010(11) or
11 taxable net income as defined in KRS 141.010(14), including income
12 from a reinvestment project;

13 2. Compute the limited liability entity tax imposed under KRS 141.0401,
14 including Kentucky gross profits or Kentucky gross receipts from the
15 reinvestment project; and

16 3. Add the amounts computed under subparagraphs 1. and 2. of this
17 paragraph and, if applicable, subtract the credit permitted by KRS
18 141.0401(3) from that sum. The resulting amount shall be the net tax
19 for purposes of this paragraph; and

20 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
21 141.020 or 141.040 on net income as defined in KRS 141.010(11) or
22 taxable net income as defined in KRS 141.010(14), excluding net
23 income attributable to a reinvestment project;

24 2. Compute the limited liability entity tax imposed under KRS 141.0401,
25 including Kentucky gross profits or Kentucky gross receipts from the
26 reinvestment project; and

27 3. Add the amounts computed under subparagraphs 1. and 2. of this

1 paragraph and, if applicable, subtract the credit permitted by KRS
2 141.0401(3) from that sum. The resulting amount shall be the net tax
3 for purposes of this paragraph.

4 The tax credit shall be the amount by which the tax computed under paragraph
5 (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this
6 subsection; however, the credit shall not exceed the limits set forth in Section 10
7 of this Act.

8 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
9 which is a pass-through entity not subject to the tax imposed by KRS
10 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be
11 subject to income tax on the net income attributable to a reinvestment
12 project at the rates provided in KRS 141.020(2).

13 (b) The amount of the tax credit shall be determined as provided in subsection
14 (3) of this section. Upon the annual election of the approved company, in
15 lieu of the tax credit, an amount shall be applied as an estimated tax
16 payment equal to the tax computed in this section. Any estimated tax
17 payment made pursuant to this paragraph shall be in satisfaction of the tax
18 liability of the partners, members, shareholders, or beneficiaries of the pass-
19 through entity or trust, and shall be paid on behalf of the partners,
20 members, shareholders, or beneficiaries.

21 (c) The tax credit or estimated payment shall not exceed the limits set forth in
22 Section 10 of this Act.

23 (d) If the tax computed in this section exceeds the tax credit, the difference
24 shall be paid by the pass-through entity or trust at the times provided by
25 KRS 141.160 for filing the returns.

26 (e) Any estimated tax payment made by the pass-through entity or trust in
27 satisfaction of the tax liability of partners, members, shareholders, or

1 beneficiaries shall not be treated as taxable income subject to Kentucky
2 income tax by the partner, member, shareholder, or beneficiary.

3 (5) Notwithstanding any other provisions of this chapter, the net income subject to
4 tax, the tax credit, and the estimated tax payment determined under subsection
5 (4) of this section shall be excluded in determining each partner's, member's,
6 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
7 through entity or trust.

8 (6) If the reinvestment project is a totally separate facility:

9 (a) Net income attributable to the project for the purposes of subsections (3),
10 (4), and (5) of this section shall be determined under the separate
11 accounting method reflecting only the gross income, deductions, expenses,
12 gains, and losses allowed under KRS Chapter 141 directly attributable to the
13 facility and overhead expenses apportioned to the facility; and

14 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
15 for the purposes of subsection (3) of this section shall be determined under
16 the separate accounting method reflecting only the Kentucky gross receipts
17 or Kentucky gross profits directly attributable to the facility.

18 (7) If the reinvestment project is an expansion to a previously existing facility:

19 (a) Net income attributable to the entire facility shall be determined under the
20 separate accounting method reflecting only the gross income, deductions,
21 expenses, gains, and losses allowed under KRS Chapter 141 directly
22 attributable to the facility and overhead expenses apportioned to the facility,
23 and the net income attributable to the reinvestment project for the purposes
24 of subsections (3), (4), and (5) of this section shall be determined by
25 apportioning the separate accounting net income of the entire facility to the
26 reinvestment project by a formula approved by the department; and

27 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire

1 facility shall be determined under the separate accounting method
2 reflecting only the Kentucky gross receipts or Kentucky gross profits directly
3 attributable to the facility, and Kentucky gross receipts or Kentucky gross
4 profits attributable to the reinvestment project for the purposes of
5 subsection (3) of this section shall be determined by apportioning the
6 separate accounting Kentucky gross receipts or Kentucky gross profits of
7 the entire facility to the reinvestment project by a formula approved by the
8 department.

9 (8) If an approved company can show to the satisfaction of the department that the
10 nature of the operations and activities of the approved company are such that it is
11 not practical to use the separate accounting method to determine the net income,
12 Kentucky gross receipts, or Kentucky gross profits from the facility at which the
13 reinvestment project is located, the approved company shall determine net
14 income, Kentucky gross receipts, or Kentucky gross profits from the reinvestment
15 project using an alternative method approved by the department.

16 (9) The department may promulgate administrative regulations and require the filing
17 of forms designed by the department to reflect the intent of Subchapter 34 of KRS
18 Chapter 154, and the allowable income tax credit which an approved company
19 may retain under Subchapter 34 of KRS Chapter 154.

20 (10) After January 1, 2022, an eligible company that has not received preliminary
21 approval shall not receive final approval by the authority to become an approved
22 company and receive tax credits under Subchapter 34 of KRS Chapter 154.
23 Approved companies and outstanding eligible companies with preliminary
24 approval granted on or before January 1, 2022, shall continue to be governed by
25 Subchapter 34 of KRS Chapter 154 and subsections (1) to (8) of this section.

26 (11) (a) In order for the General Assembly to evaluate the fulfillment of the purpose
27 stated in Section 9 of this Act, the department shall submit the following

1 information for each taxable year that a tax credit is claimed on a return:

2 1. The cumulative amount of tax credits by taxable year claimed by entity

3 type, including:

4 a. Individuals;

5 b. Corporations; and

6 c. Pass-through entities;

7 2. The number of returns filed claiming a tax credit for each taxable
8 year by entity;

9 3. In case of a taxpayer other than a corporation, based on the mailing
10 address of the return, the total amount of credits claimed by county;

11 4. In the case of a taxpayer other than a corporation, based on ranges of
12 adjusted gross income of no larger than five thousand dollars
13 (\$5,000), the total amount of tax credits claimed and the number of
14 returns claiming a tax credit for each adjusted gross income range by
15 taxable year; and

16 5. In the case of a corporation, based on ranges of net income no larger
17 than fifty thousand dollars (\$50,000), the total amount of tax credits
18 claimed and the number of returns claiming a tax credit for each net
19 income range by taxable year.

20 (b) The report required by paragraph (a) of this subsection shall be submitted
21 to the Interim Joint Committee on Appropriations and Revenue beginning
22 no later than November 1, 2018, and no later than each November 1
23 thereafter, as long as the credit is claimed on any return processed by the
24 department.

25 ➔SECTION 4. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER
26 154 IS CREATED TO READ AS FOLLOWS:

27 After June 30, 2018, an eligible company that has not received preliminary approval

1 shall not receive final approval by the authority to become an approved company under
 2 the provisions of this subchapter. Outstanding eligible companies with preliminary or
 3 final approval granted on or before June 30, 2018, shall continue to be governed by
 4 this subchapter and Section 3 of this Act.

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

6 As used in this subchapter:

- 7 (1) "Agribusiness" has the same meaning as KRS 154.32-010;
- 8 (2) "Approved company" means an eligible company approved by the authority
 9 pursuant to Section 6 of this Act for a reinvestment project;
- 10 (3)~~(2)~~ "Approved costs" means the ~~sum of the:~~
 11 (a)~~—~~eligible equipment and related costs~~;~~ and
 12 (b)~~—~~Eligible skills upgrade training costs;
 13 ~~—~~approved by the authority that may be recovered by an approved company through
 14 the incentives authorized by this subchapter;
- 15 (4)~~(3)~~ "Authority" means the Kentucky Economic Development Finance Authority
 16 created by KRS 154.20-010;
- 17 (5) "Capital lease" means a lease classified as a capital lease by the Statement of
 18 Financial Accounting Standards No. 13, Accounting for Leases, issued by the
 19 Financial Accounting Standards Board, November 1976, as amended;
- 20 (6) "Coal mining and processing" means activities resulting in the eligible company
 21 being subject to the tax imposed by KRS Chapter 143;
- 22 (7)~~(4)~~ "Commonwealth" means the Commonwealth of Kentucky;
- 23 (8)~~(5)~~ "Department" means the Department of Revenue;
- 24 (9)~~(6)~~ (a) "Eligible company" means any corporation, limited liability company,
 25 partnership, limited partnership, sole proprietorship, business trust, or any
 26 other entity;
- 27 1. Employing or intending to employ full-time a minimum of twenty-five

1 (25) persons:

2 a. Working at its headquarters;

3 b. Engaged in manufacturing;

4 c. Engaged in agribusiness; or

5 d. Engaged in nonretail service or technology;

6 at the same~~[-at-a]~~ facility located and operating within the
 7 Commonwealth on a permanent basis for a reasonable period of time
 8 preceding the request for approval of a reinvestment project by the
 9 authority, including facilities where operations have been temporarily
 10 suspended and which meets the standards promulgated by the
 11 authority pursuant to Section 6 of this Act; or

12 2. Having or, in the case of closed facilities, intending raw production of
 13 at least three million (3,000,000) tons of coal mined from the
 14 reinvestment project facility and employing or, in the case of closed
 15 facilities, intending to employ, a minimum of five hundred (500)
 16 persons engaged in coal mining and processing operations at facilities
 17 located and operating within the Commonwealth on a permanent
 18 basis for a reasonable period of time preceding the request for
 19 approval of a reinvestment project by the authority, including facilities
 20 on or adjacent to where coal mining and processing operations have
 21 been closed, temporarily suspended, or severely reduced, and which
 22 meets the standards promulgated by the authority pursuant to Section
 23 6 of this Act;

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

26 1. Forestry;

27 2. Fishing;

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

- 10 ~~(10)~~⁽⁷⁾ (a) "Eligible equipment and related costs" means:
 11 1. Obligations incurred for labor and to vendors, contractors,
 12 subcontractors, builders, suppliers, deliverymen, and materialmen in
 13 connection with the acquisition, construction, equipping, rehabilitation,
 14 and installation of a reinvestment project;
 15 2. The cost of contract bonds and of insurance of all kinds that may be
 16 required or necessary during the course of acquisition, construction,
 17 equipping, rehabilitation, and installation of a reinvestment project
 18 which is not paid by the vendor, supplier, deliveryman, contractor, or
 19 otherwise provided;
 20 3. All costs of architectural and engineering services, including estimates,
 21 plans and specifications, preliminary investigations, and supervision of
 22 construction, rehabilitation and installation, as well as for the
 23 performance of all the duties required by or consequent upon the
 24 acquisition, construction, equipping, rehabilitation, and installation of a
 25 reinvestment project;
 26 4. All costs required to be paid under the terms of any contract for the
 27 acquisition, construction, equipping, rehabilitation, and installation of a

1 reinvestment project;

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

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

8 (b) "Eligible equipment and related costs" does not include costs related to the
9 replacement or repair of existing machinery or equipment resulting from
10 normal wear and usage of the machinery ***or equipment***;

11 ~~[(8) "Eligible skills upgrade training costs" means costs incurred by an approved~~
12 ~~company in connection with an occupational training program for full-time~~
13 ~~employees specifically related to training or retraining employees as part of~~
14 ~~the reinvestment project, including the following:~~

15 ~~(a) Fees or salaries paid to instructors, whether those instructors are employees of~~
16 ~~the approved company, contractors, or consultants;~~

17 ~~(b) Administrative fees paid to educational institutions;~~

18 ~~(c) Amounts paid for supplies, materials, and equipment used exclusively for the~~
19 ~~occupational training program;~~

20 ~~(d) Amounts paid to lease a training facility if sufficient training space is not~~
21 ~~available at the approved company or at an educational institution;~~

22 ~~(e) Amounts paid to employees as wages for attending the occupational training~~
23 ~~program;~~

24 ~~(f) Amounts paid for travel expenses for employees; and~~

25 ~~(g) All other costs of a nature comparable to those described in this subsection;]~~

26 **(11) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;**

27 **(12)**~~[(9)] "Equipment" means manufacturing machinery, ***computers, furnishings,***~~

1 fixtures, and other assets installed by the approved company as part of the
2 reinvestment project;

3 ~~(13)~~~~(10)~~ "Final approval" means the action taken by the authority designating a
4 preliminarily approved eligible company as an approved company to receive
5 inducements under this subchapter;

6 ~~(14)~~~~(11)~~ "Full-time" means a minimum of thirty-five (35) hours per week;

7 ~~(15)~~ "Headquarters" means the principal office where the principal executives of the
8 entity are located and from which other personnel, branches, affiliates, offices, or
9 entities are controlled;

10 ~~(16)~~ "Inducements" means the Kentucky tax credit and the wage assessment fee as
11 prescribed in this subchapter;

12 ~~(17)~~~~(12)~~ "Kentucky gross profits" has the same meaning as in KRS 141.0401;

13 ~~(18)~~~~(13)~~ "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

14 ~~(19)~~ "Lease agreement" means an agreement between an approved company and an
15 unrelated entity conveying the right to use a facility, the terms of which reflect an
16 arm's length transaction. "Lease agreement" does not include a capital lease;

17 ~~(20)~~ "Leased project" means a reinvestment project site occupied by an approved
18 company pursuant to a lease agreement;

19 ~~(21)~~~~(14)~~ "Manufacturing" means any activity involving the processing, assembling, or
20 production of any property, including activities that result in a change in the
21 condition of the property. "Manufacturing" includes any activity or function related
22 to the manufacturing activity, including storage, warehousing, distribution, and
23 related office facilities;

24 ~~(22)~~ "Nonretail service or technology" has the same meaning as in KRS 154.32-010;

25 ~~(23)~~~~(15)~~ "Preliminary approval" means the action taken by the authority designating an
26 eligible company as a preliminarily approved company;

27 ~~(24)~~~~(16)~~ "Reinvestment agreement" means the agreement entered into pursuant to KRS

1 154.34-080 between the authority and an approved company with respect to a
2 reinvestment project; and

3 ~~(25)~~~~(17)~~ "Reinvestment project" means:

4 (a) A reinvestment in the ~~physical plant of a manufacturing~~ facility ***of an***
5 ***eligible company***, and in the full-time employees of ***an eligible company*** ~~a~~
6 ~~manufacturing facility~~, through:

7 ~~1. —~~ the acquisition, construction, and installation of new equipment and,
8 with respect thereto, the construction, rehabilitation, and installation of
9 improvements to facilities necessary to house the new equipment,
10 including surveys; installation of utilities, including water, sewer,
11 sewage treatment, gas, electricity, communications, and similar
12 facilities; or off-site construction of utility extensions to the boundaries
13 of the real estate on which the facilities are located; and

14 ~~2. — The development of an occupational training program to train or retrain~~
15 ~~the full-time employees of the company to support the reinvestment in~~
16 ~~the manufacturing facility, if applicable, for the purpose of improving~~
17 ~~the economic and operational situation of a company; and~~

18 (b) The expenditure of at least ***one million dollars (\$1,000,000) in eligible***
19 ***equipment and related costs for leased projects and at least*** two million five
20 hundred thousand dollars (\$2,500,000) in eligible equipment and related
21 costs

22 ***for all other reinvestment projects.***

23 ➔ Section 6. KRS 154.34-070 is amended to read as follows:

24 (1) The application and approval process under this subchapter shall be as follows:

25 (a) An eligible company with a proposed reinvestment project may submit an
26 application to the authority. The application shall include the information
27 required by subsection (4) of this section;

- 1 (b) Upon review of the application and any additional information submitted, the
2 authority may, by resolution, give preliminary approval to a reinvestment
3 project and authorize the negotiation and execution of a memorandum of
4 agreement. The memorandum of agreement shall establish the minimum job
5 retention requirements and maximum total approved cost for the reinvestment
6 project, shall only allow the recovery of costs incurred after preliminary
7 approval, and may include any other terms as agreed to by the parties to the
8 agreement. Upon preliminary approval, the preliminarily approved company
9 may undertake the project in accordance with the memorandum of agreement;
- 10 (c) The preliminarily approved company shall submit any documentation required
11 by the authority upon request of the authority;
- 12 (d) The preliminarily approved company shall have up to three (3) years from the
13 date of preliminary approval to complete the reinvestment project and obtain
14 final approval. Upon the earlier of completion of the project or the passage of
15 three (3) years from the date of preliminary approval, the preliminarily
16 approved company shall submit documentation required by the authority, and
17 the authority shall confirm that the minimum investment and job retention
18 requirements established by the memorandum of agreement have been met.
19 Upon review and confirmation of the documentation, the authority may, by
20 resolution, give final approval to the preliminarily approved company and
21 authorize the execution of a reinvestment agreement between the authority
22 and the approved company pursuant to KRS 154.34-080. As part of the
23 reinvestment agreement, the approved costs shall be finally determined, not to
24 exceed the maximum approved costs as determined at preliminary approval,
25 and the approved company shall be eligible to receive incentives in
26 accordance with the provisions of the reinvestment agreement;
- 27 (e) The authority shall monitor the reinvestment agreement at least annually, and

1 the approved company shall submit all documentation necessary for the
2 authority to monitor the agreement. The authority shall, based on the
3 documentation provided, confirm that the approved company is in continued
4 compliance with the provisions of the reinvestment agreement and, therefore,
5 eligible for incentives; and

6 (f) Upon final approval, the authority shall notify the department that an
7 approved company is eligible for incentives and shall provide the department
8 with the information necessary to monitor the use of inducements~~[credits]~~ by
9 the approved company. If, at any time during the term of the reinvestment
10 agreement, an approved company becomes ineligible for incentives, the
11 authority shall notify the department, and the department shall discontinue the
12 availability of inducements~~[credits]~~ for the approved company.

13 (2) The authority may establish standards for preliminary and final approval of eligible
14 companies and their projects through the promulgation of administrative regulations
15 in accordance with the provisions of KRS Chapter 13A.

16 (3) The criteria for preliminary and final approval of eligible companies and
17 reinvestment projects shall include but not be limited to the need for the project, the
18 eligible equipment and other costs~~[and eligible skills upgrade training costs]~~ to be
19 expended by the eligible company, and the number of jobs created or
20 preserved~~[retained]~~ as a result of the project.

21 (4) The application shall include:

22 (a) A description of the condition of the existing facility, including but not limited
23 to the status of the physical plant or office space, the financial situation of the
24 company, and the efficiency and productivity of the facility;

25 (b) A description of the proposed reinvestment project, including anticipated
26 sources of funding, the total anticipated equipment and related costs~~[and~~
27 ~~skills upgrade training costs]~~, the impact of the proposed reinvestment project

- 1 on full-time employment at the facility, and an explanation of why
2 reinvestment in the facility and its full-time employees is necessary;
- 3 (c) A timeline for the proposed reinvestment project;
- 4 (d) A description of the other alternatives that are available to the eligible
5 company, if incentives are not provided;
- 6 (e) The amount of incentives sought, and an explanation of why the requested
7 incentives are needed;
- 8 (f) A certification from the company that the reinvestment project would not be
9 economically feasible for the company, but for the incentives available under
10 this subchapter;
- 11 (g) Payment of any applicable application fees required by the authority; and
- 12 (h) Any additional information relating to the proposed reinvestment project that
13 the authority may require.
- 14 (5) The authority may request any materials and make any inquiries concerning an
15 application that the authority deems necessary.

16 ➔Section 7. KRS 154.34-080 is amended to read as follows:

17 The authority, upon final approval of a company, may enter into a reinvestment
18 agreement with the approved company. The terms and conditions of the reinvestment
19 agreement shall be negotiated between the authority and the approved company. The
20 terms of the reinvestment agreement shall include but not be limited to the following
21 provisions:

- 22 (1) That the authority may employ an independent consultant or utilize technical
23 resources to verify the cost of the project, and that the approved company shall
24 reimburse the authority for the cost of a consultant or other technical resources
25 employed by the authority;
- 26 (2) The maximum approved costs that may be recovered;
- 27 (3) A set employment retention goal, which shall be at least eighty-five percent (85%)

- 1 of the number of full-time employees employed at the facility on the date the
2 company receives preliminary approval;
- 3 (4) That approval of the company is not a guarantee of incentives and that eligibility for
4 incentives shall be contingent on the approved company meeting the requirements
5 established by the reinvestment agreement and this subchapter;
- 6 (5) The term of the reinvestment agreement, which shall not be longer than the earlier
7 of:
- 8 (a) The date on which the approved company has received incentives equal to the
9 approved costs of its reinvestment project; or
- 10 (b) Ten (10) years from the date of final approval granted by the authority;
- 11 (6) That the authority may reduce the incentives, suspend the incentives, or terminate
12 the agreement if the approved company fails to comply with provisions of the
13 reinvestment agreement;
- 14 (7) That both the authority and the department shall have the right to pursue any
15 remedy provided under this reinvestment agreement and any other remedy at law to
16 which it may be entitled;
- 17 (8) That the approved company shall make available to the department and the
18 authority all of its records pertaining to the reinvestment project, including but not
19 limited to payroll records, records relating to the expenditure of eligible equipment
20 and related costs, ~~eligible skills upgrade training costs,~~ and approved costs, and
21 any other records pertaining to the project as the authority or the department may
22 require;
- 23 (9) That the authority may share information with the department for the purposes of
24 monitoring and enforcing the terms of the reinvestment agreement;
- 25 (10) That the agreement shall not be transferred or assigned by the approved company
26 without the expressed written consent of the authority; and
- 27 (11) Any other provisions not inconsistent with this subchapter and determined to be

1 necessary or appropriate by the parties to the reinvestment agreement.

2 ➔Section 8. KRS 154.34-090 is amended to read as follows:

3 By October 1 of each year, the department~~[of Revenue of the Commonwealth]~~ shall
4 certify to the authority, in the form of an annual report, aggregate tax credits claimed on
5 tax returns filed during the fiscal year ending June 30 of that year by approved companies
6 with respect to their reinvestment projects under this subchapter~~[and KRS 141.415]~~ and
7 shall certify to the authority, within ninety (90) days from the date an approved company
8 has filed its state tax return, when an approved company has taken inducements equal to
9 its approved costs.

10 ➔Section 9. KRS 154.34-110 is amended to read as follows:

11 (1) (a) The purpose of this subchapter is to provide a means for the Commonwealth
12 to promote job retention by providing incentives for existing businesses to
13 reinvest in existing~~[manufacturing]~~ operations in Kentucky for eligible
14 companies.

15 (b) In order for the General Assembly to evaluate the fulfillment of the purpose
16 stated in paragraph (a) of this subsection, the Cabinet for Economic
17 Development shall submit the following information, related to actions
18 taken by the authority during the immediately preceding calendar year, to
19 the Interim Joint Committee on Appropriations and Revenue beginning no
20 later than November 1, 2018, and no later than each November 1 thereafter,
21 as long as the tax credit from the Kentucky Reinvestment Act is awarded by
22 the authority:

23 1. The total number of applications received;

24 2. The number of applications received that were approved;

25 3. The number of applications received that were not approved and the
26 primary justifications for not approving those applications;

27 4. The number of applications approved for each reinvestment project by

- 1 *type of eligible company;*
 2 *5. The total number and location of each reinvestment project;*
 3 *6. The total number and location of each approved company;*
 4 *7. The number and location of each new job created or preserved;*
 5 *8. The total amount of inducements awarded for reinvestment projects*
 6 *located in an enhanced incentive county; and*
 7 *9. The total amount of inducements awarded for reinvestment projects*
 8 *located outside an enhanced incentive county.*

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

- 11 1. Incur eligible equipment and related costs of at least *one million dollars*
 12 *(\$1,000,000) for leased projects and at least* two million five hundred
 13 thousand dollars (\$2,500,000) *for all other reinvestment projects;*
 14 2. Agree to maintain a full-time employment base of at least eighty-five
 15 percent (85%) at the facility on the date of preliminary approval; and
 16 3. Not have been awarded incentives under Subchapter 26 of this chapter
 17 for a period of at least five (5) years prior to applying for incentives
 18 under this subchapter.

19 (b) An approved company meeting the expenditure and employment retention
 20 requirements established by this subsection shall be eligible to recover up to
 21 fifty percent (50%) of the amount expended for eligible equipment and related
 22 costs~~[, and up to one hundred percent (100%) of job skills upgrade training~~
 23 ~~costs].~~ The actual amount that an approved company may recover shall be
 24 negotiated with the authority, and may be less than the maximum amount for
 25 which the approved company is eligible.

26 (3) An approved company shall be eligible for *inducements under this subchapter as*
 27 *follows:*

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

6 (b) Wage assessments against the gross wages of each employee subject to the
7 Kentucky income tax imposed by KRS 141.020, whose job was created or
8 preserved as a result of the reinvestment project as provided in this
9 subchapter.

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

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

14 (b) It is in the best interest of the Commonwealth to induce reinvestment in
15 existing~~[manufacturing]~~ facilities of eligible companies within the
16 Commonwealth in order to advance the public purposes of relieving
17 unemployment by preserving jobs that may be lost if not for the incentives to
18 be offered by the authority to approved companies, and by preserving and
19 creating sources of tax revenues for the support of public services provided by
20 the Commonwealth; and

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

24 ➔Section 10. KRS 154.34-120 is amended to read as follows:

25 (1) Except as provided in subsection (5) of this section, for taxable years beginning
26 after December 31, 2009, an approved company may be eligible for a nonrefundable
27 credit of up to one hundred percent (100%) of the Kentucky income tax imposed

1 under KRS 141.020 or 141.040, and the limited liability entity tax imposed under
2 KRS 141.0401 that would otherwise be owed by the approved company to the
3 Commonwealth for the approved company's tax year, on the income, Kentucky
4 gross profits, or Kentucky gross receipts of the approved company generated by or
5 arising from the reinvestment project.

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

13 (3) The approved company shall not be required to pay estimated tax payments as
14 prescribed in KRS 141.042 on the Kentucky taxable income, Kentucky gross
15 receipts, or Kentucky gross profits generated by or arising from the eligible project.

16 (4) The credit provided by this section shall be determined as provided in Section 3 of
17 this Act~~[KRS 141.415]~~.

18 (5) (a) For an approved company which receives preliminary approval prior to
19 February 1, 2010, the amount of incentives allowed in any year shall not
20 exceed the lesser of the tax liability of the approved company related to the
21 reinvestment project for that taxable year or the approved costs that have not
22 yet been recovered.

23 (b) For an approved company which receives preliminary approval on or after
24 February 1, 2010, the amount of incentives allowed in any year shall not
25 exceed the lesser of the tax liability of the approved company related to the
26 reinvestment project for that taxable year or twenty percent (20%) of the total
27 amount of the approved costs.

1 (c) The incentives shall be allowed for each taxable year of the approved
2 company during the term of the reinvestment agreement for which a tax return
3 is filed by the approved company.

4 ➔SECTION 11. A NEW SECTION OF SUBCHAPTER 34 OF KRS CHAPTER
5 154 IS CREATED TO READ AS FOLLOWS:

- 6 (1) An approved company may impose wage assessments against employees as
7 provided in this section if a wage assessment is included in the inducements
8 awarded to the approved company in the reinvestment agreement. The level of
9 wage assessment shall be negotiated as part of the reinvestment agreement.
- 10 (2) If a reinvestment project is located in an enhanced incentive county, the approved
11 company may require that each employee subject to the Kentucky income tax
12 imposed by KRS 141.020, whose job is determined by the authority to be created
13 or preserved as a result of the reinvestment project, as a condition of employment,
14 or retention of employment, agree to an assessment of up to one percent (1%) of
15 taxable wages.
- 16 (3) (a) If the reinvestment project is not located in an enhanced incentive county,
17 and is located in a local jurisdiction where:
- 18 1. No local occupational license fee is imposed; or
- 19 2. a. A local occupational license fee greater than or equal to a
20 quarter of one percent (0.25%) is imposed; and
- 21 b. The local jurisdiction agrees to forgo a quarter of one percent
22 (0.25%) through credits against the local occupational license
23 fee for the affected employees; then
- 24 (b) An approved company may require that each employee subject to tax
25 imposed by KRS 141.020, whose job is determined by the authority to be
26 created or preserved as a result of the reinvestment project, as a condition of
27 employment, agree to pay an assessment of up to one-half of one percent

1 (0.5%) of taxable wages.

2 (4) (a) If the reinvestment project is not located in an enhanced incentive county,
3 and is located in a local jurisdiction where:

4 1. The local occupational license fee is less than a quarter of one percent
5 (0.25%); and

6 2. The local jurisdiction agrees to forgo the total amount of the local
7 occupational license fee; then

8 (b) An approved company may require that each employee subject to tax
9 imposed by KRS 141.020, whose job is determined by the authority to be
10 created or preserved as a result of the reinvestment project, as a condition of
11 employment, agree to pay an assessment of up to a quarter of one percent
12 (0.25%) of taxable wages, plus a percentage equal to the amount of the local
13 occupational license fee the local jurisdiction agrees to forgo.

14 (5) (a) If the reinvestment project is not located in an enhanced incentive county
15 and is located in a county where:

16 1. The local jurisdiction imposes a local occupational license fee of less
17 than a quarter of one percent (0.25%); and

18 2. The local jurisdiction agrees to forgo only a portion of the total
19 amount of the local occupational license fee; then

20 (b) An approved company may require that each employee subject to tax
21 imposed by KRS 141.020, whose job is determined by the authority to be
22 created or preserved as a result of the reinvestment project, as a condition of
23 employment, agree to pay an assessment to be determined as follows:

24 1. Divide the local occupational license fee that the local jurisdiction has
25 agreed to forgo by the total local occupational license fee imposed;

26 2. Multiply the result determined under subparagraph 1. of this
27 paragraph by a quarter of one percent (0.25%); and

- 1 3. Add the result from subparagraph 2. of this paragraph to the local
2 occupational license fee that the local jurisdiction has agreed to forgo.
- 3 (6) (a) If the reinvestment project is not located in an enhanced incentive county,
4 and is located in a county where:
- 5 1. The local jurisdiction imposes a local occupational license fee equal to
6 or greater than a quarter of one percent (0.25%); and
- 7 2. The local jurisdiction agrees to forgo the local occupational license
8 fee in an amount of less than a quarter of one percent (0.25%); then
- 9 (b) An approved company may require that each employee subject to tax
10 imposed by KRS 141.020, whose job is determined by the authority to be
11 created or preserved as a result of the reinvestment project, as a condition of
12 employment, agree to pay an assessment to be determined as follows:
- 13 1. Divide the local occupational license fee that the local jurisdiction has
14 agreed to forgo by a quarter of one percent (0.25%);
- 15 2. Multiply the result determined under subparagraph 1. of this
16 paragraph by a quarter of one percent (0.25%); and
- 17 3. Add the result from subparagraph 2. of this paragraph to the local
18 occupational license fee that the local jurisdiction has agreed to forgo.
- 19 (7) If the reinvestment project is not located in an enhanced incentive county, and:
- 20 (a) Is located in a local jurisdiction that does not impose a local occupational
21 license fee, the local jurisdiction shall be required to provide some
22 alternative inducement satisfactory to the authority at the local level in
23 order for a preliminarily approved company to receive final approval.
24 However, the authority may waive this requirement if there are reasonable
25 circumstances that prevent the local jurisdiction from providing a
26 reasonable inducement; or
- 27 (b) Is located in a local jurisdiction that does impose a local occupational

- 1 license fee, the local jurisdiction may request that the authority waive the
2 local occupational license fee requirements established by subsection (3),
3 (4), (5), or (6) of this section if the local jurisdiction offers alternative
4 inducements of similar value satisfactory to the authority. The authority
5 shall review all requests for a waiver, and may waive the local occupational
6 license fee requirements and instead require the local jurisdiction to provide
7 alternative inducements of similar value if the authority determines that the
8 circumstances warrant an alternative contribution by the local jurisdiction.
- 9 (8) Each employee paying the assessment shall simultaneously be entitled to a credit
10 against the Kentucky individual income tax required to be withheld under KRS
11 141.310 equal to the state portion of the assessment and shall be entitled to a
12 credit against the local occupational license tax equal to the local portion of the
13 assessment.
- 14 (9) If more than one (1) local jurisdiction imposes an occupational license fee, the
15 local jurisdiction portion of the assessment shall be prorated proportionately
16 among the taxes imposed by the local jurisdictions unless one (1) local
17 jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the
18 local jurisdiction portion of the wage assessment, in which case no proration
19 shall be made.
- 20 (10) If an approved company elects to impose the assessment as a condition of
21 employment, or retention of employment, it shall be authorized to deduct the
22 assessment from each payment of wages to the employee.
- 23 (11) Notwithstanding any other provision of the Kentucky Revised Statutes, if an
24 approved company elects not to deduct the assessment from each payment of
25 wages to the employee, but rather requests a reimbursement of state tax imposed
26 by KRS 141.020 or local occupational tax in the aggregate after they have been
27 paid to the state or local jurisdiction, no interest shall be paid by the state or by

1 the local jurisdiction on that reimbursement.

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

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

9 (14) Any assessment of the wages of employees of an approved company in connection
 10 with their employment at an economic development project shall permanently
 11 cease at the expiration of the reinvestment agreement.

12 ➔SECTION 12. A NEW SECTION OF SUBCHAPTER 34 OF KRS CHAPTER
 13 154 IS CREATED TO READ AS FOLLOWS:

14 (1) All reinvestment projects preliminarily or finally approved after June 26, 2009,
 15 but before the effective date of this Act shall be governed by Subchapter 34 of
 16 KRS Chapter 154, as it existed prior to the effective date of this Act.

17 (2) After January 1, 2022, an eligible company that has not received preliminary
 18 approval shall not receive final approval by the authority to become an approved
 19 company and receive inducements under Subchapter 34 of KRS Chapter 154.
 20 Outstanding eligible companies with preliminary or final approval granted on or
 21 before January 1, 2022, shall continue to be governed by Subchapter 34 of KRS
 22 Chapter 154 and Section 3 of this Act.

23 ➔Section 13. KRS 141.0205 is amended to read as follows:

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

27 (1) The nonrefundable business incentive credits against the tax imposed by KRS

- 1 141.020 shall be taken in the following order:
- 2 (a) 1. For taxable years beginning after December 31, 2004, and before
3 January 1, 2007, the corporation income tax credit permitted by KRS
4 141.420(3)(a);
- 5 2. For taxable years beginning after December 31, 2006, the limited
6 liability entity tax credit permitted by KRS 141.0401;
- 7 (b) The economic development credits computed under KRS 141.347, 141.381,
8 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, **Section 3 of**
9 **this Act**, 154.12-2088, and 154.27-080;
- 10 (c) The qualified farming operation credit permitted by KRS 141.412;
- 11 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 12 (e) The health insurance credit permitted by KRS 141.062;
- 13 (f) The tax paid to other states credit permitted by KRS 141.070;
- 14 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 15 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 16 (i) The tax credit for cash contributions in investment funds permitted by KRS
17 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
18 154.20-258;
- 19 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 20 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 21 (l) The employer High School Equivalency Diploma program incentive credit
22 permitted ~~by~~under KRS 164.0062;
- 23 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 24 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 25 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 26 (p) The clean coal incentive credit permitted by KRS 141.428;
- 27 (q) The ethanol credit permitted by KRS 141.4242;

- 1 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 2 (s) The energy efficiency credits permitted by KRS 141.436;
- 3 (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 4 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 5 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 6 (w) The food donation credit permitted by KRS 141.392;
- 7 (x) The distilled spirits credit permitted by KRS 141.389; and
- 8 (y) The angel investor credit permitted by KRS 141.396.
- 9 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 10 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 11 shall be taken in the following order:
- 12 (a) The individual credits permitted by KRS 141.020(3);
- 13 (b) The credit permitted by KRS 141.066;
- 14 (c) The tuition credit permitted by KRS 141.069;
- 15 (d) The household and dependent care credit permitted by KRS 141.067; and
- 16 (e) The new home credit permitted by KRS 141.388.
- 17 (3) After the application of the nonrefundable credits provided for in subsection
- 18 (2) of this section, the refundable credits against the tax imposed by KRS
- 19 141.020 shall be taken in the following order:
- 20 (a) The individual withholding tax credit permitted by KRS 141.350;
- 21 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 22 (c) For taxable years beginning after December 31, 2004, and before January 1,
- 23 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
- 24 (d) The certified rehabilitation credit permitted by KRS 171.3961 and
- 25 171.397(1)(b); and
- 26 (e) The film industry tax credit ~~permitted~~^{permitted} by KRS 141.383.
- 27 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the

- 1 tax imposed by KRS 141.040.
- 2 (5) The following nonrefundable credits shall be applied against the sum of the tax
3 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
4 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 5 (a) The economic development credits computed under KRS 141.347, 141.381,
6 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, **Section 3 of**
7 **this Act**, 154.12-2088, and 154.27-080;
- 8 (b) The qualified farming operation credit permitted by KRS 141.412;
- 9 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 10 (d) The health insurance credit permitted by KRS 141.062;
- 11 (e) The unemployment credit permitted by KRS 141.065;
- 12 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 13 (g) The coal conversion credit permitted by KRS 141.041;
- 14 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
15 ending prior to January 1, 2008;
- 16 (i) The tax credit for cash contributions to investment funds permitted by KRS
17 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
18 154.20-258;
- 19 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 20 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 21 (l) The employer High School Equivalency Diploma program incentive credit
22 permitted ~~by~~under KRS 164.0062;
- 23 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 24 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 25 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 26 (p) The clean coal incentive credit permitted by KRS 141.428;
- 27 (q) The ethanol credit permitted by KRS 141.4242;

- 1 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 2 (s) The energy efficiency credits permitted by KRS 141.436;
- 3 (t) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 4 permitted by KRS 141.437;
- 5 (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 6 (v) The railroad expansion credit permitted by KRS 141.386;
- 7 (w) The Endow Kentucky credit permitted by KRS 141.438;
- 8 (x) The New Markets Development Program credit permitted by KRS 141.434;
- 9 (y) The food donation credit permitted by KRS 141.392; and
- 10 (z) The distilled spirits credit permitted by KRS 141.389.
- 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 and
- 15 171.397(1)(b); and
- 16 (c) The film industry tax credit permitted by~~allowed in~~ KRS 141.383.

17 ➔Section 14. KRS 131.020 is amended to read as follows:

- 18 (1) The Department of Revenue, headed by a commissioner appointed by the secretary
- 19 with the approval of the Governor, shall be organized into the following functional
- 20 units:
- 21 (a) Office of the Commissioner, which shall consist of:
- 22 1. The Division of Protest Resolution, headed by a division director who
- 23 shall report directly to the commissioner. The division shall administer
- 24 the protest functions for the department from office resolution through
- 25 court action; and
- 26 2. The Division of Taxpayer Ombudsman, headed by a division director
- 27 who shall report to the commissioner. The division shall perform those

1 duties set out in KRS 131.083;

2 (b) Office of Tax Policy and Regulation, headed by an executive director who
3 shall report directly to the commissioner. The office shall be responsible for:

- 4 1. Providing oral and written technical advice on Kentucky tax law;
- 5 2. Drafting proposed tax legislation and regulations;
- 6 3. Testifying before legislative committees on tax matters;
- 7 4. Analyzing tax publications;
- 8 5. Providing expert witness testimony in tax litigation cases;
- 9 6. Providing consultation and assistance in protested tax cases; and
- 10 7. Conducting training and education programs;

11 (c) Office of Processing and Enforcement, headed by an executive director who
12 shall report directly to the commissioner. The office shall be responsible for
13 processing documents, depositing funds, collecting debt payments, and
14 coordinating, planning, and implementing a data integrity strategy. The office
15 shall consist of the:

- 16 1. Division of Operations, which shall be responsible for opening all tax
17 returns, preparing the returns for data capture, coordinating the data
18 capture process, depositing receipts, maintaining tax data, and assisting
19 other state agencies with similar operational aspects as negotiated
20 between the department and the other agency;
- 21 2. Division of Collections, which shall be responsible for initiating all
22 collection enforcement activity related to due and owing tax
23 assessments, including protest resolution, and for assisting other state
24 agencies with similar collection aspects as negotiated between the
25 department and the other state agency; and
- 26 3. Division of Registration and Data Integrity, which shall be responsible
27 for registering businesses for tax purposes, ensuring that the data entered

1 into the department's tax systems is accurate and complete, and assisting
2 the taxing areas in proper procedures to ensure the accuracy of the data
3 over time;

4 (d) Office of Property Valuation, headed by an executive director who shall report
5 directly to the commissioner. The office shall consist of the:

6 1. Division of Local Support, which shall be responsible for providing
7 supervision, assistance, and training to the property valuation
8 administrators and sheriffs within the Commonwealth;

9 2. Division of State Valuation, which shall be responsible for providing
10 assessments of public service companies and motor vehicles, and
11 providing assistance to property valuation administrators and sheriffs
12 with the administration of tangible and omitted property taxes within the
13 Commonwealth; and

14 3. Division of Minerals Taxation and Geographical Information System
15 Services, which shall be responsible for providing geographical
16 information system mapping support, ensuring proper filing of severance
17 tax returns, ensuring consistency of unmined coal assessments, and
18 gathering and providing data to properly assess minerals to the property
19 valuation administrators within the Commonwealth;

20 (e) Office of Sales and Excise Taxes, headed by an executive director who shall
21 report directly to the commissioner. The office shall administer all matters
22 relating to sales and use taxes and miscellaneous excise taxes, including but
23 not limited to technical tax research, compliance, taxpayer assistance, tax-
24 specific training, and publications. The office shall consist of the:

25 1. Division of Sales and Use Tax, which shall administer the sales and use
26 tax; and

27 2. Division of Miscellaneous Taxes, which shall administer various other

1 taxes, including but not limited to alcoholic beverage taxes; cigarette
2 enforcement fees, stamps, meters, and taxes; gasoline tax; bank
3 franchise tax; inheritance and estate tax; insurance premiums and
4 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and
5 special fuels taxes;

6 (f) Office of Income Taxation, headed by an executive director who shall report
7 directly to the commissioner. The office shall administer all matters related to
8 income and corporation license taxes, including technical tax research,
9 compliance, taxpayer assistance, tax-specific training, and publications. The
10 office shall consist of the:

11 1. Division of Individual Income Tax, which shall administer the following
12 taxes or returns: individual income, fiduciary, and employer
13 withholding; and

14 2. Division of Corporation Tax, which shall administer the corporation
15 income tax, corporation license tax, pass-through entity withholding,
16 and pass-through entity reporting requirements; and

17 (g) Office of Field Operations, headed by an executive director who shall report
18 directly to the commissioner. The office shall manage the regional taxpayer
19 service centers and the field audit program.

20 (2) The functions and duties of the department shall include conducting conferences,
21 administering taxpayer protests, and settling tax controversies on a fair and
22 equitable basis, taking into consideration the hazards of litigation to the
23 Commonwealth of Kentucky and the taxpayer. The mission of the department shall
24 be to afford an opportunity for taxpayers to have an independent informal review of
25 the determinations of the audit functions of the department, and to attempt to fairly
26 and equitably resolve tax controversies at the administrative level.

27 (3) The department shall maintain an accounting structure for the one hundred twenty

1 (120) property valuation administrators' offices across the Commonwealth in order
2 to facilitate use of the state payroll system and the budgeting process.

3 (4) Except as provided in KRS 131.190~~(3)~~~~(4)~~, the department shall fully cooperate
4 with and make tax information available as prescribed under subsection (2)(n) of
5 Section 16 of this Act~~[KRS 131.190(2)]~~ to the Governor's Office for Economic
6 Analysis as necessary for the office to perform the tax administration function
7 established in KRS 42.410.

8 (5) Executive directors and division directors established under this section shall be
9 appointed by the secretary with the approval of the Governor.

10 ➔Section 15. KRS 131.135 is amended to read as follows:

11 ~~[(1)]~~ Each employer subject to KRS Chapter 342 shall file annually with the
12 department~~[of Revenue]~~, in accordance with administrative regulations, a report
13 providing the policy number and the name and address of the employer's workers'
14 compensation insurance carrier.}

15 ~~(2) The report may be made available to other state agencies notwithstanding the~~
16 ~~confidentiality provisions of KRS 131.190.]~~

17 ➔Section 16. KRS 131.190 is amended to read as follows:

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

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

1 the provision of the information described in this ~~paragraph~~^[subparagraph].
2 Any fee imposed shall not exceed the greater of the actual cost of providing
3 the information or ten dollars (\$10);~~[-or]~~

4 ~~(g)~~^[7.] Providing information to a licensing agency, the Transportation Cabinet,
5 or the Kentucky Supreme Court under KRS 131.1817;

6 *(h) Statistics of gasoline and special fuels gallonage reported to the department*
7 *under KRS 138.210 to 138.448;*

8 *(i) Those portions of mine maps submitted by taxpayers to the department*
9 *pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the*
10 *boundaries of mined-out parcel areas. These electronic maps shall not be*
11 *relied upon to determine actual boundaries of mined-out parcel areas.*
12 *Property boundaries contained in mine maps required under KRS Chapters*
13 *350 and 352 shall not be construed to constitute land surveying or boundary*
14 *surveys defined by KRS 322.010 and any administrative regulations;*

15 *(j) Providing to other state agencies the report, filed with the department by an*
16 *employer, listing the policy number and the name and address of the*
17 *employer's workers' compensation insurance carrier under Section 15 of*
18 *this Act;*

19 *(k) The name and address of a cigarette stamping agent or distributor and the*
20 *number of sticks by brand name that have been purchased from a*
21 *nonparticipating manufacturer and have been stamped with Kentucky*
22 *stamps by that agent or distributor provided by Section 17 of this Act;*

23 *(l) A list of taxpayers that owe delinquent taxes or fees administered by the*
24 *department provided by Section 18 of this Act;*

25 *(m) Providing any utility gross receipts license tax return information that is*
26 *necessary to administer KRS 160.613 to 160.617 to applicable school*
27 *districts on a confidential basis;*

1 (n) Information made available by the department, for official use only and on
 2 a confidential basis, to the proper officer, agency, board, or commission of
 3 this state, any Kentucky city or county, any other state, or the federal
 4 government, under reciprocal agreements whereby the department shall
 5 receive similar or useful information in return; or

6 (o) Providing information to the Legislative Research Commission under:

7 1. KRS 139.519 for purposes of the sales and use tax refund on building
 8 materials used for disaster recovery;

9 2. KRS 141.436 for purposes of the energy efficiency products credits;

10 3. KRS 141.437 for purposes of the ENERGY STAR home and the
 11 ENERGY STAR manufactured home credits;

12 4. Section 20 of this Act for purposes of the distilled spirits credit; or

13 5. Section 3 of this Act for purposes of the Kentucky Reinvestment Act
 14 tax credit.

15 ~~(3) [(2) — The commissioner shall make available any information for official use only~~
 16 ~~and on a confidential basis to the proper officer, agency, board or commission of~~
 17 ~~this state, any Kentucky county, any Kentucky city, any other state, or the federal~~
 18 ~~government, under reciprocal agreements whereby the department shall receive~~
 19 ~~similar or useful information in return.~~

20 ~~(3) — Statistics of tax paid gasoline gallonage reported monthly to the department of~~
 21 ~~Revenue under the gasoline excise tax law may be made public by the department.~~

22 ~~(4) Access to and inspection of information received from the Internal Revenue Service~~
 23 ~~is for department [of Revenue] use only, and is restricted to tax administration~~
 24 ~~purposes. [Notwithstanding the provisions of this section to the contrary,]~~

25 Information received from the Internal Revenue Service shall not be made available
 26 to any other agency of state government, or any county, city, or other state, and shall
 27 not be inspected intentionally and without authorization by any present secretary or

1 employee of the Finance and Administration Cabinet, commissioner or employee of
2 the department~~[of Revenue]~~, or any other person.

3 ~~(4)~~⁽⁵⁾ Statistics of crude oil as reported to the Department of Revenue under the
4 crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas
5 production as reported to the Department of Revenue under the natural resources
6 severance tax requirements of KRS Chapter 143A may be made public by the
7 department by release to the Energy and Environment Cabinet, Department for
8 Natural Resources.

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

18 ~~(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The
19 department may divulge to the applicable school districts on a confidential basis any
20 utility gross receipts license tax return information that is necessary to administer
21 the provisions of KRS 160.613 to 160.617.]~~

22 ➔Section 17. KRS 131.618 is amended to read as follows:

23 (1) ~~[Notwithstanding KRS 131.190,]~~The commissioner is authorized to disclose to the
24 Attorney General the name and address of a stamping agent or distributor and the
25 number of sticks by brand name that have been purchased from a nonparticipating
26 manufacturer and have been stamped with Kentucky stamps by that agent or
27 distributor. The Attorney General may share this information with federal, other

1 state, or local agencies only for the purposes of enforcement of KRS 131.600 to
 2 131.630 or corresponding laws of other states. The Attorney General is further
 3 authorized to disclose to a nonparticipating manufacturer or its importers this
 4 information that has been provided by a stamping agent regarding the purchases
 5 from that nonparticipating manufacturer or its importers. This information provided
 6 by a stamping agent may be used in any enforcement action against the
 7 nonparticipating manufacturer or its importers by the Attorney General.

- 8 (2) In addition to the information required to be submitted pursuant to KRS 131.608,
 9 131.614, and 131.620, the Attorney General or the commissioner may require a
 10 stamping agent, distributor, participating manufacturer, nonparticipating
 11 manufacturer, or a nonparticipating manufacturer's importers to submit any
 12 additional information including but not limited to samples of the packaging or
 13 labeling of each brand family as is necessary to enable the Attorney General to
 14 determine whether the participating manufacturer or the nonparticipating
 15 manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

16 ➔Section 18. KRS 131.650 is amended to read as follows:

- 17 (1) ~~[Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to~~
 18 ~~the contrary,]~~The department may publish a list or lists of taxpayers that owe
 19 delinquent taxes or fees administered by the department~~[of Revenue]~~, and that meet
 20 the requirements of KRS 131.652.
- 21 (2) For purposes of this section, a taxpayer may be included on a list if:
- 22 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the
 23 dates they became due and payable; and
- 24 (b) A tax lien or judgment lien has been filed of public record against the taxpayer
 25 before notice is given under KRS 131.654.
- 26 (3) In the case of listed taxpayers that are business entities, the department~~[of~~
 27 ~~Revenue]~~ may also list the names of responsible persons assessed pursuant to KRS

1 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not
2 protected from publication by subsection (2) of this section, and for whom the
3 requirements of KRS 131.652 are satisfied with regard to the personal assessment.

4 (4) Before any list is published under this section, the department shall document that
5 each of the conditions for publication as provided in this section has been satisfied,
6 and that procedures were followed to ensure the accuracy of the list and notice was
7 given to the affected taxpayers.

8 ➔Section 19. KRS 131.990 is amended to read as follows:

9 (1) (a) Any person who violates the intentional unauthorized inspection provisions of
10 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or
11 imprisoned for not more than six (6) months, or both.

12 (b) Any person who violates the provisions of KRS 131.190(1) by divulging
13 confidential taxpayer information shall be fined not more than one thousand
14 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

15 (c) Any person who violates the intentional unauthorized inspection provisions of
16 KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars
17 (\$1,000) or imprisoned for not more than one (1) year, or both.

18 (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging
19 confidential taxpayer information shall be fined not more than five thousand
20 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.

21 (e) Any present secretary or employee of the Finance and Administration Cabinet,
22 commissioner or employee of the department, member of a county board of
23 assessment appeals, property valuation administrator or employee, or any
24 other person, who violates the provisions of KRS 131.190(1) or ~~(3)~~~~(4)~~ may,
25 in addition to the penalties imposed under this subsection, be disqualified and
26 removed from office or employment.

27 (2) Any person who willfully fails to comply with the rules and regulations

- 1 promulgated by the department for the administration of delinquent tax collections
2 shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars
3 (\$1,000).
- 4 (3) Any person who fails to do any act required or does any act forbidden by KRS
5 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred
6 dollars (\$500).
- 7 (4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it
8 is shown to the satisfaction of the department that the failure is due to reasonable
9 cause, pay a penalty of one-half of one percent (0.5%) of the amount that should
10 have been remitted under the provisions of KRS 131.155 for each failure to comply.
- 11 (5) (a) Any person or financial institution that fails to comply with the provisions of
12 KRS 131.672 and 131.674 within ninety (90) days after notification by the
13 department shall, unless the failure is due to reasonable cause as defined in
14 KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no
15 more than five thousand dollars (\$5,000) for each full month of
16 noncompliance. The fine shall begin on the first day of the month beginning
17 after the expiration of the ninety (90) days.
- 18 (b) Any financial institution that fails or refuses to comply with the provisions of
19 KRS 131.672 and 131.674 within one hundred twenty (120) days after the
20 notification by the department shall, unless the failure is due to reasonable
21 cause as defined in KRS 131.010, forfeit its right to do business within the
22 Commonwealth, unless and until the financial institution is in compliance.
23 Upon notification by the department, the commissioner of the Department of
24 Financial Institutions shall, as applicable, revoke the authority of the financial
25 institution or its agents to do business in the Commonwealth.
- 26 (6) Any taxpayer or tax return preparer who fails or refuses to comply with the
27 provisions of KRS 131.250 or an administrative regulation promulgated under KRS

1 131.250 shall, unless it is shown to the satisfaction of the department that the failure
2 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each
3 return not filed as required.

4 ➔Section 20. KRS 141.389 is amended to read as follows:

- 5 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each
6 taxpayer paying the distilled spirits ad valorem tax as follows:
- 7 1. For taxable years beginning on or after January 1, 2015, and before
8 December 31, 2015, the credit shall be equal to twenty percent (20%) of
9 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
10 timely basis;
 - 11 2. For taxable years beginning on or after January 1, 2016, and before
12 December 31, 2016, the credit shall be equal to forty percent (40%) of
13 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
14 timely basis;
 - 15 3. For taxable years beginning on or after January 1, 2017, and before
16 December 31, 2017, the credit shall be equal to sixty percent (60%) of
17 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
18 timely basis;
 - 19 4. For taxable years beginning on or after January 1, 2018, and before
20 December 31, 2018, the credit shall be equal to eighty percent (80%) of
21 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
22 timely basis; and
 - 23 5. For taxable years beginning on or after January 1, 2019, the credit shall
24 be equal to one hundred percent (100%) of the tax assessed under KRS
25 132.160 and paid under KRS 132.180 on a timely basis.
- 26 (b) The credit shall be applied both to the income tax imposed under KRS
27 141.020 or 141.040 and to the limited liability entity tax imposed under KRS

1 141.0401, with the ordering of the credits as provided in KRS 141.0205.

2 (2) The amount of distilled spirits credit allowed under subsection (1) of this section
3 shall be used only for capital improvements at the premises of the distiller licensed
4 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"
5 means any costs associated with:

- 6 (a) Construction, replacement, or remodeling of warehouses or facilities;
- 7 (b) Purchases of barrels and pallets used for the storage and aging of distilled
8 spirits in maturing warehouses;
- 9 (c) Acquisition, construction, or installation of equipment for the use in the
10 manufacture, bottling, or shipment of distilled spirits;
- 11 (d) Addition or replacement of access roads or parking facilities; and
- 12 (e) Construction, replacement, or remodeling of facilities to market or promote
13 tourism, including but not limited to a visitor's center.

14 (3) The distilled spirits credit allowed under subsection (1) of this section:

- 15 (a) May be accumulated for multiple taxable years;
- 16 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during
17 which the credits were used pursuant to subsection (2) of this section; and
- 18 (c) Shall not include:
 - 19 1. Any delinquent tax paid to the Commonwealth; or
 - 20 2. Any interest, fees, or penalty paid to the Commonwealth.

21 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital
22 improvements required by subsection (2) of this section shall be completed
23 and specifically associated with the credit allowed on the return.

24 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
25 improvement associated with the credit is sold or otherwise disposed of prior
26 to the exhaustion of the useful life of the asset for Kentucky depreciation
27 purposes.

1 (c) If the allowed credit is associated with multiple capital improvements, and not
2 all capital improvements are sold or otherwise disposed of, the distilled spirits
3 credit shall be prorated based on the cost of the capital improvement sold over
4 the total cost of all improvements associated with the credit.

5 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
6 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
7 through to its members, partners, or shareholders in the same proportion as the
8 distributive share of income or loss is passed through.

9 (6) The department may promulgate an administrative regulation pursuant to KRS
10 Chapter 13A to implement the allowable credit under this section, require the filing
11 of forms designed by the department, and require specific information for the
12 evaluation of the credit taken by any taxpayer.

13 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually
14 thereafter, the department shall report to the Interim Joint Committee on
15 Appropriations and Revenue:

16 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
17 this section;

18 (b) The amount of credit taken by that taxpayer; and

19 (c) The type of capital improvement made for which the credit is claimed.

20 ➔Section 21. Whereas qualifying for tax credits related to economic development
21 programs is important for Kentucky businesses, an emergency is declared to exist, and
22 this Act takes effect upon its passage and approval by the Governor or upon its otherwise
23 becoming a law.