



COMMONWEALTH OF KENTUCKY 2018 - 2020

BUDGET OF THE COMMONWEALTH

REVENUE BILL

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GOVERNOR



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Commonwealth of Kentucky 2018 – 2020 Budget of the Commonwealth Revenue Bill House Bill 487

1		AN	ACT relating to fiscal matters and declaring an emergency.
2	Be i	t enac	ted by the General Assembly of the Commonwealth of Kentucky:
3		→ S	ECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER
4	224	IS CF	REATED TO READ AS FOLLOWS:
5	<u>(1)</u>	The	re is hereby established in the State Treasury a trust and agency account to be
6		kno	wn as the Volkswagen settlement fund. The fund shall consist of moneys
7		<u>desi</u>	gnated to the Commonwealth from that settlement.
8	<u>(2)</u>	The	fund shall be administered by the Energy and Environment Cabinet.
9	<u>(3)</u>	Not	withstanding KRS 45.229, fund amounts not expended at the close of the
10		fisco	al year shall not lapse but shall be carried forward into the next fiscal year.
11	<u>(4)</u>	Any	interest earned from moneys deposited in the fund shall become a part of the
12		<u>func</u>	d and shall not lapse.
13		→ S	ection 2. KRS 224.50-868 is amended to read as follows:
14	(1)	<u>(a)</u>	1. Prior to July 1, 2018[Until June 30, 2018], a person purchasing a new
15			motor vehicle tire in Kentucky shall pay to the retailer a one dollar (\$1)
16			fee at the time of the purchase of that tire. The fee shall not be subject
17			to the Kentucky sales tax.
18			2. Beginning July 1, 2018, but prior to July 1, 2020, a fee is hereby
19			imposed upon a retailer at the rate of two dollars (\$2) for each new
20			motor vehicle tire sold in Kentucky. The fee shall be subject to the
21			Kentucky sales tax.
22			3. A retailer may pass the fee imposed by this paragraph on to the
23			purchaser of the new tire.
24		<u>(b)</u>	A new tire is a tire that has never been placed on a motor vehicle wheel rim,
25			but it is not a tire placed on a motor vehicle prior to its original retail sale or a
26			recapped tire.
27		<u>(c)</u>	The term "motor vehicle" as used in this section shall mean "motor vehicle" as

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I			defined in KRS 138.450. The fee shall not be subject to the Kentucky sales
2			tax.]
3	(2)	Whe	en a <u>retailer sells[person purchases]</u> a new motor vehicle tire in Kentucky to
4		repla	ace another tire, the tire that is replaced becomes a waste tire subject to the
5		wast	te tire program. The <u>retailer shall encourage the purchaser of the new</u>
6		<u>tire</u> [person purchasing the new motor vehicle tire shall be encouraged by the
7		retai	to leave the waste tire with the retailer or meet the following requirements:
8		(a)	Dispose of the waste tire in accordance with KRS 224.50-856(1);
9		(b)	Deliver the waste tire to a person registered in accordance with the waste tire
10			program; or
11		(c)	Reuse the waste tire for its original intended purpose or an agricultural
12			purpose.
13	(3)	<u>(a)</u>	A retailer shall report to the Department of Revenue on or before the twentieth
14			day of each month the number of new motor vehicle tires sold during the
15			preceding month and the number of waste tires received from customers that
16			month.
17		<u>(b)</u>	The report shall be filed on forms and contain information as the Department
18			of Revenue may require.
19		<u>(c)</u>	The retailer shall be allowed to retain an amount equal to five percent (5%)
20			of the fees due, provided the amount due is not delinquent at the time of
21			payment [remit with the report ninety-five percent (95%) of the fees collected
22			for the preceding month and may retain a five percent (5%) handling fee].
23	(4)	A re	tailer shall:
24		(a)	Accept from the purchaser of a new tire, if offered, for each new motor
25			vehicle tire sold, a waste tire of similar size and type; and
26		(b)	Post notice at the place where retail sales are made that state law requires:
27			1. The retailer to accept, if offered, a waste tire for each new motor vehicle

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1		tire sold and that a person purchasing a new motor vehicle tire to replace
2		another tire shall comply with subsection (2) of this section; and[.]
3		2. The two dollar (\$2) new tire fee is [the notice shall also include the
4		following wording: "State law requires a new tire buyer to pay one dollar
5		(\$1) for each new tire purchased. The money is collected and] used by
6		the state to oversee the management of waste tires, including cleaning up
7		abandoned waste tire piles and preventing illegal dumping of waste
8		tires. ["]
9	(5)	A retailer shall comply with the requirements of the recordkeeping system for waste
10		tires established by KRS 224.50-874.
11	(6)	A retailer shall transfer waste tires only to a person who presents a letter from the
12		cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid
13		waste disposal facility permit issued by the cabinet, unless the retailer is delivering
14		the waste tires to a destination outside Kentucky and the waste tires will remain in
15		the retailer's possession until they reach that destination.
16	(7)	The cabinet shall, in conjunction with the Waste Tire Working Group, develop the
17		informational fact sheet to be made publicly available on the cabinet's Web site and
18		available in print upon request. The fact sheet shall identify ways to properly
19		dispose of the waste tire and present information on the problems caused by
20		improper waste tire disposal.
21		→ Section 3. KRS 157.621 is amended to read as follows:
22	(1)	In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities
23		Support Program of Kentucky, local school districts that have made the levy
24		required by KRS 157.440(1)(b) are authorized to levy the following additional
25		equivalent rates to support debt service, new facilities, or major renovations of
26		existing school facilities, which levies shall not be subject to recall under any
27		provision of the Kentucky Revised Statutes, or to voter approval under the

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1	provisions	of KRS	157.4400	(2):

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- 1. (a) Prior to April 24, 2008, local school districts that have experienced student population growth during a five (5) year period may levy an additional five cents (\$0.05) equivalent rate for debt service and new facilities. The tax rate levied by the district under this provision shall not be equalized by state funding, except as provided in paragraph (b) of this subsection. Any levy imposed under this paragraph prior to April 24, 2008, by a local school district shall continue until removed by the local school district.
 - 2. A local school district shall meet the following criteria in order to levy the tax provided in subparagraph 1. of this paragraph:
 - Growth of at least one hundred fifty (150) students in average daily a. attendance and three percent (3%) overall growth for the five (5) preceding years;
 - Bonded debt to the maximum capability of at least eighty percent b. (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;
 - c. Current student enrollment in excess of available classroom space; and
 - d. A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission;
- (b) 1. In addition to the levy authorized by paragraph (a) of this subsection, a local school district may levy an additional five cents (\$0.05) equivalent rate under the same terms and conditions established by paragraph (a) of this subsection beginning in fiscal year 2003-2004 if the levy was made

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1			prior to April 24, 2008, and if the local school district:
2			a. Levied the five cents (\$0.05) equivalent rate authorized by
3			paragraph (a) of this subsection; and
4			b. Still meets the requirements established by paragraph (a)2. of this
5			subsection.
6		2.	Any school district that imposes both the levy authorized by paragraph
7			(a) of this subsection and the additional levy authorized by subparagraph
8			1. of this paragraph shall receive equalization funding from the state for
9			the levy imposed by paragraph (a) of this subsection beginning in fiscal
10			year 2003-2004. Equalization shall be provided at one hundred fifty
11			percent (150%) of the statewide average per pupil assessment, subject to
12			the provision of funding by the General Assembly. Equalization funds
13			shall be used as provided in KRS 157.440(1)(b).
14		3.	Any levy imposed under this paragraph prior to April 24, 2008, by a
15			local school district shall continue until removed by the local school
16			district; and
17	(c)	1.	A local school district that meets the following conditions may levy an
18			additional five cents (\$0.05) equivalent rate on and after April 24, 2008:
19			a. The local school district is located in a county that will have more
20			students as a direct result of the new mission established for Fort
21			Knox by the Base Realignment and Closure (BRAC) 2005 issued
22			by the United States Department of Defense pursuant to the
23			Defense Base Closure and Realignment Act of 1990, Pub. L. No.
24			100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec.
25			2687 note; and
26			b. The commissioner of education has determined, based upon the
27			presentation of credible data, that the projected increased number

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1			of students is sufficient to require new facilities or the	major
2			renovation of existing facilities to accommodate the new students	dents,
3			and has approved the imposition of the additional levy.	
4			2. Any local school district that imposes both the levy authorize	ed by
5			paragraph (a) of this subsection and the additional levy authoriz	ed by
6			subparagraph 1. of this paragraph, and that has not received equaliz	zation
7			funding under subsection (2) or (3) of this section, shall re-	eceive
8			equalization funding from the state for the levy imposed by para	graph
9			(a) of this subsection beginning in the fiscal year following the	fiscal
10			year in which the levy authorized by subparagraph 1. of this paragraph	aph is
11			imposed. Equalization shall be provided at one hundred fifty pe	ercent
12			(150%) of the statewide average per pupil assessment, subject t	to the
13			provision of funding by the General Assembly. Equalization funds	shall
14			be used as provided in KRS 157.440(1)(b).	
15			3. Any levy imposed under this paragraph by a local school district	shall
16			continue until removed by the local school district.	
17	(2)	(a)	Any local school district that, prior to April 27, 2016, levied an equivaler	ıt rate
18			that:	
19			1. Was subject to recall at the time it was levied; and	
20			2. Included a rate of at least five cents (\$0.05) equivalent rate for	or the
21			purpose of debt service for school construction or major renovati	on of
22			existing school facilities;	
23			shall be eligible for retroactive equalization from the state for that levy a	at one
24			hundred fifty percent (150%) of the statewide average per pupil assess	sment
25			beginning in fiscal year 2003-2004, subject to the fiscal condition of	of the
26			Commonwealth and the provision of funding by the General Asse	mbly.
27			Equalization funds shall be used as provided in KRS 157.440(1)(b).	

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(b)	It is the intent of the General Assembly that for levies described in this
	subsection that are imposed on or after April 27, 2016, equalization funds, if
	provided by the General Assembly, shall terminate upon the earlier of June
	30, 2038, or the date the bonds for the local school district supported by this
	equalization funding are retired. Equalization shall be subject to the fiscal
	condition of the Commonwealth and the provision of funding by the General
	Assembly.

8 (3) Any local school district that:

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- (a) Levied an equivalent tax rate as of April 24, 2008, that included at least ten cents (\$0.10) that was devoted to building purposes, or that had debt service corresponding to a ten cents (\$0.10) equivalent rate;
- Did not receive equalized growth funding pursuant to subsection (1)(b)2. of (b) this section; and
 - Has been approved by the commissioner of education;
 - shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2005-2006, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization funds shall be available to a local school district pursuant to this subsection until the earlier of June 30, 2038[2025], or the date the bonds for the local school district supported by this equalization funding are retired.
- (4) (a) Notwithstanding any other provision of this section, any local school district 23 receiving equalization funding prior to April 27, 2016, related to an equivalent 24 rate levy described in subsection (1), (2), (3), or (5) of this section shall continue to receive the equalization funding related to the applicable 26 equivalent rate levy, subject to the limitations established by subsections (1), (2), (3), and (5) of this section, and subject to the fiscal condition of the

1			Commonwealth and the provision of funding by the General Assembly, until
2			amended by subsequent action of the General Assembly. A local school
3			district described in this paragraph shall not be eligible to receive equalization
4			for any additional equivalent rate levies made by it on or after April 27, 2016.
5		(b)	Notwithstanding any other provision of this section, any local school district
6			that has imposed an equivalent rate levy described in subsection (1)(a) or (b)
7			or (2) of this section prior to April 27, 2016, that qualifies for equalization but
8			that has not yet received equalization funding shall be eligible for equalization
9			funding as provided in subsection (1)(a) or (b) or (2) of this section, subject to
10			the provision of funding by the General Assembly.
11		(c)	On and after April 24, 2008, a local school district not included in paragraph
12			(a) or (b) of this subsection shall be prohibited from imposing an equivalent
13			rate levy under the provisions of subsection (1)(a) or (b) of this section, and
14			shall not be eligible for equalization funding under the provisions of this
15			section.
16		(d)	On and after April 24, 2008, a local school district meeting the requirements
17			of subsection (1)(c) of this section may impose the levy authorized by
18			subsection (1)(c) of this section, and shall qualify for equalization as provided
19			in subsection (1)(c) of this section, subject to the provision of funding by the
20			General Assembly.
21	(5)	(a)	Any local school district that:
22			1. Had school facilities classified as Category 5 on May 18, 2010, by the
23			Kentucky Department of Education; and
24			2. Levied an additional five cents (\$0.05) equivalent tax rate prior to April
25			27, 2016, for debt service, new construction, and major renovation
26			beyond the five cents (\$0.05) equivalent tax rate required by KRS

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157.440(1)(b), except as provided in paragraph (b) of this subsection;

shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in the fiscal year following the fiscal year in which the levy was imposed. This levy shall be subject to the recall provisions of KRS 132.017.

- (b) School districts that levied a five cents (\$0.05) equivalent tax rate for debt service, new construction, and major renovation, beyond the rate required by KRS 157.440(1)(b) prior to May 18, 2010, shall not be required to levy an additional tax to receive the equalization funds provided in paragraph (a) of this subsection.
- (c) If the school district utilizes the equalization funds to support a bond issue for construction purposes, equalization funds shall be provided until the earlier of twenty (20) years or date the bonds are retired.
- (d) In the event that a school district receives funding pursuant to this subsection to support construction of a new school facility and subsequently, as a result of litigation, receives funding for the same facility for which state funds were provided, that school district shall reimburse the Commonwealth an amount equal to the amount provided under paragraph (a) of this subsection. Any funds received in this manner shall be deposited in the budget reserve trust fund account established in KRS 48.705.
- → Section 4. KRS 158.441 is amended to read as follows:
- As used in this chapter, unless the context requires otherwise:
 - (1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative

1	educational programs; psychological services; identification and assessment of
2	abilities; counseling services; medical services; day treatment; family services;
3	work and community service programs;
4	(2) "School resource officer" means a sworn law enforcement officer who has
5	specialized training to work with youth at a school site. The school resource officer
6	shall be employed:
7	(a) Through a contract between a local law enforcement agency and a school
8	district; or
9	(b) Through a contract as secondary employment for an officer, as defined in
10	KRS 16.010, between the Department of Kentucky State Police and a school
11	<u>district;</u> and
12	(3) "School security officer" means a person employed by a local board of education
13	who has been appointed a special law enforcement officer pursuant to KRS 61.902
14	and who has specialized training to work with youth at a school site.
15	→ Section 5. KRS 157.410 is amended to read as follows:
16	For each school year the Finance and Administration Cabinet, on the certification of the
17	chief state school officer, shall draw warrants on the State Treasurer for the amount of the
18	public school fund due each district. Checks shall be issued by the State Treasurer and
19	transmitted to the Department of Education or electronically transferred for distribution to
20	the proper officials of the school districts when the districts have fully complied with the
21	school laws and administrative regulations of the Kentucky Board of Education. The
22	chief state school officer shall determine on or before August 15 of each year the tentative
23	allotment of school funds to which each district is entitled under the provisions of KRS
24	157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-
25	twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each
26	school district. On the first of each month thereafter until the final calculation is
27	completed, one-twelfth (1/12) of each district's share of the tentative calculation minus

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1	capit	tal outlay shall be distributed. On or before <u>March[May]</u> 1 of each year the chief state
2	scho	ol officer shall determine the exact amount of the public common school fund to
3	whic	ch each district is entitled and the remainder of the amount due each district for the
4	year	shall be distributed in equal installments beginning the first month after completion
5	of fi	nal calculation and for each successive month thereafter.
6		→ Section 6. KRS 160.463 is amended to read as follows:
7	<u>(1)</u>	The school board of each public school system[in any county having 300,000 or
8		more inhabitants] shall direct its superintendent to publish the complete annual
9		financial statement and the school report card[, in full,] annually:[,]
10		(a) In the newspaper of the largest general circulation in the county; $[\cdot, \cdot]$
11		(b) Electronically on a Web site of the school district; or
12		(c) By printed copy at a prearranged site at the main branch of the public
13		library within the school district.
14	<u>(2)</u>	If publication on a Web site of the school district or by printed copy at the public
15		library is chosen, the superintendent shall be directed to publish notification in
16		the newspaper of the largest circulation in the county as to the location where the
17		document can be viewed by the public.
18	<u>(3)</u>	The notification shall include the address of the library or the electronic address
19		of the Web site where the documents can be viewed [the annual financial statements
20		of the school system audited by certified public accountants or an accountant
21		approved by the State Department of Education].
22	<u>(4)</u>	Each system's financial statements shall be prepared and presented on a basis
23		consistent with that of the other systems.
24		→ Section 7. KRS 160.431 is amended to read as follows:
25	(1)	The local district superintendent shall appoint a finance officer who shall be
26		responsible for the cash, investment, and financial management of the school
27		district.

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1	(2)	(a)	A person initially employed as a school finance officer on or after July 1
2			2015, shall obtain certification from the Department of Education prior to
3			holding the position and entering the duties of the position of school finance
4			officer.
5		(b)	The Kentucky Board of Education shall promulgate administrative regulations
6			to prescribe the criteria and procedures to be used in the certification process
7			for a school finance officer.
8		(c)	The administrative regulations promulgated under this subsection shall
9			specify:
10			1. The initial qualification requirements for school finance officer
11			certification;
12			2. The certification application and appeal process; and
13			3. The certification renewal process.
14	(3)	The	school finance officer shall be required to complete forty-two (42) hours of
15		cont	inuing education every two (2) years from a provider approved by the
16		Dep	artment of Education. The Kentucky Board of Education shall promulgate
17		adm	inistrative regulations to identify and prescribe the criteria for fulfilling the
18		requ	irements of this subsection. The administrative regulations shall specify:
19		(a)	The topics of continuing education;
20		(b)	Qualifications for continuing education providers;
21		(c)	Consequences for failure to meet the continuing education requirement; and
22		(d)	Requirements for reinstatement of school finance officer certification.
23	(4)	(a)	The finance officer shall present a detailed monthly financial report for board
24			approval to include the previous month's revenues and expenditures of the
25			district. The monthly report shall be posted on the district's Web site for a
26			minimum of six (6) months after its approval.

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(b)

Within six (6) months following the end of each fiscal year, the finance officer

shall submit to the Kentucky Department of Education a detailed annual financial report to include the district's total assets, liabilities, revenues, and expenditures. The annual report shall be posted on the district's Web site and department's Web site for a minimum of two (2) years.

- (c) 1. The Department of Education shall review each district's annual financial report and shall provide, within two (2) months of receipt, the local board of education a written report indicating the financial status of the district. The department's written report shall be posted on the department's Web site and the district's Web site for a minimum of two (2) years.
 - 2. The commissioner of education shall annually present to the Interim Joint Committee on Education a copy of the department's written report for each district.
- (d) Nothing in this subsection shall lessen the obligation of a school district to publish its financial statements in accordance with the provisions of <u>Section 6</u> <u>of this Act[KRS 424.220]</u>.
- → Section 8. KRS 424.220 is amended to read as follows:
- (1) Excepting officers of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county, or of a school district of such a city, consolidated local government, or county, and excepting officers of a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census or an urban-county government, every public officer of any[school district,] city, consolidated local government, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or

commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city with a population of less than one thousand (1,000) based upon the most recent federal decennial census shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

11 (2) The statement shall show:

- 12 (a) The total amount of funds collected and received during the fiscal year from 13 each individual source; and
 - (b) The total amount of funds disbursed during the fiscal year to each individual payee. The list shall include only aggregate amounts to vendors exceeding one thousand dollars (\$1,000).
 - (3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.
 - (4) The financial reporting and publishing requirements for a school district are provided in Section 6 of this Act[The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food

service. The local board of education and the fiscal court shall have accessible a
factual list of individual salaries for public scrutiny and the local board and the
fiscal court shall furnish by mail a factual list of individual salaries of its employees
to a newspaper qualified under KRS 424.120 to publish advertisements for the
district, which newspaper may then publish as a news item the individual salaries of
school or county employees].

- (5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.
- (6) The officer shall, except in a city publishing its audit in accordance with KRS (a) 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts.
 - (b) The appropriate officer of a city that has not conducted an annual audit under the provisions of KRS 91A.040(2) or (3) may publish a legal display advertisement meeting the requirements of subsection (7)(b) of this section which shall satisfy the publication requirements set out in paragraph (a) of this subsection.
 - (7) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a city, including the appropriate officer of any municipally owned electric, gas, or water system, shall elect to satisfy the requirements of subsection (6) of this section by:
- 27 (a) Publishing an audit report in accordance with KRS 91A.040(6); and

1		(b)	Publishing a legal display advertisement of not less than six (6) column inches
2			in a newspaper qualified under KRS 424.120 that the statement required by
3			subsection (1) of this section has been prepared and that copies have been
4			provided to each local newspaper of general circulation, each news service,
5			and each local radio and television station which has on file with the city a
6			written request to be provided a statement. The advertisement shall be
7			published within ninety (90) days after the close of the fiscal year.
8	(8)	The	appropriate officer of a county shall satisfy the requirements of subsection (6)
9		of th	ais section by publishing the county's audit, prepared in accordance with KRS
10		43.0	70 or 64.810, in the same manner that city audits are published in accordance
11		with	KRS 91A.040(6).
12		→ S	ection 9. KRS 278.020 is amended to read as follows:
13	(1)	<u>(a)</u>	No person, partnership, public or private corporation, or combination thereof
14			shall commence providing utility service to or for the public or begin the
15			construction of any plant, equipment, property, or facility for furnishing to the
16			public any of the services enumerated in KRS 278.010, except:
17			1. Retail electric suppliers for service connections to electric-consuming
18			facilities located within its certified territory and ordinary extensions of
19			existing systems in the usual course of business; or
20			2. A water district created under KRS Chapter 74 or a water association
21			formed under KRS Chapter 273 that undertakes a waterline extension
22			or improvement project if the water district or water association is a
23			Class A or B utility as defined in the uniform system of accounts
24			established by the commission according to KRS 278.220 and:
25			a. The water line extension or improvement project will not cost
26			more than five hundred thousand dollars (\$500,000); or
27			b. The water district or water association will not, as a result of the

1		water line extension or improvement project, incur obligations
2		requiring commission approval as required by KRS 278.300.
3		In either case, the water district or water association shall not, as a
4		result of the water line extension or improvement project, increase
5		rates to its customers; [,]
6		until that person has obtained from the Public Service Commission a
7		certificate that public convenience and necessity require the service or
8		construction.
9	<u>(b)</u>	Upon the filing of an application for a certificate, and after any public hearing
10		which the commission may in its discretion conduct for all interested parties,
11		the commission may issue or refuse to issue the certificate, or issue it in part
12		and refuse it in part, except that the commission shall not refuse or modify an
13		application submitted under KRS 278.023 without consent by the parties to
14		the agreement.
15	<u>(c)</u>	The commission, when considering an application for a certificate to construct
16		a base load electric generating facility, may consider the policy of the General
17		Assembly to foster and encourage use of Kentucky coal by electric utilities
18		serving the Commonwealth.
19	<u>(d)</u>	The commission, when considering an application for a certificate to construct
20		an electric transmission line, may consider the interstate benefits expected to
21		be achieved by the proposed construction or modification of electric
22		transmission facilities in the Commonwealth.
23	<u>(e)</u>	Unless exercised within one (1) year from the grant thereof, exclusive of any
24		delay due to the order of any court or failure to obtain any necessary grant or
25		consent, the authority conferred by the issuance of the certificate of
26		convenience and necessity shall be void, but the beginning of any new
27		construction or facility in good faith within the time prescribed by the

1 commission and the prosecution thereof with reasonable diligence shall 2 constitute an exercise of authority under the certificate.

- 2) For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity. However, ordinary extensions of existing systems in the usual course of business not requiring such a certificate shall include:
 - (a) The replacement or upgrading of any existing electric transmission line; or
 - (b) The relocation of any existing electric transmission line to accommodate construction or expansion of a roadway or other transportation infrastructure; or
 - (c) An electric transmission line that is constructed solely to serve a single customer and that will pass over no property other than that owned by the customer to be served.
- (3) Prior to granting a certificate of public convenience and necessity to construct facilities to provide the services set forth in KRS 278.010(3)(f), the commission shall require the applicant to provide a surety bond, or a reasonable guaranty that the applicant shall operate the facilities in a reasonable and reliable manner for a period of at least five (5) years. The surety bond or guaranty shall be in an amount sufficient to ensure the full and faithful performance by the applicant or its successors of the obligations and requirements of this chapter and of all applicable federal and state environmental requirements. However, no surety bond or guaranty shall be required for an applicant that is a water district or water association or for an applicant that the commission finds has sufficient assets to ensure the continuity of sewage service.
- (4) No utility shall exercise any right or privilege under any franchise or permit, after

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the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

- No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.
 - (6) No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.
- 15 (7) No individual, group, syndicate, general or limited partnership, association,
- 16 corporation, joint stock company, trust, or other entity (an "acquirer"), whether or 17 not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first 18 19 obtained the approval of the commission. Any acquisition of control without prior 20 authorization shall be void and of no effect. As used in this subsection, the term 21 "control" means the possession, directly or indirectly, of the power to direct or cause 22 the direction of the management and policies of a utility, whether through the 23 ownership of voting securities, by effecting a change in the composition of the 24 board of directors, by contract or otherwise. Control shall be presumed to exist if 25 any individual or entity, directly or indirectly, owns ten percent (10%) or more of 26 the voting securities of the utility. This presumption may be rebutted by a showing

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that ownership does not in fact confer control. Application for any approval or

authorization shall be made to the commission in writing, verified by oath or affirmation, and be in a form and contain the information as the commission requires. The commission shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make investigation and hold hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with modification and upon terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor, unless it is necessary, for good cause shown, to continue the application for up to sixty (60) additional days. The order continuing the application shall state fully the facts that make continuance necessary. In the absence of that action within that period of time, any proposed acquisition shall be deemed to be approved.

- (8) Subsection (7) of this section shall not apply to any acquisition of control of any:
 - Utility which derives a greater percentage of its gross revenue from business (a) in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (7) of this section;
 - Utility by an acquirer who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or
- Utility pursuant to the terms of any indebtedness of the utility, provided the (c)

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1 issuance of indebtedness was approved by the commission.

(9)

In a proceeding on an application filed pursuant to this section, any interested person, including a person over whose property the proposed transmission line will cross, may request intervention, and the commission shall, if requested, conduct a public hearing in the county in which the transmission line is proposed to be constructed, or, if the transmission line is proposed to be constructed in more than one county, in one of those counties. The commission shall issue its decision no later than ninety (90) days after the application is filed, unless the commission extends this period, for good cause, to one hundred twenty (120) days. The commission may utilize the provisions of KRS 278.255(3) if, in the exercise of its discretion, it deems it necessary to hire a competent, qualified and independent firm to assist it in reaching its decision. The issuance by the commission of a certificate that public convenience and necessity require the construction of an electric transmission line shall be deemed to be a determination by the commission that, as of the date of issuance, the construction of the line is a prudent investment.

- (10) The commission shall not approve any application under subsection (6) or (7) of this section for the transfer of control of a utility described in KRS 278.010(3)(f) unless the commission finds, in addition to findings required by those subsections, that the person acquiring the utility has provided evidence of financial integrity to ensure the continuity of sewage service in the event that the acquirer cannot continue to provide service.
- (11) The commission shall not accept for filing an application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services unless the applicant has provided written notice of the filing to the following:
- 26 (a) Kentucky Division of Water;
- 27 (b) Office of the Attorney General; and

1	(c)	The county judge/executive, mayor, health department, planning and zoning
2		commission, and public sewage service provider of each county and each city
3		in which the utility provides utility service.

- (12) The commission may grant any application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services upon terms and conditions as the commission deems necessary or appropriate, but not before holding a hearing on the application and no earlier than ninety (90) days from the date of the commission's acceptance of the application for filing, unless the commission finds it necessary for good cause to act 10 upon the application earlier.
- 11 (13) If any provision of this section or the application thereof to any person or 12 circumstance is held invalid, the invalidity shall not affect other provisions or 13 applications of this section which can be given effect without the invalid provision 14 or application, and to that end the provisions are declared to be severable.
 - → Section 10. KRS 150.021 is amended to read as follows:

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- 16 (1) The Department of Fish and Wildlife Resources shall constitute a department of 17 state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner, a Fish and Wildlife Resources Commission, the Division 18 19 of Law Enforcement, and other agents and employees provided for in this chapter. The department shall enforce the laws and regulations adopted under this chapter 20 21 relating to wildlife and shall exercise all powers necessarily incident thereto.
- (2) Any powers conferred by this chapter upon the Department of Fish and Wildlife Resources, the Fish and Wildlife Resources Commission, or the commissioner of the Department of Fish and Wildlife Resources, and any powers conferred by KRS Chapter 235 shall be exercised subject to the provisions of KRS Chapters 42, 45, 26 45A, 56, and 64, which chapters in all respects are controlling.
- 27 (3) (a) The Finance and Administration Cabinet shall assess the Department of

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1			Fish and Wildlife Resources each fiscal year a fee in an amount equal to
2			five percent (5%) of the debt service associated with all phases and
3			implementation of the capital project to replace, repair, or maintain the two
4			(2) way radio system utilized by the Department of Kentucky State Police.
5		<u>(b)</u>	The fee shall be assessed on each phase of the implementation of the two (2)
6			way radio system and shall continue to be assessed until all debt for the
7			system has been retired.
8		→ S	ection 11. KRS 132.285 is amended to read as follows:
9	(1)	<u>(a)</u>	Except as provided in subsection (3) of this section, any city may by ordinance
10			elect to use the annual county assessment for property situated within
11			the[such] city as a basis of ad valorem tax levies ordered or approved by the
12			legislative body of the city.
13		<u>(b)</u>	Any city making <u>the[such]</u> election <u>provided in paragraph (a) of this</u>
14			<u>subsection</u> shall notify the department[<u>of Revenue</u>] and property valuation
15			administrator prior to the next succeeding assessment to be used for city
16			levies. In such event the assessment finally determined for county tax
17			purposes shall serve as a basis of all city levies for the fiscal year commencing
18			on or after the county assessment date.
19		<u>(c)</u>	Each city which elects to use the county assessment shall annually appropriate
20			and pay each fiscal year to the office of the property valuation administrator
21			for deputy and other authorized personnel allowance, supplies, maps and
22			equipment, and other authorized expenses of the office one-half of one cent
23			(\$0.005) for each one hundred dollars (\$100) of assessment, except;
24			provided,] that sums paid shall not be:
25			1. Less than two hundred fifty dollars (\$250); or[, nor]
26			2. More than:
27			<u>a.</u> Forty thousand dollars (\$40,000) in a city having an assessment

1		subject to city tax of less than two billion dollars
2		(\$2,000,000,000) <u>;</u> [or]
3		<u>b.</u> Fifty thousand dollars (\$50,000) in a city having an assessment
4		subject to city tax of [more than]two billion dollars
5		(\$2,000,000,000) or more, but less than three billion dollars
6		(\$3,000,000,000); or
7		c. Sixty thousand dollars (\$60,000) in a city having an assessment
8		subject to city tax of three billion dollars (\$3,000,000,000) or
9		<u>more</u> .
10	<u>(d)</u>	This allowance shall be based on the assessment as of the previous January 1.
11	<u>(e)</u>	Each property valuation administrator shall file a claim with the city for the
12		county assessment, which shall include the recapitulation submitted to the city
13		pursuant to KRS 133.040(2).
14	<u>(f)</u>	The city shall order payment in an amount not to exceed the appropriation
15		authorized by this section.
16	<u>(g)</u>	The property valuation administrator shall be required to account for all
17		moneys paid to his or her office by the city and any funds unexpended by the
18		close of each fiscal year shall carry over to the next fiscal year.
19	<u>(h)</u>	Notwithstanding any statutory provisions to the contrary, the assessment dates
20		for $\underline{\textit{the}}[\text{such}]$ city shall conform to the corresponding dates for the county, and
21		$\underline{\textit{the}}[\text{such}]$ city may by ordinance establish additional financial and tax
22		procedures that will enable it effectively to adopt the county assessment.
23	<u>(i)</u>	The legislative body of any city adopting the county assessment may fix the
24		time for levying the city tax rate, due and delinquency dates for taxes, and any
25		other dates that will enable it effectively to adopt the county assessment,
26		notwithstanding any statutory provisions to the contrary.
27	<u>(j)</u>	Any such city may, by ordinance, abolish any office connected with city

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(k) Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within the[such] city by additional payment of the cost thereof.

- (1) Once any city elects to use the county assessment, that [such] action cannot be revoked without notice to the department [of Revenue] and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.
- 10 (2) In the event any omitted property is assessed by the property valuation administrator
 11 as provided by KRS 132.310, *the*[such] assessment shall be considered as part of
 12 the assessment adopted by the city according to subsection (1) of this section.
- 13 (3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).
 - (4) Notwithstanding the provisions of subsection (1) of this section, each city which elects to use the county assessment for ad valorem taxes levied for 1996 or subsequent years, and which used the county assessment for ad valorem taxes levied for 1995, shall appropriate and pay to the office of the property valuation administrator for the purposes set out in subsection (1) of this section an amount equal to the amount paid to the office of the property valuation administrator in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.
 - → Section 12. KRS 132.590 is amended to read as follows:
- 24 (1) The compensation of the property valuation administrator shall be based on the 25 schedule contained in subsection (2) of this section as modified by subsection (3) of 26 this section. The compensation of the property valuation administrator shall be 27 calculated by the Department of Revenue annually. Should a property valuation

1		administrator for any reason vacate to	he office in	any year du	ring his ter	m of office,
2		he shall be paid only for the calendar	days actually	y served dui	ring the yea	r.
3	(2)	The salary schedule for property va	aluation adr	ministrators	provides 1	for nine (9)
4		levels of salary based upon the po	pulation of	the county	y in the p	rior year as
5		determined by the United States Dep	partment of	Commerce,	Bureau of	the Census
6		annual estimates. To implement the	e salary sc	hedule, the	departme	nt shall, by
7		November 1 of each year, certify for	each county	the populat	ion group a	pplicable to
8		each county based on the most recen	t estimates o	of the United	d States De	epartment of
9		Commerce, Bureau of the Census. T	he salary sc	hedule prov	vides four ((4) steps for
10		yearly increments within each popul	ation group.	Property v	aluation ad	ministrators
11		shall be paid according to the first s	tep within t	heir popula	tion group	for the first
12		year or portion thereof they serve i	n office. The	hereafter, e	ach proper	ty valuation
13		administrator, on January 1 of	each subse	quent year	, shall be	e advanced
14		automatically to the next step in the s	alary schedu	le until the	maximum	salary figure
15		for the population group is reached	. If the cou	nty populat	ion as cert	ified by the
16		department increases to a new group	p level, the	property va	aluation ad	ministrator's
17		salary shall be computed from the new	w group leve	el at the beg	inning of th	ne next year.
18		A change in group level shall have n	o affect on	the annual o	change in s	tep. Prior to
19		assuming office, any person who h	as previous	ly served a	s a proper	ty valuation
20		administrator must certify to the Dep	artment of I	Revenue the	total numl	per of years,
21		not to exceed four (4) years, that the	person has p	previously so	erved in the	e office. The
22		department shall place the person in t	he proper st	ep based up	on a formu	la of one (1)
23		incremental step per full calendar yea	r of service:			
24		SA	LARY SCH	EDULE		
25		County Population		Steps ar	nd Salary	
26		by Group	for Pro	perty Valua	tion Admin	istrators
27		Group I	Step 1	Step 2	Step 3	Step 4

1			0-4,999	\$45,387	\$46,762	\$48,137	\$49,513
2			Group II				
3			5,000-9,999	49,513	50,888	52,263	53,639
4			Group III				
5			10,000-19,999	53,639	55,014	56,389	57,765
6			Group IV				
7			20,000-29,999	55,702	57,765	59,828	61,891
8			Group V				
9			30,000-44,999	59,828	61,891	63,954	66,017
10			Group VI				
11			45,000-59,999	61,891	64,641	67,392	70,143
12			Group VII				
13			60,000-89,999	66,017	68,768	71,518	74,269
14			Group VIII				
15			90,000-499,999	68,080	71,518	74,957	78,395
16			Group IX				
17			500,000 and up	72,206	75,644	79,083	82,521
18	(3)	(a)	For calendar year 2000, the sala	ry schedule	e in subsect	tion (2) of	this section
19			shall be increased by the amoun	nt of increa	ase in the a	annual cons	sumer price
20			index as published by the United	States Dep	partment of	Commerce	for the year
21			ended December 31, 1999. This s	salary adjus	stment shall	take effect	on July 14,
22			2000, and shall not be retroactive	to the prec	eding Janua	ary 1.	
23		(b)	For each calendar year beginning	g after Dec	ember 31, 2	2000, upon	publication
24			of the annual consumer price	index by t	the United	States Dep	partment of
25			Commerce, the annual rate of sa	lary for the	e property v	aluation ac	lministrator
26			shall be determined by applying	the increas	se in the co	onsumer pri	ce index to
27			the salary in effect for the previ	ous year.	Γhis salary	determinati	on shall be

retroactive to the preceding January 1.

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(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents (\$687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the commissioner of the Kentucky Department of Revenue, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Department of Revenue. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

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Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The Department of Revenue may make grade classification changes corresponding to any approved for department employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the department may extend cost-of-living increases approved for department employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.

Beginning with the 1990-1992 biennium, the Department of Revenue shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Department of Revenue. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Department of Revenue a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be

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expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Department of Revenue shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

Each property valuation administrator may appoint any persons approved by the Department of Revenue to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Department of Revenue and shall be subject to the approval of the Department of Revenue. The Personnel Cabinet shall provide advice and technical assistance to the Department of Revenue in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Department of Revenue in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Department of Revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

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2 3 4 5 6 7	At Least	But Less Than \$100,000,000	An	nount	
4 5 6		\$100,000,000			
5 6		,,,	\$0.005 for eac	h \$100 of the first	
6			\$50,000,000	and \$0.002 for	
			each \$100 o	over \$50,000,000.	
7	\$100,000,000	150,000,000	\$0.004 for eac	h \$100 of the first	
			\$100,000,00	00 and \$0.002 for	
8			each \$100 o	over \$100,000,000.	
9	150,000,000	300,000,000	\$0.004 for eac	h \$100 of the first	
10			\$150,000,00	00 and \$0.003 for	
11			each \$100 o	over \$150,000,000.	
12	300,000,000		\$0.004 for eac	h \$100.	
13	(10) The total sum to be paid by the fiscal court to any property valuation administrator's				
14	office under the prov	visions of subsect	ion (9) of this secti	on shall not exceed the	
15	limits set forth in the	following table:			
16	Assessed Value of Property Subject to				
17		County Tax of:			
18	At Leas	t But I	Less Than	Limit	
19		\$700	0,000,000	\$25,000	
20	\$700,000	,000 1,000	0,000,000	35,000	
21	1,000,000	,000 2,000	0,000,000	50,000	
22	2,000,000	,000 2,500	0,000,000	75,000	
23	2,500,000	,000 5,000	0,000,000	100,000	
24	5,000,000	,000,	7,500,0	000,000	
25	175,000				
26	<u>7,500,000</u> ,	,000		<u>250,000</u>	

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This allowance shall be based on the assessment as of the previous January 1 and

shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Department of Revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the

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(13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars (\$100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than five[three] (\$5,000,000,000) [(\$3,000,000,000)]billion dollars hundred seventyone five [twenty-five] thousand dollars (\$175,000)[(\\$125,000)] for an urban-county government or consolidated local government with an assessment subject to countywide between five[three] billion dollars tax (\$5,000,000,000)[(\$3,000,000,000)] and <u>seven[five]</u> billion <u>five hundred million</u> dollars (\$7,500,000,000) [(\$5,000,000,000)], and two hundred *fifty* thousand dollars (\$250,000) [(\\$200,000)] for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of seven[five] billion *five hundred million* dollars (\$7,500,000,000) [(\$5,000,000,000)]. For purposes of this subsection, the amount to be considered as the assessment for

1		purposes of KRS 132.285 shall be the amount subject to taxation for full urban
2		services.
3	(15)	Notwithstanding the provisions of subsection (9) of this section, the amount
4		appropriated and paid by each county fiscal court to the office of the property
5		valuation administrator for 1996 and subsequent years shall be equal to the amount
6		paid to the office of the property valuation administrator for 1995, or the amount
7		required by the provisions of subsections (9) and (10) of this section, whichever is
8		greater.
9		→ Section 13. KRS 210.504 is amended to read as follows:
10	(1)	The commission created in KRS 210.502 shall meet as often as necessary to
11		accomplish its purpose but shall meet at least quarterly or upon the call of either co-
12		chair, the request of four (4) or more members, or the request of the Governor.
13	(2)	The commission shall receive, integrate, and report the findings and
14		recommendations of the regional planning councils established under KRS 210.506.
15		The regional planning councils shall provide additional information or study
16		particular issues upon request of the commission.
17	(3)	The commission:
18		(a) May establish work groups to develop statewide recommendations from
19		information and recommendations received from the regional planning
20		councils;

- 21 (b) May establish work groups to address issues referred to the commission; and
- 22 (c) Shall ensure that the regional planning councils have an opportunity to 23 receive, review, and comment on any recommendation or product issued by a 24 work group established under this subsection before the commission takes any 25 formal action on a recommendation or product of a work group.
- 26 (4) The commission shall serve in an advisory capacity to accomplish the following:
- 27 (a) Based on information provided under subsection (2) of this section:

1		1. Assess the needs statewide of individuals with mental illness, alcohol
2		and other drug abuse disorders, and dual diagnoses;
3		2. Assess the capabilities of the existing statewide treatment delivery
4		system including gaps in services and the adequacy of a safety net
5		system; and
6		3. Assess the coordination and collaboration of efforts between public and
7		private facilities and entities, including but not limited to the Council on
8		Postsecondary Education when assessing workforce issues, and the roles
9		of the Department for Behavioral Health, Developmental and
10		Intellectual Disabilities and the regional community mental health
11		centers, state hospitals, and other providers;
12	(b)	Identify funding needs and related fiscal impact, including Medicaid
13		reimbursement, limitations under government programs and private insurance,
14		and adequacy of indigent care;
15	(c)	Recommend comprehensive and integrated programs for providing mental
16		health and substance abuse services and preventive education to children and
17		youth, utilizing schools and community resources;
18	(d)	Develop recommendations to decrease the incidence of repeated arrests,
19		incarceration, and multiple hospitalizations of individuals with mental illness,
20		alcohol and other drug abuse disorders, and dual diagnoses;[and]
21	(e)	Recommend an effective quality assurance and consumer satisfaction
22		monitoring program that includes recommendations as to the appropriate role
23		of persons with mental illness, alcohol and other drug abuse disorders, and
24		dual diagnoses, family members, providers, and advocates in quality assurance
25		efforts <u>: and</u>
26	<u>(f)</u>	Recommend improvements in identifying, treating, housing, and
27		transporting prisoners in jails and juveniles with mental illness who reside

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1		in detention centers. Items to be reviewed include but are not limited to:
2		1. Recommendations for statutory and regulatory changes;
3		2. Training and treatment funding;
4		3. Cost-sharing proposals;
5		4. Housing and transportation costs;
6		5. Appropriate treatment sites; and
7		6. Training requirements for local jailers and other officers of the court
8		who may come in contact with persons deemed mentally ill and who
9		are incarcerated or in detention.
10	(5)	The commission shall develop a comprehensive state plan that provides a template
11		for decision-making regarding program development, funding, and the use of state
12		resources for delivery of the most effective continuum of services in integrated
13		statewide settings appropriate to the needs of the individual with mental illness,
14		alcohol and other drug abuse disorders, and dual diagnoses. The state plan shall also
15		include strategies for increasing public awareness and reducing the stigma
16		associated with mental illness and substance abuse disorders.
17	(6)	The state plan shall advise the Governor and the General Assembly concerning the
18		needs statewide of individuals with mental illness, alcohol and other drug disorders,
19		and dual diagnoses and whether the recommendations should be implemented by
20		administrative regulations or proposed legislation for the General Assembly.
21	(7)	The commission shall develop a two (2) year work plan, beginning in 2003, that
22		specifies goals and strategies relating to services and supports for individuals with
23		mental illness and alcohol and other drug disorders and dual diagnoses and efforts
24		to reduce the stigma associated with mental illness and substance abuse disorders.
25	(8)	The commission shall review the plan and shall submit annual updates no later than
26		October 1 to the Governor and the Legislative Research Commission.
27		→ Section 14. KRS 210.400 is amended to read as follows:

1	Subj	ect to the provisions of this section and the policies and regulations of the secretary
2	of th	ne Cabinet for Health and Family Services, each community board for mental health
3	or in	dividuals with an intellectual disability shall:
4	(1)	Review and evaluate services for mental health or individuals with an intellectual
5		disability provided pursuant to KRS 210.370 to 210.460, and report thereon to the
6		secretary of the Cabinet for Health and Family Services, the administrator of the
7		program, and, when indicated, the public, together with recommendations for
8		additional services and facilities;
9	(2)	Recruit and promote local financial support for the program from private sources
10		such as community chests, business, industrial and private foundations, voluntary
11		agencies, and other lawful sources, and promote public support for municipal and
12		county appropriations;
13	(3)	Promote, arrange, and implement working agreements with other social service
14		agencies, both public and private, and with other educational and judicial agencies;
15	(4)	Adopt and implement policies to stimulate effective community relations;
16	(5)	Be responsible for the development and approval of an annual plan and budget;
17	(6)	Act as the administrative authority of the community program for mental health or
18		individuals with an intellectual disability;
19	(7)	Oversee and be responsible for the management of the community program for
20		mental health or individuals with an intellectual disability in accordance with the
21		plan and budget adopted by the board and the policies and regulations issued under
22		KRS 210.370 to 210.480 by the secretary of the Cabinet for Health and Family
23		Services;[and]
24	(8)	Comply with the provisions of KRS 65A.010 to 65A.090; and

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mentally ill and who are incarcerated or in detention.

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(9) Deliver the training recommended by Section 13 of this Act to local jailers and

other officers of the court who may come in contact with persons deemed

→ Section 15. I	KRS 164.013 is:	amended to r	ead as follows:
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council.

2 The Council on Postsecondary Education shall set the qualifications for the position (1)

3 of president of the council. Except for the first president appointed under subsection

4 (2) of this section, the council shall employ a search firm and conduct a nationwide

search for candidates. The search firm employed by the council shall consider,

interview, and propose three (3) or more candidates for the position of president.

The council may seek additional names from the search firm or from other sources.

- In the selection of candidates for the first president of the Council on Postsecondary (2) Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the
- The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.
- 19 (4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary 20 21 education in Kentucky. As the primary advocate for postsecondary education, the 22 president shall work closely with the committee and the elected leadership of the 23 Commonwealth to ensure that they are fully informed about postsecondary 24 education issues and that the council fully understands the goals for postsecondary 25 education that the General Assembly has established in KRS 164.003(2).
- 26 (5) The president may design and develop for review by the council new statewide 27 initiatives in accordance with the strategic agenda.

1	(6)	(a) [The president shall be compensated on a basis in excess of the base salary of
2		any president of a Kentucky public university.]The council shall set the salary
3		of the president at an amount no greater than the salary the president was
4		receiving on January 1, 2012.
5		(b) The salary of the president[, which] shall be exempt from state employee
6		salary limitations as set forth in KRS 64.640.
7	(7)	The president shall be accorded a contract to serve for a term not to exceed five (5)
8		years, which is renewable at the pleasure of the council.
9	(8)	The president shall determine the staffing positions and organizational structure
10		necessary to carry out the responsibilities of the council and may employ staff. All
11		personnel positions of the Council on Higher Education, as of May 30, 1997, with
12		the exception of the position of executive director, shall be transferred to the
13		Council on Postsecondary Education. All personnel shall be transferred at the same
14		salary and benefit levels. Notwithstanding the provisions of KRS 11A.040, any
15		person employed by the Council on Higher Education prior to May 30, 1997, may
16		accept immediate employment with any governmental entity or any postsecondary
17		education organization or institution in the Commonwealth and may carry out the
18		employment duties assigned by that entity, organization, or institution.
19	(9)	The president shall be responsible for the day-to-day operations of the council and
20		shall report and submit annual reports on the strategic implementation plan of the

19 (9) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the strategic implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

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(10) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under KRS 164.020.

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1 (11) The president shall be reimbursed for all actual and necessary expenses incurred in 2 the performance of all assigned duties and responsibilities.

- 3 → Section 16. KRS 164.020 is amended to read as follows:
- 4 The Council on Postsecondary Education in Kentucky shall:
- 5 (1) Develop and implement the strategic agenda with the advice and counsel of the
- 6 Strategic Committee on Postsecondary Education. The council shall provide for and
- 7 direct the planning process and subsequent strategic implementation plans based on
- 8 the strategic agenda as provided in KRS 164.0203;
- 9 (2) Revise the strategic agenda and strategic implementation plan with the advice and
- 10 counsel of the committee as set forth in KRS 164.004;
- 11 (3) Develop a system of public accountability related to the strategic agenda by
- evaluating the performance and effectiveness of the state's postsecondary system.
- The council shall prepare a report in conjunction with the accountability reporting
- described in KRS 164.095, which shall be submitted to the committee, the
- Governor, and the General Assembly by December 1 annually. This report shall
- include a description of contributions by postsecondary institutions to the quality of
- elementary and secondary education in the Commonwealth:
- 18 (4) Review, revise, and approve the missions of the state's universities and the
- 19 Kentucky Community and Technical College System. The Council on
- 20 Postsecondary Education shall have the final authority to determine the compliance
- of postsecondary institutions with their academic, service, and research missions;
- 22 (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively
- provide for an integrated system of postsecondary education. The council shall
- 24 guard against inappropriate and unnecessary conflict and duplication by promoting
- 25 transferability of credits and easy access of information among institutions;
- 26 (6) Engage in analyses and research to determine the overall needs of postsecondary
- education and adult education in the Commonwealth;

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Deve	elop plans that may be required by federal legislation. The council shall for all			
purpo	oses of federal legislation relating to planning be considered the "single state			
agen	cy" as that term may be used in federal legislation. When federal legislation			
requi	requires additional representation on any "single state agency," the Council or			
Postsecondary Education shall establish advisory groups necessary to satisfy federal				
legislative or regulatory guidelines;				
<u>(a)</u>	Determine tuition and approve the minimum qualifications for admission to			
	the state postsecondary educational system. In defining residency, the council			

shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent, except that the Kentucky Community and Technical College System may assess a mandatory student fee not to exceed eight dollars (\$8) per credit hour to be used exclusively for debt service on amounts not to exceed seventy-five percent (75%) of the total projects cost of the Kentucky Community and Technical College System agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.

(b) The Kentucky Community and Technical College System mandatory fee

established in this subsection shall only be used for debt service on agency
bond projects.

1		<u>(c)</u>	Any fee established as provided by this subsection shall cease to be assessed
2			upon the retirement of the project bonds for which it services debt.
3		<u>(d)</u>	Prior to the issuance of any bonds, the Kentucky Community and Technical
4			College System shall certify in writing to the secretary of the Finance and
5			Administration Cabinet that sufficient funds have been raised to meet the
6			local match equivalent to twenty-five percent (25%) of the total project cost;
7	(9)	Devi	ise, establish, and periodically review and revise policies to be used in making
8		reco	mmendations to the Governor for consideration in developing
9		reco	mmendations to the General Assembly for appropriations to the universities,
10		the 1	Kentucky Community and Technical College System, and to support strategies
11		for	persons to maintain necessary levels of literacy throughout their lifetimes
12		inclu	ading but not limited to appropriations to the Kentucky Adult Education
13		Prog	gram. The council has sole discretion, with advice of the Strategic Committee on
14		Post	secondary Education and the executive officers of the postsecondary education
15		syste	em, to devise policies that provide for allocation of funds among the universities
16		and	the Kentucky Community and Technical College System;
17	(10)	Lead	l and provide staff support for the biennial budget process as provided under
18		KRS	S Chapter 48, in cooperation with the committee;
19	(11)	(a)	Except as provided in paragraph (b) of this subsection, review and approve all
20			capital construction projects covered by KRS 45.750(1)(f), including real
21			property acquisitions, and regardless of the source of funding for projects or
22			acquisitions. Approval of capital projects and real property acquisitions shall
23			be on a basis consistent with the strategic agenda and the mission of the
24			respective universities and the Kentucky Community and Technical College
25			System.
26		(b)	The organized groups that are establishing community college satellites as
27			branches of existing community colleges in the counties of Laurel, Leslie, and

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	Muhlenberg, and that have substantially obtained cash, pledges, real property,
	or other commitments to build the satellite at no cost to the Commonwealth,
	other than operating costs that shall be paid as part of the operating budget of
	the main community college of which the satellite is a branch, are authorized
	to begin construction of the satellite on or after January 1, 1998;
()	Require reports from the executive officer of each institution it deems necessary for

- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
 - (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to

1		eliminate or make changes in individual programs within that general program;
2	(16)	Eliminate, in its discretion, existing programs or make any changes in existing
3		academic programs at the state's postsecondary educational institutions, taking into
4		consideration these criteria:
5		(a) Consistency with the institution's mission and the strategic agenda;
6		(b) Alignment with the priorities in the strategic implementation plan for
7		achieving the strategic agenda;
8		(c) Elimination of unnecessary duplication of programs within and among
9		institutions; and
10		(d) Efforts to create cooperative programs with other institutions through
11		traditional means, or by use of distance learning technology and electronic
12		resources, to achieve effective and efficient program delivery;
13	(17)	Ensure the governing board and faculty of all postsecondary education institutions
14		are committed to providing instruction free of discrimination against students who
15		hold political views and opinions contrary to those of the governing board and
16		faculty;
17	(18)	Review proposals and make recommendations to the Governor regarding the
18		establishment of new public community colleges, technical institutions, and new
19		four (4) year colleges;
20	(19)	Postpone the approval of any new program at a state postsecondary educational
21		institution, unless the institution has met its equal educational opportunity goals, as
22		established by the council. In accordance with administrative regulations
23		promulgated by the council, those institutions not meeting the goals shall be able to
24		obtain a temporary waiver, if the institution has made substantial progress toward
25		meeting its equal educational opportunity goals;
26	(20)	Ensure the coordination, transferability, and connectivity of technology among

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postsecondary institutions in the Commonwealth including the development and

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l	implementation	n of a technolog	gy blan as a co	mponent of the	strategic agenda;

- 2 (21) Approve the teacher education programs in the public institutions that comply with
- 3 standards established by the Education Professional Standards Board pursuant to
- 4 KRS 161.028;
- 5 (22) Constitute the representative agency of the Commonwealth in all matters of
- 6 postsecondary education of a general and statewide nature which are not otherwise
- delegated to one (1) or more institutions of postsecondary learning. The
- 8 responsibility may be exercised through appropriate contractual relationships with
- 9 individuals or agencies located within or without the Commonwealth. The authority
- includes but is not limited to contractual arrangements for programs of research,
- specialized training, and cultural enrichment;
- 12 (23) Maintain procedures for the approval of a designated receiver to provide for the
- maintenance of student records of the public institutions of higher education and the
- 14 colleges as defined in KRS 164.945, and institutions operating pursuant to KRS
- 15 165A.310 which offer collegiate level courses for academic credit, which cease to
- operate. Procedures shall include assurances that, upon proper request, subject to
- federal and state laws and regulations, copies of student records shall be made
- available within a reasonable length of time for a minimum fee;
- 19 (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of
- 20 the Legislative Research Commission for distribution to the Health and Welfare
- 21 Committee;
- 22 (25) (a) Develop in cooperation with each public university and the Kentucky
- Community and Technical College System a comprehensive orientation and
- education program for new members of the council and the governing boards
- and continuing education opportunities for all council and board members.
- For new members of the council and institutional governing boards, the
- council shall:

1	1.	Ensure that the orientation and education program comprises six (6)
2		hours of instruction time and includes but is not limited to information
3		concerning the roles of the council and governing board members, the
4		strategic agenda and the strategic implementation plan, and the
5		respective institution's mission, budget and finances, strategic plans and
6		priorities, institutional policies and procedures, board fiduciary
7		responsibilities, legal considerations including open records and open
8		meetings requirements, ethical considerations arising from board
9		membership, and the board member removal and replacement provisions
10		of KRS 63.080;
11	2.	Establish delivery methods by which the orientation and education
12		program can be completed in person or electronically by new members
13		within one (1) year of their appointment or election;
14	3.	Provide an annual report to the Governor and Legislative Research
15		Commission of those new board members who do not complete the
16		required orientation and education program; and
17	4.	Invite governing board members of private colleges and universities

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- Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;
- (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
- (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
- 27 (26) Develop a financial reporting procedure to be used by all state postsecondary

education institutions to ensure uniformity of financial information available to state agencies and the public;

- 3 (27) Select and appoint a president of the council under KRS 164.013;
- 4 (28) Employ consultants and other persons and employees as may be required for the
- 5 council's operations, functions, and responsibilities;
- 6 (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A,
- 7 governing its powers, duties, and responsibilities as described in this section;
- 8 (30) Prepare and present by January 31 of each year an annual status report on
- 9 postsecondary education in the Commonwealth to the Governor, the Strategic
- 10 Committee on Postsecondary Education, and the Legislative Research Commission;
- 11 (31) Consider the role, function, and capacity of independent institutions of
- postsecondary education in developing policies to meet the immediate and future
- needs of the state. When it is found that independent institutions can meet state
- needs effectively, state resources may be used to contract with or otherwise assist
- independent institutions in meeting these needs;
- 16 (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and
- students of the public postsecondary education system and the independent colleges
- and universities;
- 19 (33) Develop a statewide policy to promote employee and faculty development in all
- 20 postsecondary institutions and in state and locally operated secondary area
- 21 technology centers through the waiver of tuition for college credit coursework in the
- 22 public postsecondary education system. Any regular full-time employee of a
- postsecondary public institution or a state or locally operated secondary area
- 24 technology center may, with prior administrative approval of the course offering
- institution, take a maximum of six (6) credit hours per term at any public
- postsecondary institution. The institution shall waive the tuition up to a maximum
- of six (6) credit hours per term;

1	(34) Esta	blish a statewide mission for adult education and develop a twenty (20) year
2	strat	egy, in partnership with the Kentucky Adult Education Program, under the
3	prov	risions of KRS 164.0203 for raising the knowledge and skills of the state's adult
4	popi	ulation. The council shall:
5	(a)	Promote coordination of programs and responsibilities linked to the issue of
6		adult education with the Kentucky Adult Education Program and with other
7		agencies and institutions;
8	(b)	Facilitate the development of strategies to increase the knowledge and skills
9		of adults in all counties by promoting the efficient and effective coordination
10		of all available education and training resources;
11	(c)	Lead a statewide public information and marketing campaign to convey the
12		critical nature of Kentucky's adult literacy challenge and to reach adults and
13		employers with practical information about available education and training
14		opportunities;
15	(d)	Establish standards for adult literacy and monitor progress in achieving the
16		state's adult literacy goals, including existing standards that may have been
17		developed to meet requirements of federal law in conjunction with the
18		Collaborative Center for Literacy Development: Early Childhood through
19		Adulthood; and

- Administer the adult education and literacy initiative fund created under KRS 164.041;
 - (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;

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(36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(1);

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- 5 (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133;
- 7 (38) Pursuant to KRS 63.080, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and
 - (39) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.
 - → Section 17. KRS 164.5805 is amended to read as follows:
- 19 (1) Effective July 1, 1998, the Kentucky Community and Technical College System 20 shall be the legal successor to the postsecondary Kentucky Tech institutions and 21 corresponding administrative units in the former Cabinet for Workforce 22 Development and shall assume all assets and liabilities of this system, including 23 without limitation all obligations, responsibilities, programs, staff, instructional 24 supplies, equipment, real property, facilities, funds, and records. The Finance and 25 Administration Cabinet shall execute the instruments necessary to transfer the real 26 property relating to the operation of the postsecondary institutions in the Kentucky 27 Tech System from the former Cabinet for Workforce Development to the Kentucky

1 Community and Technical College System.

(a) The staff positions in the former Department for Technical Education and the former Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

- (b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.
- (c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.
- (d) The following provisions shall apply to the employees who are transferred from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:
 - Accumulated sick leave, compensatory time, and annual leave as of June
 30, 1998, shall be transferred with each employee;
 - 2. Employees who have earned continuing status as defined in KRS 156.800 and employees who have earned classified status as merit

system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

- 3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;
- 4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;
- 5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and
- 6. Employees shall be provided life insurance coverage and optional insurance or investment programs.
- (e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the former Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the

1			rules under which the employee transferred. An employee who elects to accept
2			this option may not return to the previous personnel policy. An employee shall
3			have the right to exercise this option at any time.
4	(2)	New	employees hired after July 1, 1997, in the Kentucky Community and Technical
5		Coll	ege System shall be governed by the rules and regulations established by the
6		boar	rd, except that no housing allowance shall be provided for the president of the
7		<u>Ken</u>	tucky Community and Technical College System.
8		→ S	ECTION 18. A NEW SECTION OF KRS 153.210 TO 153.235 IS CREATED
9	TO	REAI	O AS FOLLOWS:
10	<u>An</u>	entity	involved in producing or financing arts on a local or statewide basis, since
11	the i	incep	tion of fiscal year 2004-2005, which received a total of twenty-five thousand
12	dolla	ars (§	\$25,000) or less as a result of appropriations or grants from state or local
13	gove	ernme	ental units, shall be exempt from the requirements of:
14	<u>(1)</u>	KRS	6 61.805 to 61.850; and
15	<u>(2)</u>	KRS	S 61.870 to 61.884.
16		→ S	ection 19. KRS 151.611 is amended to read as follows:
17	(1)	A S	tream Restoration and Mitigation Authority may be established for any HUC 10
18		wate	ershed in the Commonwealth. Each authority formed under this section shall be
19		a pu	blic body corporate and politic with the authority to:
20		(a)	Sue and be sued;
21		(b)	Enter into contracts with public and private individuals and corporations and
22			engage in cooperative agreements with federal, state, and local governments
23			or agencies, utilities, special districts, and nonprofit organizations for the
24			performance of its duties and functions under KRS 151.610 to 151.615;
25		(c)	Employ personnel as needed, as its fiscal resources may allow, and use the
26			services of volunteers individually or through agreement with governmental
27			agencies, nonprofit organizations, or foundations;

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((d)	Receive and expend funds from any source, including but not limited to
		private donations, charitable contributions, public grants, 404 In-lieu Fee
		Program, and appropriations from the General Assembly; and

- (e) Acquire, sell, and hold real interests in property.
- Nothing in KRS 151.610 to 151.615 shall be construed to empower or authorize an authority established under KRS 151.610 to 151.615 to exercise regulatory powers with respect to water resources or water quality. An authority established under KRS 151.610 to 151.615 shall not be vested with the power of eminent domain.
 - It is the preference of the General Assembly that funds contributed by a permittee under a Section 404 Permit into an in-lieu fund for a project designed for stream restoration and mitigation be utilized within the watershed where the adverse effects occur. The General Assembly recognizes that conservation and protection of the water resources of the Commonwealth, including streams, rivers, wetlands, and riparian habitats, may involve, in addition to restoration and enhancement of aquatic and riparian habitat, proper management of wastewater and stormwater, and abatement of pre-existing sources of pollution. Where an authority has been qualified by the USACE to manage an in-lieu fee or other compensatory mitigation arrangement that is approved after July 15, 2008, under Section 404, and to the extent that the USACE and the Mitigation Review Team has approved the use of such funds for elimination of pre-existing sources of pollution, the authority may expend a portion of the funds for those purposes, provided that the:
 - (a) Funds spent on water quality improvements are a component of a stream or wetland restoration plan for replacement of aquatic resource functions and values; [and]
 - (b) Project has been reviewed and approved by the USACE and the Division of Water as being consistent with Sections 404 and 401 of the Clean Water Act: and

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(3)

1	(c)	In-lieu	fees	shall	<u>be</u>	<u>available</u>	statewide,	to	all	one	<u>hundred</u>	twenty	(120)
			•									•	
2		<u>countie</u>	s, sui	<u>bject to</u>	o fe	<u>deral and</u>	state regul	<u>lato</u>	ry r	<u>equi</u>	<u>rements</u> .		

3 Nothing in KRS 151.610 to 151.615 shall preclude the authority, when acting as an (4) 4 approved qualified organization managing an in-lieu fee arrangement approved after 5 July 15, 2008, from combining funding from other sources with in-lieu fees in order 6 to achieve efficiencies in stream restoration or mitigation.

→ Section 20. KRS 61.637 is amended to read as follows:

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(1)

- A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.
- Employer and employee contributions shall be made as provided in KRS 61.510 to (2) 18 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, 19 except where monthly payments were not suspended as provided in subsection (1) 20 of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- 23 In the month following the termination of reemployment, retirement allowance (3) 24 payments shall be reinstated under the plan under which the member was receiving 25 payments prior to reemployment.
- 26 (4) (a) Notwithstanding the provisions of this section, the payments suspended in 27 accordance with subsection (1) of this section shall be paid retroactively to the

retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

- (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
- (c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
 - 1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
 - 2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
 - 3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
 - 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the

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1		termination of r	eemployment in lieu of payments under subparagraph 3.
2		The member s	hall not receive less in benefits as a result of the
3		recomputation	han he was receiving prior to reemployment or would
4		receive as deter	mined under KRS 61.691; and
5		5. Any retired mer	nber who was reemployed prior to March 26, 1974, shall
6		begin making	contributions to the system in accordance with the
7		provisions of th	is section on the first day of the month following March
8		26, 1974.	
9	(5)	A retired member, or his es	state, shall pay to the retirement fund the total amount of
10		payments which are not sus	spended in accordance with subsection (1) of this section
11		if the member received mo	ore than the maximum permissible earnings as provided
12		by the Federal Social Sec	urity Act in compensation from participating agencies
13		during any calendar year o	f reemployment, except the retired member or his estate
14		may repay the lesser of the	total amount of payments which were not suspended or
15		fifty cents (\$0.50) of each	dollar earned over the maximum permissible earnings
16		during reemployment if un	der age sixty-five (65), or one dollar (\$1) for every three
17		dollars (\$3) earned if over a	age sixty-five (65).
18	(6)	(a) "Reemployment" or "	reinstatement" as used in this section shall not include a
19		retired member who l	nas been ordered reinstated by the Personnel Board under
20		authority of KRS 18A	095.
21		(b) A retired member w	ho has been ordered reinstated by the Personnel Board
22		under authority of Kl	RS 18A.095 or by court order or by order of the Human
23		Rights Commission a	nd accepts employment by an agency participating in the
24		Kentucky Employees	Retirement System or County Employees Retirement
25		System shall void his	retirement by reimbursing the system in the full amount
26		of his retirement allow	vance payments received.
27	(7)	(a) Effective August 1,	1998, the provisions of subsections (1) to (4) of this

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section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

- (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) A retired member or his employer shall notify the retirement system if he has accepted employment or is serving as a volunteer with an employer that participates in the retirement system from which the member retired. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.
- (9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits. The

retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.
 - (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
 - (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired

1		and for the position in which he has been reemployed.
2	(b)	The job descriptions and statements of duties shall be filed with the retirement
3		office.
4	(13) If th	e retirement system determines that the retired member has been employed in a
5	posi	tion with the same principal duties as the position from which the member
6	retir	ed:
7	(a)	The member's retirement allowance shall be suspended during the period that
8		begins on the month in which the member is reemployed and ends six (6)
9		months after the member's termination;
10	(b)	The retired member shall repay to the retirement system all benefits paid from
11		systems administered by Kentucky Retirement Systems under reciprocity,
12		including medical insurance benefits, that the member received after
13		reemployment began;
14	(c)	Upon termination, or subsequent to expiration of the six (6) month period
15		from the date of termination, the retired member's retirement allowance based
16		on his initial retirement account shall no longer be suspended and the member
17		shall receive the amount to which he is entitled, including an increase as
18		provided by KRS 61.691;
19	(d)	Except as provided in subsection (7) of this section, if the position in which a
20		retired member is employed after initial retirement is a regular full-time
21		position, the retired member shall contribute to a second member account
22		established for him in the retirement system. Service credit gained after the
23		member's date of reemployment shall be credited to the second member
24		account; and
25	(e)	Upon termination, the retired member shall be entitled to benefits payable
26		from his second retirement account.

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(14) (a) If the retirement system determines that the retired member has not been

1			reemployed in a position with the same principal duties as the position from
2			which he retired, the retired member shall continue to receive his retirement
3			allowance.
4		(b)	If the position is a regular full-time position, the member shall contribute to a
5			second member account in the retirement system.
6	(15)	(a)	If a retired member is reemployed at least one (1) month after initial
7			retirement in a different position, or at least six (6) months after initial
8			retirement in the same position, and prior to normal retirement age, the retired
9			member shall contribute to a second member account in the retirement system
10			and continue to receive a retirement allowance from the first member account.
11		(b)	Service credit gained after reemployment shall be credited to the second
12			member account. Upon termination, the retired member shall be entitled to
13			benefits payable from the second member account.
14	(16)	A re	tired member who is reemployed and contributing to a second member account
15		shall	not be eligible to purchase service credit under any of the provisions of KRS
16		16.5	05 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to
17		purc	hase prior to his initial retirement.
18	(17)	Noty	withstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
19		secti	on, the following shall apply to retired members who are reemployed by an
20		agen	cy participating in one (1) of the systems administered by Kentucky Retirement
21		Syste	ems on or after September 1, 2008:
22		(a)	Except as provided by paragraphs (c) and (d) of this subsection, if a member is
23			receiving a retirement allowance from one (1) of the systems administered by
24			Kentucky Retirement Systems, or has filed the forms required to receive a
25			retirement allowance from one (1) of the systems administered by Kentucky
26			Retirement Systems, and is employed in a regular full-time position required
27			to participate in one (1) of the systems administered by Kentucky Retirement

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> Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

- 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
- 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- Except as provided by paragraphs (c) and (d) of this subsection, if a member is (b) receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
 - Both the employee and participating agency shall certify in writing on a 1. form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for

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the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

- 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
- 3. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
- 4. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, Local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed

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by the board for eighty (80) days or less during the fiscal year;

If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

- 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
- Upon subsequent retirement, the member shall be eligible for a 2. retirement allowance based upon total service and creditable compensation, including any additional service creditable compensation earned after his or her initial retirement was voided;
- If a member is receiving a retirement allowance from the State Police (d) Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement

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> System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

- 1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;
- 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
- 3. Except as provided by KRS 70.291 to 70.293 and 95.022 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional

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1			contributions paid shall be used to reduce the unfunded actuarial liability
2			of the systems; and
3		4.	Except as provided by KRS 70.291 to 70.293 and 95.022 and except for
4			any retiree employed as a school resource officer as defined by KRS
5			<u>158.441</u> , the employer shall be required to reimburse the systems for the
6			cost of the health insurance premium paid by the systems to provide
7			coverage for the retiree, not to exceed the cost of the single premium;
8	(e)	Noty	withstanding paragraphs (a) to (d) of this subsection, a retired member
9		who	qualifies as a volunteer for an employer participating in one (1) of the
10		syste	ems administered by Kentucky Retirement Systems and who is receiving
11		reim	bursement of actual expenses, a nominal fee for his or her volunteer
12		servi	ices, or both, shall not be considered an employee of the participating
13		empl	loyer and shall not be subject to paragraphs (a) to (d) of this subsection if:
14		1.	Prior to the retired member's most recent retirement date, he or she did
15			not receive creditable compensation from the participating employer in
16			which the retired member is performing volunteer services;
17		2.	Any reimbursement or nominal fee received prior to the retired
18			member's most recent retirement date has not been credited as creditable
19			compensation to the member's account or utilized in the calculation of
20			the retired member's benefits;
21		3.	The retired member has not purchased or received service credit under
22			any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
23			service with the participating employer for which the retired member is
24			performing volunteer services; and
25		4.	Other than the status of volunteer, the retired member does not become
26			an employee, leased employee, or independent contractor of the
27			employer for which he or she is performing volunteer services for a

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1		period of at least twenty-four (24) months following the retired
2		member's most recent retirement date.
3		If a retired member, who provided volunteer services with a participating
4		employer under this paragraph violates any provision of this paragraph, then
5		he or she shall be deemed an employee of the participating employer as of the
6		date he or she began providing volunteer services and both the retired member
7		and the participating employer shall be subject to paragraphs (a) to (d) of this
8		subsection for the period of volunteer service; and
9		(f) Notwithstanding any provision of this section, any mayor or member of a city
10		legislative body who has not participated in the County Employees Retirement
11		System prior to retirement, but who is otherwise eligible to retire from the
12		Kentucky Employees Retirement System or the State Police Retirement
13		System, shall not be:
14		1. Required to resign from his or her position as mayor or as a member of
15		the city legislative body in order to begin drawing benefits from the
16		Kentucky Employees Retirement System or the State Police Retirement
17		System; or
18		2. Subject to any provision of this section as it relates solely to his or her
19		service as a mayor or member of the city legislative body.
20		→ Section 21. KRS 70.292 is amended to read as follows:
21	(1)	A county police department or county sheriff's office in the Commonwealth of
22		Kentucky may employ police officers who have retired under the State Police
23		Retirement System, Kentucky Employees Retirement System, or the County
24		Employees Retirement System as provided by KRS 70.291 to 70.293.
25	(2)	An individual employed under KRS 70.291 to 70.293 shall have:
26		(a) 1. Participated in the Law Enforcement Foundation Program fund under
27		KRS 15.410 to 15.515; or

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1			2. Retired as a commissioned officer pursuant to KRS Chapter 16;
2		(b)	Retired with at least twenty (20) years of service credit;
3		(c)	Been separated from service for the period required by KRS 61.637 so that the
4			member's retirement is not voided;
5		(d)	Retired with no administrative charges pending; and
6		(e)	Retired with no pre-existing agreement between the individual and the <i>county</i>
7			police department or the sheriff's office prior to the individual's retirement for
8			the individual to return to work for the county police department or the
9			sheriff's office.
10		→ S	ection 22. KRS 70.293 is amended to read as follows:
11	(1)	Indi	viduals employed under KRS 70.291 to 70.293 shall:
12		(a)	Serve for a term not to exceed one (1) year. The one (1) year employment term
13			may be renewed annually at the discretion of the employing county police
14			department or sheriff's office;
15		(b)	Receive compensation according to the standard procedures applicable to the
16			employing <i>county police department or</i> sheriff's office; and
17		(c)	Be employed based upon need as determined by the <i>county police department</i>
18			or the employing sheriff's office.
19	(2)	Not	withstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287,
20		61.5	10 to 61.705, or 78.510 to 78.852 to the contrary:
21		(a)	Individuals employed under KRS 70.291 to 70.293 shall continue to receive
22			all retirement and health insurance benefits to which they were entitled upon
23			retiring in the applicable system administered by Kentucky Retirement
24			Systems;
25		(b)	Individuals employed under KRS 70.291 to 70.293 shall not be eligible to
26			receive health insurance coverage through the county police department, the
27			sheriff's office, or the fiscal court of the <i>county police department or</i> sheriff's

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1	office[county]
1	<u>office</u> [county]

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(c) The <u>county police department</u>, sheriff's office, or fiscal court of the <u>county</u> <u>police department or</u> sheriff's office shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by KRS 61.637(17) for individuals employed under KRS 70.291 to 70.293; and

- (d) The <u>county police department</u>, sheriff's office, or fiscal court of the <u>county</u> <u>police department or</u> sheriff's office shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under KRS 70.291 to 70.293.
- 11 (3) Individuals employed under KRS 70.291 to 70.293 shall be subject to any merit
 12 system, civil service, or other legislative due process provisions applicable to the
 13 <u>county police department or</u> sheriff's office. A decision not to renew a one (1) year
 14 appointment term under this section shall not be considered a disciplinary action or
 15 deprivation subject to due process.
 - → Section 23. KRS 161.569 is amended to read as follows:
- 17 (1) Any person electing to participate in the optional retirement plan shall be ineligible 18 for membership in the regular retirement plan of the Kentucky Teachers' Retirement 19 System for as long as the participant is employed in a position for which the 20 optional retirement plan is available, except as provided in KRS 161.568(1).
- 21 (2) Any person electing to participate in the optional retirement plan shall acknowledge 22 in writing that the benefits payable to participants are not the obligation of the 23 Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and 24 that these benefits and other rights of the optional retirement plan are the liability 25 and responsibility solely of the designated companies to which contributions have 26 been made.
- 27 (3) Benefits shall be payable to optional retirement plan participants or their

1		beneficiaries by the designated companies in accordance with the contracts issued
2		by each company and the retirement plan provisions adopted by each public
3		institution.
4	(4)	Annuity contracts issued under the optional retirement plan and all rights of a
5		participant in the optional retirement plan shall be exempt from any state, local, or
6		municipal tax; assessment for the insolvency of any life, health, or casualty
7		insurance company; any levy or sale, garnishment, or attachment; or any process
8		whatsoever, and shall be unassignable except as otherwise specifically provided by
9		the contracts offered under the optional retirement plan adopted by the respective
10		public institutions of higher education. Except contracts issued and rights accrued in
11		the optional retirement plan on or after January 1, 1998, shall be subject to the tax
12		imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
13	(5)	Each institution shall contribute for each payroll period of each fiscal year to the
14		Kentucky Teachers' Retirement System, an amount equal to five and one-tenth
15		percent (5.1%) of the total salaries of all persons who elect or elected to participate
16		in the optional retirement plan instead of the Kentucky Teachers' Retirement
17		System. This payment shall continue to be made until <u>June 30, 2018</u> [July 1, 2048].
18		No contributions shall be payable on or after July 1, 2018, to the Kentucky
19		Teachers' Retirement System for all persons who elect or elected to participate in
20		the optional retirement plan instead of the Kentucky Teachers' Retirement
21		System.
22		→SECTION 24. KRS 138.130 IS REPEALED AND REENACTED TO READ
23	AS]	FOLLOWS:
24	<u>As u</u>	used in this section to KRS 138.205:
25	<u>(1)</u>	(a) "Chewing tobacco" means any leaf tobacco that is not intended to be
26		smoked and includes loose leaf chewing tobacco, plug chewing tobacco, and
27		twist chewing tobacco.

1		(b) "Chewing tobacco" does not include snuff;
2	<u>(2)</u>	(a) "Cigarettes" means any roll for smoking made wholly or in part of tobacco,
3		or any substitute for tobacco, irrespective of size or shape and whether or
4		not the tobacco is flavored, adulterated, or mixed with any other ingredient,
5		the wrapper or cover of which is made of paper or any other substance or
6		material, except tobacco.
7		(b) "Cigarettes" does not include reference tobacco products;
8	<u>(3)</u>	"Cigarette tax" means the group of taxes consisting of:
9		(a) The tax imposed by subsection (1)(a) of Section 27 of this Act;
10		(b) The surtax imposed by subsection (1)(b) of Section 27 of this Act; and
11		(c) The surtax imposed by subsection (1)(c) of Section 27 of this Act;
12	<u>(4)</u>	"Department" means the Department of Revenue;
13	<u>(5)</u>	"Distributor" means any person within this state in possession of tobacco
14		products for resale within this state on which the tobacco products tax imposed
15		under subsection (2) of Section 27 of this Act has not been paid;
16	<u>(6)</u>	"Half-pound unit" means a consumer-sized container, pouch, or package:
17		(a) Containing at least four (4) ounces but not more than eight (8) ounces of
18		chewing tobacco by net weight;
19		(b) Produced by the manufacturer to be sold to consumers as a half-pound unit
20		and not produced to be divided or sold separately; and
21		(c) Containing one (1) individual container, pouch, or package;
22	<u>(7)</u>	"Manufacturer" means any person who manufactures or produces cigarettes or
23		tobacco products within or without this state;
24	<u>(8)</u>	"Nonresident wholesaler" means any person who purchases cigarettes directly
25		from the manufacturer and maintains a permanent location outside this state
26		where Kentucky cigarette tax evidence is attached or from where Kentucky
27		cigarette tax is reported and paid;

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1	<u>(9)</u>	"Person" means any individual, firm, copartnership, joint venture, association,
2		municipal or private corporation whether organized for profit or not, the
3		Commonwealth of Kentucky or any of its political subdivisions, an estate, trust,
4		or any other group or combination acting as a unit;
5	<u>(10)</u>	"Pound unit" means a consumer-sized container, pouch, or package:
6		(a) Containing more than eight (8) ounces but not more than sixteen (16)
7		ounces of chewing tobacco by net weight;
8		(b) Produced by the manufacturer to be sold to consumers as a pound unit and
9		not produced to be divided or sold separately; and
10		(c) Containing one (1) individual container, pouch, or package;
11	<u>(11)</u>	"Reference tobacco products" means tobacco products or cigarettes made by a
12		manufacturer specifically for an accredited state college or university to be held
13		by the college or university until sale or transfer to a laboratory, hospital, medical
14		center, institute, college or university, manufacturer, or other institution;
15	<u>(12)</u>	"Resident wholesaler" means any person who purchases at least seventy-five
16		percent (75%) of all cigarettes purchased by the wholesaler directly from the
17		manufacturer on which the cigarette tax is unpaid, and who maintains an
18		established place of business in this state where the wholesaler attaches cigarette
19		tax evidence or receives untax-paid cigarettes;
20	<u>(13)</u>	"Retail distributor" means a retailer who has obtained a retail distributor's
21		license under Section 33 of this Act;
22	<u>(14)</u>	"Retailer" means any person who sells to a consumer or to any person for any
23		purpose other than resale;
24	<u>(15)</u>	"Sale" or "sell" means any transfer for a consideration, exchange, barter, gift,
25		offer for sale, advertising for sale, soliciting an order for cigarettes or tobacco
26		products, and distribution in any manner or by any means whatsoever;
27	(16)	"Sale at retail" means a sale to any person for any other purpose other than

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1		<u>resale;</u>
2	<u>(17)</u>	"Single unit" means a consumer-sized container, pouch, or package:
3		(a) Containing less than four (4) ounces of chewing tobacco by net weight;
4		(b) Produced by the manufacturer to be sold to consumers as a single unit and
5		not produced to be divided or sold separately; and
6		(c) Containing one (1) individual container, pouch, or package;
7	<u>(18)</u>	(a) "Snuff" means tobacco that:
8		1. Is finely cut, ground, or powdered; and
9		2. Is not for smoking.
10		(b) "Snuff" includes snus;
11	<u>(19)</u>	"Sub-jobber" means any person who purchases cigarettes from a resident
12		wholesaler, nonresident wholesaler, or unclassified acquirer licensed under
13		Section 33 of this Act on which the cigarette tax has been paid and makes them
14		available to retailers for resale. No person shall make cigarettes available to
15		retailers for resale unless the person certifies and establishes to the satisfaction of
16		the department that firm arrangements have been made to regularly supply at
17		least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the
18		regular course of business;
19	<u>(20)</u>	"Tax evidence" means any stamps, metered impressions, or other indicia
20		prescribed by the department by administrative regulation as a means of denoting
21		the payment of cigarette taxes;
22	(21)	"Tobacco products" means any smokeless tobacco products, smoking tobacco,
23		chewing tobacco, and any kind or form of tobacco prepared in a manner suitable
24		for chewing or smoking, or both, or any kind or form of tobacco that is suitable
25		to be placed in an individual's oral cavity, except cigarettes;
26	(22)	"Tobacco products tax" means the tax imposed by subsection (2) of Section 27 of
27		this Act;

1	<u>(23)</u>	''Tra	insporter" means any person transporting untax-paid cigarettes obtained
2		from	any source to any destination within this state, other than cigarettes
3		<u>tran</u> :	sported by the manufacturer thereof;
4	<u>(24)</u>	''Un	classified acquirer" means any person in this state who acquires cigarettes
5		from	any source on which the cigarette tax has not been paid, and who is not a
6		<u>perse</u>	on otherwise required to be licensed under Section 33 of this Act;
7	(25)	''Un	tax-paid cigarettes" means any cigarettes on which the cigarette tax imposed
8		by S	ection 27 of this Act has not been paid;
9	<u>(26)</u>	''Un	tax-paid tobacco products" means any tobacco products on which the
10		<u>toba</u>	cco products tax imposed by Section 27 of this Act has not been paid; and
11	(27)	''Vei	nding machine operator" means any person who operates one (1) or more
12		<u>ciga</u>	rette vending machines.
13		→ Se	ection 25. KRS 138.132 is amended to read as follows:
14	(1)	It is	the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid
15		toba	eco products held, owned, possessed, or in control of any person other than as
16		prov	ided in KRS 138.130 to 138.205 are contraband and subject to seizure and
17		forfe	iture as set out in this section.
18	(2)	(a)	If a retailer, who is not a licensed retail distributor, purchases tobacco
19			products from a licensed distributor and the purchase invoice does not contain
20			the separate identification and display of the $\underline{\textit{tobacco products}}\{excise\}$ tax $\{excise\}$
21			required by KRS 138.140(4)(d)3.], the retailer shall, within twenty-four (24)
22			hours, notify the department in writing.
23		(b)	The notification shall include the name and address of the person from whom
24			the tobacco products were purchased and a copy of the purchase invoice.
25		(c)	The tobacco products for which the required information was not included on
26			the invoice shall be retained by the retailer, and not sold, for a period of fifteen
27			(15) days after giving the proper notice as required by this subsection.

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1		(d)	After the fifteen (15) day period, the retailer may pay the tax due on the
2			tobacco products described in paragraph (c) of this subsection according to
3			administrative regulations promulgated by the department, and after which
4			may proceed to sell the tobacco products.
5	(3)	If a	retailer, who is not a licensed retail distributor, purchases tobacco products for
6		resa	le from a person not licensed under KRS 138.195(7), which is prohibited by
7		subs	section (2) of Section 27 of this Act[KRS 138.140(4)(c)], the retailer may not
8		sell	those tobacco products until the retailer applies for and is granted a retail
9		dist	ributor's license under KRS 138.195(7)(b).
10	(4)	If, ι	apon examination, the department determines that the retailer has failed to
11		com	aply with the provisions of subsection (3) of this section, the retailer shall pay all
12		tax a	and interest and applicable penalties due and the following shall apply:
13		(a)	For the first offense, an additional penalty shall be assessed equal to ten
14			percent (10%) of the tax due;
15		(b)	For a second offense within three (3) years or less of the first offense, an
16			additional penalty shall be assessed equal to twenty-five percent (25%) of the
17			tax due; and
18		(c)	For a third offense or subsequent offense within three (3) years or less of the
19			first offense, the tobacco products shall be contraband and subject to seizure
20			and forfeiture as provided in subsection (5) of this section.
21	(5)	(a)	Whenever a representative of the department finds contraband tobacco
22			products within the borders of this state, the tobacco products shall be
23			immediately seized and stored in a depository to be determined by the
24			representative.
25		(b)	At the time of seizure, the representative shall deliver to the person in whose

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custody the tobacco products are found a receipt for the seized products. The

receipt shall state on its face that any inquiry concerning any tobacco products

1		seized shall be directed to the commissioner of the Department of Revenue,
2		Frankfort, Kentucky.
3		(c) Immediately upon seizure, the representative shall notify the commissioner of
4		the nature and quantity of the tobacco products seized. Any seized tobacco
5		products shall be held for a period of twenty (20) days, and if after that period
6		no person has claimed the tobacco products as his or her property, the
7		commissioner shall cause the tobacco products to be destroyed.
8	(6)	All fixtures, equipment, materials, and personal property used in substantial
9		connection with the sale or possession of tobacco products involved in a knowing
10		and intentional violation of KRS 138.130 to 138.205 shall be contraband and
11		subject to seizure and forfeiture as follows:
12		(a) The department's representative shall seize the property and store the property
13		in a safe place selected by the representative; and
14		(b) The representative shall proceed as provided in KRS 138.165(2). The
15		commissioner shall cause the property to be sold after notice published
16		pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as
17		provided in KRS 138.165(2).
18	(7)	The owner or any person having an interest in the fixtures, materials, or personal
19		property that has been seized as provided by subsection (6) of this section may
20		apply to the commissioner for remission of the forfeiture for good cause shown. If it
21		is shown to the satisfaction of the commissioner that the owner or person having an
22		interest in the property was without fault, the department shall remit the forfeiture.
23	(8)	Any party aggrieved by an order entered under this section may appeal to the
24		Kentucky Claims Commission pursuant to KRS 49.220.

26 (1) (a) Every manufacturer, whether located in this state or outside this state, that 27 ships tobacco products to a distributor, retailer, retail distributor, or any other

→ Section 26. KRS 138.135 is amended to read as follows:

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1			pers	on located in this state shall file a report with the department on or before				
2			the twentieth day of each month identifying all such shipments made by the					
3			man	manufacturer during the preceding month. The department, within its				
4				discretion, may allow a manufacturer to file the report for periods other than				
5			mon	athly.				
6		(b)	The	reports shall identify:				
7		` '	1.	The names and addresses of the persons in this state to whom the				
8				shipments were made;				
9			2.	The quantities of tobacco products shipped, by type of product and				
10				brand; and				
11			3.	Any other information the department may require.				
12	(2)	Eacl	n lice	nsed distributor and each licensed retail distributor shall keep in each				
13		licer	sed p	sed place of business complete and accurate records for that place of business,				
14		inclu	ıding	ling:				
15		(a)	Item	nized invoices of:				
16			1.	Tobacco products purchased, manufactured, imported, or caused to be				
17				imported into this state from outside this state, or shipped or transported				
18				to other distributors or retailers in this state or outside this state,				
19				including type of product and brand;				
20			2.	All sales of tobacco products, including sales of tobacco products				
21				manufactured or produced in this state, including type of product and				
22				brand; and				
23			3.	All tobacco products transferred to retail outlets owned or controlled by				
24				the licensed distributor, including type of product and brand; and				
25		(b)	Any	other records required by the department.				
26	(3)	Eacl	n reta	iler of tobacco products shall keep complete and accurate records of all				
27		purc	hases	of tobacco products, including invoices that identify:				

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1		(a) The distributor's name and address;
2		(b) The name, quantity, and purchase price of the product purchased;
3		(c) The license number of the distributor licensed under KRS 138.195(7); and
4		(d) The tobacco products [excise] tax imposed [as required] by Section 27 of this
5		<u>Act</u> [KRS 138.140(4)(d)3].
6	(4)	All books, records, invoices, and documents required by this section shall be
7		preserved, in a form prescribed by the department, for not less than four (4) years
8		from the making of the records unless the department authorizes, in writing, the
9		destruction of the records.
10		→ Section 27. KRS 138.140 is amended to read as follows:
11	(1)	(a) A tax shall be paid on the sale of cigarettes within the state at a proportionate
12		rate of three cents (\$0.03) on each twenty (20) cigarettes.
13		(b) [(2)] Effective $\underline{July 1, 2018}$ [April 1, 2009], a surtax shall be paid in addition
14		to the tax levied in paragraph (a) of this subsection (1) of this section at a
15		proportionate rate of one dollar and six cents (\$1.06) [fifty six cents (\$0.56)]
16		on each twenty (20) cigarettes. [This tax shall be paid only once, at the same
17		time the tax imposed by subsection (1) of this section is paid.]
18		(c)[(3)] [Effective June 1, 2005,]A surtax shall be paid in addition to the tax
19		levied in paragraph (a) of this subsection [(1) of this section] and in addition
20		to the surtax levied by <u>paragraph (b) of this</u> subsection (2) of this section, at
21		a proportionate rate of one cent (\$0.01) on each twenty (20) cigarettes.[This
22		tax shall be paid at the same time the tax imposed by subsection (1) of this
23		section and the surtax imposed by subsection (2) of this section are paid.] The
24		revenues from this surtax shall be deposited in the cancer research institutions
25		matching fund created in KRS 164.043.
26		(d) The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be
27		paid at the time that the tax imposed by paragraph (a) of this subsection is

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1		<u>paid</u>	<u>l.</u>
2	<u>(2)</u> [(4)]	(a)	[Effective August 1, 2013,]An excise tax is hereby imposed upon every
3		distr	ributor for the privilege of selling tobacco products in this state at the
4		follo	owing rates:
5		1.	Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-
6			half (1-1/2) ounces or portion thereof by net weight sold;
7		2.	Upon chewing tobacco at the rate of:
8			a. Nineteen cents (\$0.19) per each single unit sold;
9			b. Forty cents (\$0.40) per each half-pound unit sold; or
10			c. Sixty-five cents (\$0.65) per each pound unit sold.
11			If the container, pouch, or package on which the tax is levied contains
12			more than sixteen (16) ounces by net weight, the rate that shall be
13			applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus
14			nineteen cents (\$0.19) for each increment of four (4) ounces or portion
15			thereof exceeding sixteen (16) ounces sold; and
16		3.	Upon tobacco products sold, at the rate of fifteen percent (15%) of the
17			actual price for which the distributor sells tobacco products, except snuff
18			and chewing tobacco, within the Commonwealth.
19	(b)	The	net weight posted by the manufacturer on the container, pouch, or
20		pack	cage or on the manufacturer's invoice shall be used to calculate the tax due
21		on s	nuff or chewing tobacco.
22	(c)	1.	A retailer located in this state shall not purchase tobacco products for
23			resale to consumers from any person within or outside this state unless
24			that person is a distributor licensed under KRS 138.195(7)(a) or the
25			retailer applies for and is granted a retail distributor's license under KRS
26			138.195(7)(b) for the privilege of purchasing <u>untax-paid</u> [untaxed]

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tobacco products and remitting the tax as provided in this paragraph.

1		2.	A licensed retail distributor of tobacco products shall be subject to the
2			excise tax as follows:
3			a. On purchases of <u>untax-paid</u> [untaxed] snuff, at the same rate levied
4			by paragraph (a)1. of this subsection;
5			b. On purchases of <u>untax-paid</u> [untaxed] chewing tobacco, at the
6			same rates levied by paragraph (a)2. of this subsection; and
7			c. On purchases of <u>untax-paid</u> [untaxed] tobacco products, except
8			snuff and chewing tobacco, fifteen percent (15%) of the total
9			purchase price as invoiced by the retail distributor's supplier.
10	(d)	1.	The licensed distributor that first possesses tobacco products for sale to a
11			retailer in this state or for sale to a person who is not licensed under
12			KRS 138.195(7) shall be the distributor liable for the tax imposed by
13			this subsection except as provided in subparagraph 2. of this paragraph.
14		2.	A distributor licensed under KRS 138.195(7)(a) may sell tobacco
15			products to another distributor licensed under KRS 138.195(7)(a)
16			without payment of the excise tax. In such case, the purchasing licensed
17			distributor shall be the distributor liable for the tax.
18		3.	A licensed distributor or licensed retail distributor shall:
19			a. Identify and display the distributor's or retail distributor's license
20			number on the invoice to the retailer; and
21			b. Identify and display the excise tax separately on the invoice to the
22			retailer. If the excise tax is included as part of the product's sales
23			price, the licensed distributor or licensed retail distributor shall list
24			the total excise tax in summary form by tax type with invoice
25			totals.
26		4.	It shall be presumed that the excise tax has not been paid if the licensed

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distributor or licensed retail distributor does not comply with

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1		subparagraph 3. of this paragraph.
2	(e)	No tax shall be imposed on tobacco products under this subsection that are not
3		within the taxing power of this state under the Commerce Clause of the
4		United States Constitution.
5	<u>(3)</u> [(5)]	(a) The taxes imposed by subsections (1) and $(2)[(4)]$ of this section:
6		<u>1.</u> Shall not apply to reference tobacco products: and [.
7		(6) The taxes imposed by subsections (1) to (4) of this section]
8		2. Shall be paid only once, regardless of the number of times the
9		cigarettes[,] or tobacco products may be sold.
10	<u>(b)</u>	The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this
11		section shall be reduced by:
12		1. Fifty percent (50%) on any product as to which a modified risk
13		tobacco product order is issued under 21 U.S.C. sec. 387k(g)(1); or
14		2. Twenty-five percent (25%) for any product as to which a modified risk
15		tobacco product order is issued under 21 U.S.C. sec. $387k(g)(2)$.
16	(4) A re	eference tobacco product shall carry a marking labeling the contents as a
17	rese	arch cigarette or a research tobacco product to be used only for tobacco-
18	<u>heal</u>	th research and experimental purposes and shall not be offered for sale, sold,
19	or d	istributed to consumers.
20	<u>(5)[(7)]</u>	The department may prescribe forms and promulgate administrative
21	regu	lations to execute and administer the provisions of this section.
22	<u>(6)[(8)]</u>	The General Assembly recognizes that increasing taxes on tobacco products
23	shou	ald reduce consumption, and therefore result in healthier lifestyles for
24	Ken	tuckians. The relative taxes on tobacco products proposed in this section reflect
25	the g	growing data from scientific studies suggesting that although smokeless tobacco
26	pose	es some risks, those health risks are significantly less than the risks posed by
27	othe	er forms of tobacco products. Moreover, the General Assembly acknowledges

1		that some in the public health community recognize that tobacco harm reduction						
2		should be a complementary public health strategy regarding tobacco products.						
3		Taxing tobacco products according to relative risk is a rational tax policy and may						
4		well serve the public health goal of reducing smoking-related mortality and						
5		morbidity and lowering health care costs associated with tobacco-related disease.						
6	<u>(7)</u>	Any person subject to the taxes imposed under subsections (1) and (2) of this						
7		section that:						
8		(a) Files an application related to a modified risk tobacco product shall report						
9		to the department that an application has been filed within thirty (30) days						
10		of that filing; and						
11		(b) Receives an order authorizing the marketing of a modified risk tobacco						
12		product shall report to the department that an authorizing order has been						
13		<u>received.</u>						
14	<u>(8)</u>	Upon receipt of the information required by subsection (7)(b) of this section, the						
15		department shall reduce the tax imposed on the modified risk tobacco product as						
16		required by subsection (3)(b) of this section on the first day of the calendar month						
17		following the expiration of forty-five (45) days following receipt of the						
18		information required by subsection (7)(b) of this section.						
19		→ Section 28. KRS 138.143 is amended to read as follows:						
20	(1)	Every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and						
21		unclassified acquirer shall:						
22		(a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax						
23		stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or						
24		in their control at 11:59 p.m. on <u>June 30, 2018[March 31, 2009]</u> . Inventory of						
25		cigarettes in vending machines may be accomplished by:						
26		1. Taking an actual physical inventory;						
27		2. Estimating the cigarettes in vending machines by reporting one-half						

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1				(1/2)) of the normal fill capacity of the machines, as reflected in
2				indiv	vidual inventory records maintained for vending machines; or
3			3.	Usin	ng a combination of the methods prescribed in subparagraphs 1. and
4				2. of	f this paragraph;
5		(b)	File	a retu	arn with the department on or before <u>July 10, 2018</u> [April 10, 2009],
6			shov	ving t	he entire wholesale and retail inventories of cigarettes in packages
7			bear	ing K	entucky tax stamps, and all unaffixed Kentucky cigarette tax stamps
8			poss	essed	by them or in their control at 11:59 p.m. on <u>June 30, 2018</u> [March
9			31, 2	2009] ;	, and
10		(c)	Pay	a floc	or stock tax at a proportionate rate equal to fifty cents (\$0.50) [thirty
11			cents	; (\$0. :	30)] on each twenty (20) cigarettes in packages bearing a Kentucky
12			tax s	tamp	and unaffixed Kentucky tax stamps in their possession or control at
13			11:5	9 p.m	. on <u>June 30, 2018[March 31, 2009]</u> .
14	(2)	Eve	ry reta	iler ar	nd sub-jobber shall:
15		(a)	1.	Take	e a physical inventory of all units of snuff possessed by them or in
16				their	control at 11:59 p.m. on March 31, 2009;
17			2.	File	a return with the department on or before April 10, 2009, showing
18				the o	entire inventory of snuff possessed by them or in their control at
19				11:5	9 p.m. on March 31, 2009; and
20			3.	Pay	a floor stock tax at a proportionate rate equal to nine and one-half
21				cent	s (\$0.095) on each unit of snuff in their possession or control at
22				11:5	9 p.m. on March 31, 2009; and
23		(b)	1.	a.	Take a physical inventory of all other tobacco products possessed
24					by them or in their control at 11:59 p.m. on March 31, 2009;
25				b.	File a return with the department on or before April 10, 2009,
26					showing the entire inventories of other tobacco products possessed
27					by them or in their control at 11:59 p.m. on March 31, 2009; and

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1			c.	Pay a floor stock tax at a proportionate rate equal to seven and
2				one-half percent (7.5%) on the purchase price of other tobacco
3				products in their possession or control at 11:59 p.m. on March 31,
4				2009.
5			2. a.	As used in this paragraph, "purchase price" means the actual
6				amount paid for the other tobacco products subject to the tax
7				imposed by this paragraph.
8			b.	If the retailer or sub-jobber cannot determine the actual amount
9				paid for each item of other tobacco product, the retailer or sub-
10				jobber may use as the purchase price the amount per unit paid as
11				reflected on the most recent invoice received prior to April 1,
12				2009, for the same category of other tobacco product.
13			c.	To prevent double taxation, if the invoice used by the retailer or
14				sub-jobber to determine the purchase price of the other tobacco
15				product does not separately state the tax paid by the wholesaler,
16				the retailer or sub-jobber may reduce the amount paid per unit by
17				seven and one-half percent (7.5%).
18	(3)	(a)	The taxes	imposed by this section may be paid in three (3) installments. The
19			first insta	llment, in an amount equal to at least one-third (1/3) of the total
20			amount d	ue, shall be remitted with the return provided by the department on
21			or before	July 10, 2018[April 10, 2009]. The second installment, in an amount
22			that bring	s the total amount paid to at least two-thirds (2/3) of the total amount
23			due, shall	be remitted on or before August 10, 2018 [May 10, 2009]. The third
24			installmer	nt, in an amount equal to the remaining balance, shall be remitted on
25			or before	<u>September 10, 2018</u> [June 10, 2009].
26		(b)	Interest sl	nall not be imposed against any outstanding installment payment not

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yet due from any retailer, sub-jobber, resident wholesaler, nonresident

1			wholesaler, or unclassified acquirer who files the return and makes payments
2			as required under this section.
3		(c)	Any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or
4			unclassified acquirer who fails to file a return or make a payment on or before
5			the dates provided in this section shall, in addition to the tax, pay interest at
6			the tax interest rate as defined in KRS 131.010(6) from the date on which the
7			return was required to be filed.
8		→ S	ection 29. KRS 138.146 is amended to read as follows:
9	(1)	The	cigarette tax[imposed by KRS 138.130 to 138.205] shall be due when any
10		licer	nsed wholesaler or unclassified acquirer takes possession within this state of
11		unta	x-paid cigarettes.
12	(2)	<u>(a)</u>	The <u>cigarette</u> tax shall be paid by the purchase of stamps by a resident
13			wholesaler within forty-eight (48) hours after the wholesaler receives the
14			cigarettes.
15		<u>(b)</u>	A stamp shall be affixed to each package of an aggregate denomination not
16			less than the amount of the <i>cigarette</i> tax on the package.
17		<u>(c)</u>	The affixed stamp shall be prima facie evidence of payment of the cigarette
18			tax.
19		<u>(d)</u>	Unless stamps have been previously affixed, they shall be affixed by each
20			resident wholesaler prior to the delivery of any cigarettes to a retail location or
21			any person in this state.
22		<u>(e)</u>	The evidence of $\underline{\textit{cigarette}}$ tax payment shall be affixed to each individual
23			package of cigarettes by a nonresident wholesaler prior to the introduction or
24			importation of the cigarettes into the territorial limits of this state.
25		<u>(f)</u>	The evidence of <i>cigarette</i> tax payment shall be affixed by an unclassified
26			acquirer within twenty-four (24) hours after the cigarettes are received by the

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unclassified acquirer.

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1	(3)	<u>(a)</u>	The department shall by regulation prescribe the form of cigarette tax
2			evidence, the method and manner of the sale and distribution of cigarette tax
3			evidence, and the method and manner that tax evidence shall be affixed to the
4			cigarettes.
5		<u>(b)</u>	All cigarette tax evidence prescribed by the department shall be designed and
6			furnished in a fashion to permit identification of the person that affixed the
7			cigarette tax evidence to the particular package of cigarettes, by means of
8			numerical rolls or other mark on the cigarette tax evidence.
9		<u>(c)</u>	The department shall maintain for at least three (3) years information
10			identifying the person that affixed the cigarette tax evidence to each package
11			of cigarettes. This information shall not be kept confidential or exempt from
12			disclosure to the public through open records.
13	(4)	(a)	Units of cigarette tax evidence shall be sold at their face value, but the
14			department shall allow as compensation to any licensed wholesaler an amount
15			of tax evidence equal to thirty cents (\$0.30) face value for each three dollars
16			(\$3) of tax evidence purchased at face value and attributable to the tax
17			assessed in subsection (1)(a) of Section 27 of this Act[KRS-138.140(1)]. No
18			compensation shall be allowed for tax evidence purchased at face value
19			attributable to the <u>surtaxes imposed</u> [tax assessed] in <u>paragraphs</u> (b) or (c) of
20			subsection (1) of Section 27 of this Act[KRS 138.140(2) or (3)].
21		(b)	[1. Notwithstanding the provisions of paragraph (a) of this subsection, for
22			purposes of offsetting the costs associated with paying the tax imposed
23			under KRS 138.140(2), the department shall allow a limited amount of
24			compensation in addition to the compensation provided in paragraph (a)
25			of this subsection for a restricted time to any licensed wholesaler. The
26			additional compensation shall be an amount of tax evidence, attributable

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to the tax assessed in KRS 138.140(1), equal to twelve cents (\$0.12)

face value for each three dollars (\$3) of tax evidence purchased at face

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2			value on or after June 1, 2005, and before December 1, 2005. The
3			additional compensation provided shall sunset 12 midnight November
4			30, 2005.
5			2. During the six (6) month period beginning on June 1, 2005, and ending
6			before December 1, 2005, no licensed wholesaler or stamping agent
7			shall receive the additional compensation provided under subparagraph
8			1. of this subsection on the purchase of an amount of stamps over one
9			hundred fifty percent (150%) of the total number of stamps purchased by
10			the same licensed wholesaler or stamping agent for the period beginning
11			on December 1, 2004, and ending before May 31, 2005.
12		(c)	The department shall have the power to withhold compensation as provided
13			in <u>paragraph</u> [paragraphs] (a) [and (b)]of this subsection from any licensed
14			wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205
15			or any <u>administrative</u> regulations promulgated thereunder. Any refund or
16			credit for unused cigarette tax evidence shall be reduced by the amount
17			allowed as compensation at the time of purchase.
18 ((5)	<u>(a)</u>	No tax evidence may be affixed, or used in any way, by any person other than
19			the person purchasing the evidence from the department.
20		<u>(b)</u>	Tax evidence may not be transferred or negotiated, and may not, by any
21			scheme or device, be given, bartered, sold, traded, or loaned to any other
22			person.
23		<u>(c)</u>	Unaffixed tax evidence may be returned to the department[-] for credit or
24			refund for any reason satisfactory to the department.
25 ((6)	<u>(a)</u>	In the event any retailer <u>receives[shall receive]</u> into his possession cigarettes
26			to which evidence of Kentucky tax payment is not properly affixed, the
27			<u>retailer</u> [he] shall, within twenty-four (24) hours, notify the department[-] of

1			the receipt[such fact].
2		<u>(b)</u>	The notification to the department[Such notice] shall be in writing,
3			$\underline{stating}[\text{and shall give}]$ the name of the person from whom $\underline{the}[\text{such}]$ cigarettes
4			were received[,] and the quantity of <u>those</u> [such] cigarettes.[, and such]
5		<u>(c)</u>	<i>The</i> written notice may be:
6			<u>1.</u> Given to any field agent of the department; or [. The written notice may
7			also be]
8			<u>2.</u> Directed to the commissioner of the Department of Revenue, Frankfort,
9			Kentucky.
10		<u>(d)</u>	If <u>the[such]</u> notice is given by means of the United States mail, it shall be sent
11			by certified mail.
12		<u>(e)</u>	Any such cigarettes shall be retained by <u>the[such]</u> retailer, and not sold, for a
13			period of fifteen (15) days after giving the notice provided in this subsection.
14		<u>(f)</u>	The retailer may, at his option, pay the tax due on <u>those</u> [any such] cigarettes
15			according to <u>administrative</u> [rules and] regulations[to be] prescribed by the
16			department, and proceed to sell <u>those cigarettes</u> [the same] after <u>the[such]</u>
17			payment.
18	(7)	<u>(a)</u>	Cigarettes stamped with the cigarette tax evidence of another state shall at no
19			time be commingled with cigarettes on which the Kentucky cigarette tax
20			evidence has been affixed.[, but]
21		<u>(b)</u>	Any licensed wholesaler, licensed sub-jobber, or licensed vending machine
22			operator may hold cigarettes stamped with the tax evidence of another state
23			for any period of time, subsection (2) of this section notwithstanding.
24		→ S	ection 30. KRS 138.155 is amended to read as follows:
25	In li	eu of	the affixing of cigarette tax evidence to individual packages of cigarettes as the
26	mea	ns of	denoting payment of the cigarette tax[imposed by KRS 138.130 to 138.205],
27	the	depart	ment may prescribe, by an administrative regulation [rules and regulations]

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1 sufficient to protect the revenue of this state, a method of reporting, payment, and 2 collection of the cigarette [such] tax, without the affixing of tax evidence to individual 3 packages of cigarettes. In the event such a system is adopted by administrative 4 regulation, no compensation for reporting for the purpose of such tax in excess of two 5 percent (2%) of the tax due shall be allowed to any person.

→ Section 31. KRS 138.165 is amended to read as follows:

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- 7 It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-(1) 8 paid cigarettes held, owned, possessed, or in control of any person other than as 9 provided in KRS 138.130 to 138.205 are contraband and subject to seizure and 10 forfeiture as set out in this section.
- 11 (2) Whenever any peace officer of this state, or any representative of the 12 department, finds any untax-paid cigarettes within the borders of this state in 13 the possession of any person other than a licensee authorized to possess untax-14 paid cigarettes by the provisions of KRS 138.130 to 138.205, those[such] 15 cigarettes shall be immediately seized and stored in a depository to be selected 16 by the officer or agent.
 - At the time of seizure, the officer or agent shall deliver to the person in whose **(b)** custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
 - (c) Immediately upon seizure, the officer or agent shall notify the commissioner of the department of Revenue of the nature and quantity of the goods seized.
 - Any seized goods shall be held for a period of twenty (20) days and if after (d) that [such] period no person has claimed the cigarettes [as his property], the commissioner shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale,

from the sale shall be paid into the Kentucky State Treasury for general fund
purposes.

- It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the department finds any vending machine within the borders of this state dispensing untax-paid cigarettes, the officer or agent[he] shall immediately seize the vending machine and store the vending machine [same] in a safe place selected by the officer or agent[him]. The officer or agent[He] shall[thereafter] proceed as provided in subsection (2) of this section and the commissioner of the department of Revenuel shall cause the vending machine to be sold, and the proceeds applied, as *established*[set out] in subsection (2) of this section.
- No untax-paid cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. If any peace officer or agent of the department finds any such motor vehicle, the vehicle shall be seized immediately and stored in a safe place. The peace officer or agent of the department shall [thereafter] proceed as provided in subsection (2) of this section and the commissioner of the department of Revenue shall cause the motor vehicle to be sold, and the proceeds applied, as established[set out] in subsection (2) of this section.
- The owner or any person having an interest in any goods, machines or (5) (a) vehicles seized as provided under subsections (1) to (4) of this section may apply to the commissioner of the department of Revenue for remission of the forfeiture for good cause shown.

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1	<u>(b)</u>	If it is shown to the satisfaction of the department [of Revenue] that the owner
2		was without fault in the possession, dispensing, or transportation of the untax-
3		paid cigarettes, the department[of Revenue] shall remit the forfeiture.

- (c) If the department of Revenue determines that the possession, dispensing, or transportation of untax-paid cigarettes was willful or intentional, the department of Revenue may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by the department of Revenue of not more than fifty percent (50%) of the value of the property forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.
- 11 (6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky
 12 Claims Commission pursuant to KRS 49.220.
- → Section 32. KRS 138.183 is amended to read as follows:

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- 14 (1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.130 to 138.205 shall be personally and individually liable, both jointly and severally, for the *cigarette tax and the tobacco products tax*[taxes imposed under KRS 138.130 to 138.205].
- 20 (2) Corporate dissolution, withdrawal of the corporation from the state, or the cessation 21 of holding any corporate office shall not discharge the liability of any person. The 22 personal and individual liability shall apply to every person holding a corporate 23 office at the time the tax becomes or became due.
- Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or KRS 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership or any other person holding any

1	equivalent office of a limited liability company, limited liability partnership or
2	limited liability limited partnership subject to the provisions of KRS 138.130 to
3	138.205 shall be personally and individually liable, both jointly and severally, for
4	the cigarette tax and the tobacco products tax[imposed under KRS 138.130 to
5	138.205] .

- 6 (4) Dissolution, withdrawal of the limited liability company, limited liability
 7 partnership, or limited liability limited partnership from the state, or the cessation of
 8 holding any office shall not discharge the liability of any person. The personal and
 9 individual liability shall apply to every manager of a limited liability company,
 10 partner of a limited liability partnership or general partner of a limited liability
 11 limited partnership at the time the tax becomes or became due.
- 12 (5) No person shall be personally and individually liable under this section who had no
 13 authority to collect, truthfully account for, or pay over any *cigarette tax or tobacco*14 *products* tax[imposed by KRS 138.130 to 138.205] at the time the *taxes*[tax]
 15 imposed *become*[becomes] or became due.
- 16 (6) "Taxes" as used in this section include interest accrued at the rate provided by KRS
 17 131.183, all applicable penalties imposed under the provisions of this chapter, and
 18 all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to
 19 131.445, and 131.990.
- 20 Section 33. KRS 138.195 is amended to read as follows:
- 21 (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.
- 26 (b) No person shall act as a distributor of tobacco products without first obtaining a license from the department as set out in this section.

1		(c)	For licenses effective for periods beginning on or after July 1, 2015, no
2			individual, entity, or any other group or combination acting as a unit may be
3			eligible to obtain a license under this section if the individual, or any partner,
4			director, principal officer, or manager of the entity or any other group or
5			combination acting as a unit has been convicted of or entered a plea of guilty
6			or nolo contendere to:
7			1. A crime relating to the reporting, distribution, sale, or taxation of
8			cigarettes or tobacco products; or
9			2. A crime involving fraud, falsification of records, improper business
10			transactions or reporting;
11			for ten (10) years from the expiration of probation or final discharge from
12			parole or maximum expiration of sentence.
13	(2)	<u>(a)</u>	Each resident wholesaler shall secure a separate license for each place of
14			business at which cigarette tax evidence is affixed or at which cigarettes on
15			which the Kentucky cigarette tax has not been paid are received.
16		<u>(b)</u>	Each nonresident wholesaler shall secure a separate license for each place of
17			business at which evidence of Kentucky cigarette tax is affixed or from where
18			Kentucky cigarette tax is reported and paid.
19		<u>(c)</u>	Each [Such a] license[or licenses] shall be secured on or before July 1 of
20			each year.[, and]
21		<u>(d)</u>	Each licensee shall pay the sum of five hundred dollars (\$500) for each[such]
22			year, or portion thereof, for which <u>each</u> [such] license is secured.
23	(3)	<u>(a)</u>	Each sub-jobber shall secure a separate license for each place of business from
24			which[Kentucky tax-paid] cigarettes, upon which the cigarette tax has been
25			<u>paid</u> , are made available to retailers, whether <u>the</u> [such] place of business is
26			located within or without this state.
27		(b)	Each[Such] license or licenses shall be secured on or before July 1 of each

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1			year <u>.[, and]</u>
2		<u>(c)</u>	Each licensee shall pay the sum of five hundred dollars (\$500) for each[such]
3			year, or portion thereof, for which <u>each</u> [such] license is secured.
4	(4)	<u>(a)</u>	Each vending machine operator shall secure a license for the privilege of
5			dispensing[Kentucky tax paid] cigarettes, on which the cigarette tax has
6			been paid, by vending machines.
7		<u>(b)</u>	<u>Each</u> [Such] license shall be secured on or before July 1 of each year.[, and]
8		<u>(c)</u>	Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or
9			portion thereof, for which <u>each</u> [such] license is secured.
10		<u>(d)</u>	No vending machine shall be operated within this Commonwealth without
11			having prominently affixed thereto the name of its operator and together
12			with] the license number assigned to that [such] operator by the department.
13		<u>(e)</u>	The department shall prescribe by administrative regulation the manner in
14			which the information shall be affixed to the vending machine.
15	(5)	<u>(a)</u>	Each transporter shall secure a license for the privilege of transporting
16			cigarettes within this state.
17		<u>(b)</u>	Each [Such] license shall be secured on or before July 1 of each year. [, and]
18		<u>(c)</u>	Each licensee shall pay the sum of fifty dollars (\$50) for each[such] year, or
19			portion thereof, for which <u>each</u> [such] license is secured.
20		<u>(d)</u>	No transporter shall transport any cigarettes without having in actual
21			possession an invoice or bill of lading therefor, showing:
22			<u>1.</u> The name and address of the consignor and consignee: $[\cdot, \cdot]$
23			<u>2.</u> The date acquired by the transporter: [,]
24			$\underline{3}$. The name and address of the transporter: $(\frac{1}{2}, \frac{1}{2})$
25			4. The quantity of cigarettes being transported; and [, together with]
26			<u>5.</u> The license number assigned to <u>the[such]</u> transporter by the department.
27	(6)	Eacl	n unclassified acquirer shall secure a license for the privilege of acquiring

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cigarettes on which the Kentucky cigarette tax has not been paid. The Such
license shall be secured on or before July 1 of each year. [, and] Each licensee shall
pay the sum of fifty dollars (\$50) for each[such] year, or portion thereof, for which
<u>the</u> [such] license is secured.

- (a) 1. Each distributor shall secure a license for the privilege of selling tobacco products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which the license is secured.
 - a. A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.
 - b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars (\$450) for each year, or portion thereof, for which the license is secured.
 - 3. The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which the license is secured, and the licensee shall be subject to the excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.
- (b) The department may, upon application, grant a retail distributor's license to a

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(7)

1			retailer for the privilege of purchasing tobacco products from a distributor not
2			licensed by the department. If the department grants the license, the licensee
3			shall pay the sum of one hundred dollars (\$100) for each year, or portion
4			thereof, for which the license is secured.
5	(8)	Noth	ing in KRS 138.130 to 138.205 shall be construed to prevent the department
6		from	requiring a person to purchase more than one (1) license if the nature of
7		<u>that</u>	such] person's business is so diversified as to justify the[such] requirement.
8	(9)	(a)	The department may by administrative regulation require any person
9			requesting a license or holding a license under this section to supply such
10			information concerning his business, sales or any privilege exercised, as is
11			deemed reasonably necessary for the regulation of <u>the</u> [such] licensees, and to
12			protect the revenues of the state.
13		(b)	Failure on the part of the applicant or licensee to:
14			<u>1.</u> Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
15			248.754 or any administrative regulations promulgated thereunder; [,] or [
16			to]
17			<u>2.</u> Permit an inspection of premises, machines, or vehicles by an authorized
18			agent of the department at any reasonable time;
19			shall be grounds for the denial or revocation of any license issued by the
20			department, after due notice and a hearing by the department.
21		(c)	The commissioner may assign a time and place for the hearing and may
22			appoint a conferee who shall conduct a hearing, receive evidence, and hear
23			arguments.
24		(d)	The conferee shall thereupon file a report with the commissioner together with
25			a recommendation as to the denial or revocation of the license.
26		(e)	From any denial or revocation made by the commissioner on the report, the

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licensee may prosecute an appeal to the Kentucky Claims Commission

1 pursuant to KRS 49.22

(f) Any person whose license has been revoked for the willful violation of any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder shall not be entitled to any license provided for in this section, or have any interest in any license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of two (2) years after the revocation.

- (10) No license issued pursuant to this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- (11) Every manufacturer located or doing business in this state and the first person to import cigarettes into this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit to the department monthly reports of such shipments. All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.
- 19 (12) No person licensed under this section except nonresident wholesalers shall either 20 sell to or purchase from any other such licensee untax-paid cigarettes.
- 21 (13) (a) Licensed distributors of tobacco products shall pay and report the *tobacco*22 *products* tax{ levied by KRS 138.140(4)(a)} on or before the twentieth day of
 23 the calendar month following the month in which the possession or title of the
 24 tobacco products are transferred from the licensed distributor to retailers or
 25 consumers in this state, as the case may be.
 - (b) Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products from a person who is not a

1			distributor licensed under KRS 138.195(7)(a) shall report and pay the <u>tobacco</u>		
2		products tax[levied by KRS 138.140(4)(c)2.] on or before the twentieth day			
3		of the calendar month following the month in which the products are acquire			
4			by the licensed retail distributors.		
5		(c) If the distributor or retail distributor timely reports and pays the tax due,			
6			distributor or retail distributor may deduct an amount equal to one percent		
7			(1%) of the tax due.		
8		(d)	The department shall promulgate administrative regulations setting forth the		
9			details of the reporting requirements.		
10	(14)	A tax	A tax return shall be filed for each reporting period whether or not tax is due.		
11	(15)	Any	Any license issued by the department under this section shall not be construed to		
12		waiv	waive or condone any violation that occurred or may have occurred prior to the		
13		issua	ssuance of the license and shall not prevent subsequent proceedings against the		
14		licen	licensee.		
15	(16)	(a)	The department may deny the issuance of a license under this section if:		
16			1. The applicant has made any material false statement on the application		
17			for the license; or		
18			2. The applicant has violated any provision of KRS 131.600 to 131.630,		
19			138.130 to 138.205, 248.754, or 248.756 or any administrative		
20			regulations promulgated thereunder.		
21		(b)	If the department denies the applicant a license under this section, the		
22			department shall notify the applicant of the grounds for the denial, and the		
23			applicant may request a hearing and appeal the denial as provided in		
24			subsection (9) of this section.		
25		→ Se	ection 34. KRS 164.043 is amended to read as follows:		
26	(1)	Ther	e is hereby created in the State Treasury a cancer research matching fund		

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designated as the "cancer research institutions matching fund." The fund shall be

1	administered by the Council for Postsecondary Education. For tax periods
2	beginning on or after June 1, 2005, the one-cent (\$0.01) surtax collected under
3	subsection (1)(c) of Section 27 of this Act[KRS 138.140(2)] shall be deposited in
4	the fund and shall be made available for matching purposes to the following
5	universities for cancer research:

- 6 (a) One-half (1/2) of the moneys deposited in the fund shall be made available to 7 the University of Kentucky; and
- 8 (b) One-half (1/2) of the moneys deposited in the fund shall be made available to the University of Louisville.
- 10 (2) All interest earned on moneys in the fund shall be credited to the fund.
- 11 (3) Any moneys remaining in the fund at the end of the fiscal year shall lapse to the general fund.
- 13 (4) To receive the funds, the universities shall provide dollar-for-dollar matching funds.
- The matching funds shall come from external sources to be eligible for the state
- match. External source contributions are those that originate outside the university
- and its affiliated corporations. The matching funds shall be newly generated to be
- 17 eligible for state match. Newly generated contributions are those received by the
- university after April 1, 2005.
- 19 (5) Moneys transferred to the fund pursuant to subsection (1) of this section are hereby 20 appropriated for purposes set forth in this section.
- 21 (6) The following funds are not eligible for state match:
- 22 (a) Funds received from federal, state, and local government sources; and
- (b) General fund and student-derived revenues.
- → Section 35. KRS 365.270 is amended to read as follows:
- As used in KRS 365.260 to 365.380, unless the context otherwise requires:
- 26 (1) "Person" means and includes any individual, firm, association, company,
- 27 partnership, corporation, joint stock company, club, agency, syndicate, the

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1 Commonwealth of Kentucky and any municipal corporation or other political 2 subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

- 3 (2) "Commissioner" means the commissioner of the Department of Revenue of the Commonwealth of Kentucky.
- 5 (3) "Department" means the Department of Revenue.
- 6 (4) "Cigarettes" means and includes any roll for smoking made wholly or in part of
- 7 tobacco, irrespective of size or shape and whether or not the tobacco is flavored,
- 8 adulterated, or mixed with any other ingredient, the wrapper or cover of which is
- 9 made of paper or any other substance or material, excepting tobacco.
- 10 (5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes
- cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber,
- subjobber as defined in KRS 138.130[(12)], broker, agent, or other person, whether
- or not enumerated in this subsection, who sells or distributes cigarettes.
- 14 (6) "Retailer" means and includes any person who sells cigarettes in this state to a
- 15 consumer or to any person for any purpose other than resale.
- 16 (7) "Sale" or "sell" means any transfer for consideration or gift.
- 17 (8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes
- any sale made in the ordinary course of trade or usual conduct of the wholesaler's
- business to a retailer for the purpose of resale.
- 20 (9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for
- 21 consumption or use made in the ordinary course of trade or usual conduct of the
- seller's business.
- 23 (10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or
- retailer, as the case may be, less all trade discounts, except customary cash
- discounts, plus the full face value of any stamps or any tax which may be required
- by any cigarette tax act of this state or political subdivision thereof, now in effect or
- 27 hereafter enacted, if not already included in the invoice cost of the cigarettes to the

wholesaler or retailer, as the case may be.

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"Cost to wholesaler" means the basic cost of the cigarettes involved to the (11) (a) wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler 10 shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the 12 wholesaler's total sales for the same period and the product thereof shall be the 13 cost of doing cigarette business.

> In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and

1		advertising. The cost of doing business by the retailer shall then be multiplied
2		by the fraction obtained through dividing the retailer's cigarette sales for the
3		preceding six (6) months by the retailer's total sales for the same period and
4		the product thereof shall be the cost of doing cigarette business.
5	(b)	In the absence of proof of a lesser or higher cost of doing cigarette business by
6		the retailer making the sale, the cost of doing cigarette business by the retailer
7		shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the
8		retailer.
9	→ S	ection 36. KRS 139.010 is amended to read as follows:
10	As used in	n this chapter, unless the context otherwise provides:
11	(1) <u>"Ad</u>	lmissions'' means the fees paid for:
12	<u>(a)</u>	The right of entrance to a display, program, sporting event, music concert,
13		performance, play, show, movie, exhibit, fair, or other entertainment or
14		amusement event or venue; and
15	<u>(b)</u>	The privilege of using facilities or participating in an event or activity,
16		including but not limited to:
17		1. Bowling centers;
18		2. Skating rinks;
19		3. Health spas;
20		4. Swimming pools;
21		5. Tennis courts;
22		6. Weight training facilities;
23		7. Fitness and recreational sports centers; and
24		8. Golf courses, both public and private;
25		regardless of whether the fee paid is per use or in any other form, including
26		but not limited to an initiation fee, monthly fee, membership fee, or
27		combination thereof;

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1	<u>(2)</u> "Ad	"Advertising and promotional direct mail" means direct mail the primary purpose of				
2	which	which is to attract public attention to a product, person, business, or organization, o				
3	to attempt to sell, popularize, or secure financial support for a product, person,					
4	business, or organization. As used in this definition, "product" means tangible					
5	pers	personal property, an item transferred electronically, or a service;				
6	(3)[(2)] "Business" includes any activity engaged in by any person or caused to					
7	enga	engaged in by that person with the object of gain, benefit, or advantage, either direct				
8	or ir	ndirect;				
9	<u>(4)</u> [(3)]	"Commonwealth" means the Commonwealth of Kentucky;				
10	<u>(5)</u> [(4)]	"Department" means the Department of Revenue;				
11	<u>(6)</u> [(5)]	(a) "Digital audio-visual works" means a series of related images which,				
12		when shown in succession, impart an impression of motion, with				
13		accompanying sounds, if any.				
14	(b)	"Digital audio-visual works" includes movies, motion pictures, musical				
15		videos, news and entertainment programs, and live events.				
16	(c)	"Digital audio-visual works" shall not include video greeting cards, video				
17		games, and electronic games;				
18	<u>(7)[(6)]</u>	(a) "Digital audio works" means works that result from the fixation of a				
19		series of musical, spoken, or other sounds.				
20	(b)	"Digital audio works" includes ringtones, recorded or live songs, music,				
21		readings of books or other written materials, speeches, or other sound				
22		recordings.				
23	(c)	"Digital audio works" shall not include audio greeting cards sent by electronic				
24		mail;				
25	<u>(8)</u> [(7)]	(a) "Digital books" means works that are generally recognized in the				
26		ordinary and usual sense as books, including any literary work expressed in				
27		words, numbers, or other verbal or numerical symbols or indicia if the literary				

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1		work is generally recognized in the ordinary or usual sense as a book.
2	(b)	"Digital books" shall not include digital audio-visual works, digital audio
3		works, periodicals, magazines, newspapers, or other news or information
4		products, chat rooms, or Web logs;
5	<u>(9)[(8)]</u>	(a) "Digital code" means a code which provides a purchaser with a right to
6		obtain one (1) or more types of digital property. A "digital code" may be
7		obtained by any means, including electronic mail messaging or by tangible
8		means, regardless of the code's designation as a song code, video code, or
9		book code.
10	(b)	"Digital code" shall not include a code that represents:
11		1. A stored monetary value that is deducted from a total as it is used by the
12		purchaser; or
13		2. A redeemable card, gift card, or gift certificate that entitles the holder to
14		select specific types of digital property;
15	<u>(10)</u> [(9)]	(a) "Digital property" means any of the following which is transferred
16		electronically:
17		1. Digital audio works;
18		2. Digital books;
19		3. Finished artwork;
20		4. Digital photographs;
21		5. Periodicals;
22		6. Newspapers;
23		7. Magazines;
24		8. Video greeting cards;
25		9. Audio greeting cards;
26		10. Video games;
27		11. Electronic games; or

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1		12. Any digital code related to this property.
2	(b)	"Digital property" shall not include digital audio-visual works or satellite
3		radio programming;
4	<u>(11)</u> [(10)]	(a) "Direct mail" means printed material delivered or distributed by United
5		States mail or other delivery service to a mass audience or to addressees on a
6		mailing list provided by the purchaser or at the direction of the purchaser
7		when the cost of the items are not billed directly to the recipient.
8	(b)	"Direct mail" includes tangible personal property supplied directly or
9		indirectly by the purchaser to the direct mail retailer for inclusion in the
10		package containing the printed material.
11	(c)	"Direct mail" does not include multiple items of printed material delivered to
12		a single address;
13	(12) ''Dir	rectly used in the manufacturing or industrial processing process" means the
14	proc	ess within a plant facility that commences with the movement of raw
15	<u>mate</u>	erials from storage into a continuous, unbroken, integrated process and ends
16	whei	n the finished product is packaged and ready for sale;
17	(13) "Ext	tended warranty services" means services provided through a service contract
18	agre	ement between the contract provider and the purchaser where the purchaser
19	agre	es to pay compensation for the contract and the provider agrees to repair,
20	<u>repla</u>	ace, support, or maintain tangible personal property or digital property
21	<u>acco</u>	rding to the terms of the contract if:
22	<u>(a)</u>	The service contract agreement is sold or purchased on or after July 1,
23		2018; and
24	<u>(b)</u>	The tangible personal property or digital property for which the service
25		contract agreement is provided is subject to tax under this chapter or under
26		<u>KRS 138.460;</u>
27	<u>(14)[(11)]</u>	(a) "Finished artwork" means final art that is used for actual reproduction by

1		phot	omechanical or other processes or for display purposes.
2	(b)	"Fin	ished artwork" includes:
3		1.	Assemblies;
4		2.	Charts;
5		3.	Designs;
6		4.	Drawings;
7		5.	Graphs;
8		6.	Illustrative materials;
9		7.	Lettering;
10		8.	Mechanicals;
11		9.	Paintings; and
12		10.	Paste-ups;
13	<u>(15)</u> [(12)]	(a)	"Gross receipts" and "sales price" mean the total amount or
14		cons	ideration, including cash, credit, property, and services, for which
15		tang	ible personal property, digital property, or services are sold, leased, or
16		rente	ed, valued in money, whether received in money or otherwise, without any
17		dedu	action for any of the following:
18		1.	The retailer's cost of the tangible personal property or digital property
19			sold;
20		2.	The cost of the materials used, labor or service cost, interest, losses, all
21			costs of transportation to the retailer, all taxes imposed on the retailer, or
22			any other expense of the retailer;
23		3.	Charges by the retailer for any services necessary to complete the sale;
24		4.	Delivery charges, which are defined as charges by the retailer for the
25			preparation and delivery to a location designated by the purchaser
26			including transportation, shipping, postage, handling, crating, and
27			packing;[and]

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1		5.	Any amount for which credit is given to the purchaser by the retailer,
2			other than credit for tangible personal property or digital property traded
3			when the tangible personal property or digital property traded is of like
4			kind and character to the property purchased and the property traded is
5			held by the retailer for resale; and
6		<u>6.</u>	The amount charged for labor or services rendered in installing or
7			applying the tangible personal property, digital property, or service
8			<u>sold</u> .
9	(b)	"Gro	oss receipts" and "sales price" shall include consideration received by the
10		retai	ler from a third party if:
11		1.	The retailer actually receives consideration from a third party and the
12			consideration is directly related to a price reduction or discount on the
13			sale to the purchaser;
14		2.	The retailer has an obligation to pass the price reduction or discount
15			through to the purchaser;
16		3.	The amount of consideration attributable to the sale is fixed and
17			determinable by the retailer at the time of the sale of the item to the
18			purchaser; and
19		4.	One (1) of the following criteria is met:
20			a. The purchaser presents a coupon, certificate, or other
21			documentation to the retailer to claim a price reduction or discount
22			where the coupon, certificate, or documentation is authorized,
23			distributed, or granted by a third party with the understanding that
24			the third party will reimburse any seller to whom the coupon,
25			certificate, or documentation is presented;
26			b. The price reduction or discount is identified as a third-party price

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reduction or discount on the invoice received by the purchaser or

1	on a coupon, certificate, or other documentation presented by the
2	purchaser; or
3	c. The purchaser identifies himself or herself to the retailer as a
4	member of a group or organization entitled to a price reduction or
5	discount. A "preferred customer" card that is available to any
6	patron does not constitute membership in such a group.
7	(c) "Gross receipts" and "sales price" shall not include:
8	1. Discounts, including cash, term, or coupons that are not reimbursed by a
9	third party and that are allowed by a retailer and taken by a purchaser or
10	a sale;
11	2. Interest, financing, and carrying charges from credit extended on the sale
12	of tangible personal property, digital property, or services, if the amount
13	is separately stated on the invoice, bill of sale, or similar document giver
14	to the purchaser; <u>or</u>
15	3. Any taxes legally imposed directly on the purchaser that are separately
16	stated on the invoice, bill of sale, or similar document given to the
17	purchaser [; or
18	4. The amount charged for labor or services rendered in installing or
19	applying the tangible personal property, digital property, or service sold
20	provided the amount charged is separately stated on the invoice, bill or
21	sale, or similar document given to the purchaser].
22	(d) As used in this subsection, "third party" means a person other than the
23	purchaser;
24	(16)[(13)] "In this state" or "in the state" means within the exterior limits of the
25	Commonwealth and includes all territory within these limits owned by or ceded to
26	the United States of America;
27	(17) "Industrial processing" includes:

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1	<u>(a)</u>	Refu	ining;
2	<u>(b)</u>	Ext	raction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
3	<u>(c)</u>	Min	ting, quarrying, fabricating, and industrial assembling;
4	<u>(d)</u>	The	processing and packaging of raw materials, in-process materials, and
5		<u>finis</u>	shed products; and
6	<u>(e)</u>	The	processing and packaging of farm and dairy products for sale;
7	<u>(18)</u> [(14)]	(a)	"Lease or rental" means any transfer of possession or control of tangible
8		pers	sonal property for a fixed or indeterminate term for consideration. A lease
9		or re	ental shall include future options to:
10		1.	Purchase the property; or
11		2.	Extend the terms of the agreement and agreements covering trailers
12			where the amount of consideration may be increased or decreased by
13			reference to the amount realized upon sale or disposition of the property
14			as defined in 26 U.S.C. sec. 7701(h)(1).
15	(b)	"Lea	ase or rental" shall not include:
16		1.	A transfer of possession or control of property under a security
17			agreement or deferred payment plan that requires the transfer of title
18			upon completion of the required payments;
19		2.	A transfer of possession or control of property under an agreement that
20			requires the transfer of title upon completion of the required payments
21			and payment of an option price that does not exceed the greater of one
22			hundred dollars (\$100) or one percent (1%) of the total required
23			payments; or
24		3.	Providing tangible personal property and an operator for the tangible
25			personal property for a fixed or indeterminate period of time. To qualify
26			for this exclusion, the operator must be necessary for the equipment to
27			perform as designed, and the operator must do more than maintain,

1		inspect, or setup the tangible personal property.
2	(c)	This definition shall apply regardless of the classification of a transaction
3		under generally accepted accounting principles, the Internal Revenue Code, or
4		other provisions of federal, state, or local law;
5	<u>(19)</u> [(15)]	(a) "Machinery for new and expanded industry" means machinery:
6		1. <u>Directly</u> used [directly] in <u>the[a]</u> manufacturing or <u>industrial</u> processing
7		[production] process;
8		2. Which is incorporated for the first time into a plant facility established
9		in this state; and
10		3. Which does not replace machinery in the plant facility unless that
11		machinery purchased to replace existing machinery:
12		a. Increases the consumption of recycled materials at the plant
13		facility by not less than ten percent (10%);
14		b. Performs different functions;
15		c. Is used to manufacture a different product; or
16		d. Has a greater productive capacity, as measured in units of
17		production, than the machinery being replaced.
18	(b)	[The term]"Machinery for new and expanded industry" does not include
19		repair, replacement, or spare parts of any kind, regardless of whether the
20		purchase of repair, replacement, or spare parts is required by the manufacturer
21		or <u>seller</u> [vendor] as a condition of sale or as a condition of warranty[.
22	(c)	The term "processing production" shall include the processing and packaging
23		of raw materials, in-process materials, and finished products; the processing
24		and packaging of farm and dairy products for sale; and the extraction of
25		minerals, ores, coal, clay, stone, and natural gas];
26	<u>(20)</u> [(16)]	"Manufacturing" means any process through which material having little or no
27	comi	nercial value for its intended use before processing has appreciable commercial

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1	value for	its intended use after processing by the machinery. The manufacturing or
2	processing	g production process commences with the movement of raw materials
3	from stor	age into a continuous, unbroken, integrated process and ends when the
4	product be	eing manufactured is packaged and ready for sale];
5	(21) ''Marketp	lace" means any physical or electronic means through which one (1) or
6	more reta	ilers may advertise and sell or lease tangible personal property or digital
7	property,	such as a catalog, Internet Web site, or television or radio broadcast,
8	<u>regardless</u>	s of whether the tangible personal property, digital property, or retailer
9	<u>is physica</u>	lly present in this state;
10	(22) ''Marketp	lace facilitator" means a person that facilitates the retail sale of
11	tangible p	personal property or digital property by listing or advertising the tangible
12	personal	property for sale at retail and either directly or indirectly through
13	<u>agreemen</u>	ts or arrangements with third parties, collects the payment from the
14	<u>purchasei</u>	r, and transmits the payment to the person selling the property;
15	(23) ''Marketp	lace retailer" means a person that has an agreement with a
16	<u>marketpla</u>	ace facilitator and makes retail sales of tangible personal property or
17	<u>digital pro</u>	operty through a marketplace;
18	<u>(24)</u> [(17)] (a)	"Occasional sale" includes:
19	1.	A sale of tangible personal property or digital property not held or used
20		by a seller in the course of an activity for which he or she is required to
21		hold a seller's permit, provided such sale is not one (1) of a series of
22		sales sufficient in number, scope, and character to constitute an activity
23		requiring the holding of a seller's permit. In the case of the sale of the
24		entire, or a substantial portion of the nonretail assets of the seller, the
25		number of previous sales of similar assets shall be disregarded in
26		determining whether or not the current sale or sales shall qualify as an
27		occasional sale; or

1		2. Any transfer of all or substantially all the tangible personal property or
2		digital property held or used by a person in the course of such an activity
3		when after such transfer the real or ultimate ownership of such property
4		is substantially similar to that which existed before such transfer.
5	(b)	For the purposes of this subsection, stockholders, bondholders, partners, or
6		other persons holding an interest in a corporation or other entity are regarded
7		as having the "real or ultimate ownership" of the tangible personal property or
8		digital property of such corporation or other entity;
9	<u>(25)</u> [(18)]	(a) "Other direct mail" means any direct mail that is not advertising and
10		promotional direct mail, regardless of whether advertising and promotional
11		direct mail is included in the same mailing.
12	(b)	"Other direct mail" includes but is not limited to:
13		1. Transactional direct mail that contains personal information specific to
14		the addressee, including but not limited to invoices, bills, statements of
15		account, and payroll advices;
16		2. Any legally required mailings, including but not limited to privacy
17		notices, tax reports, and stockholder reports; and
18		3. Other nonpromotional direct mail delivered to existing or former
19		shareholders, customers, employees, or agents, including but not limited
20		to newsletters and informational pieces.
21	(c)	"Other direct mail" does not include the development of billing information or
22		the provision of any data processing service that is more than incidental to the
23		production of printed material;
24	<u>(26)[(19)]</u>	"Person" includes any individual, firm, copartnership, joint venture,
25	assoc	ciation, social club, fraternal organization, corporation, estate, trust, business
26	trust,	receiver, trustee, syndicate, cooperative, assignee, governmental unit or

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agency, or any other group or combination acting as a unit;

27

1	(27) [(20)] "Permanent," as the term applies to digital property, means perpetual or for an
2	indefinite or unspecified length of time;
3	(28)[(21)] "Plant facility" means a single location that is exclusively dedicated to
4	manufacturing or industrial processing[production] activities.[For purposes of this
5	section,] A location shall be deemed to be exclusively dedicated to manufacturing
6	or industrial processing activities even if retail sales are made there, provided that
7	the retail sales are incidental to the manufacturing or industrial processing
8	activities occurring at the location. The term "plant facility" shall not include any
9	restaurant, grocery store, shopping center, or other retail establishment;
10	(29) [(22)] (a) "Prewritten computer software" means:
11	$\underline{I.[(a)]}$ Computer software, including prewritten upgrades, that are not
12	designed and developed by the author or other creator to the
13	specifications of a specific purchaser: [. The combining of two (2) or
14	more prewritten computer software programs or portions thereof does
15	not cause the combination to be other than prewritten computer
16	software;]
17	$\underline{2.[(b)]}$ Software designed and developed by the author or other creator to
18	the specifications of a specific purchaser when it is sold to a person
19	other than the original purchaser; or
20	$\underline{3.[(e)]}$ Any portion of prewritten computer software that is modified or
21	enhanced in any manner, where the modification or enhancement is
22	designed and developed to the specifications of a specific purchaser,
23	unless there is a reasonable, separately stated charge on an invoice or
24	other statement of the price to the purchaser for the modification or
25	<u>enhancement</u> .
26	(b) When a person modifies or enhances computer software of which the person
27	is not the author or creator, the person shall be deemed to be the author or

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1		creator only of the modifications or enhancements the person actually made.
2		[In the case of modified or enhanced prewritten software, if there is a
3		reasonable, separately stated charge on an invoice or other statement of the
4		price to the purchaser for the modification or enhancement, then the
5		modification or enhancement shall not constitute prewritten computer
6		software;]
7	<u>(c)</u>	The combining of two (2) or more prewritten computer software programs
8		or portions thereof does not cause the combination to be other than
9		prewritten computer software;
10	<u>(30)</u> [(23)]	(a) "Purchase" means any transfer of title or possession, exchange, barter,
11		lease, or rental, conditional or otherwise, in any manner or by any means
12		whatsoever, of:
13		<u>1.</u> Tangible personal property:
14		2. An extended warranty service; or
15		<u>3.</u> Digital property transferred electronically:
16		for a consideration.[and]
17	<u>(b)</u>	"Purchase" includes:
18		\underline{L} When performed outside this state or when the customer gives a
19		resale certificate, the producing, fabricating, processing, printing, or
20		imprinting of tangible personal property for a consideration for
21		consumers who furnish either directly or indirectly the materials used in
22		the producing, fabricating, processing, printing, or imprinting;
23		$\underline{2.[(b)]}$ A transaction whereby the possession of tangible personal property
24		or digital property is transferred but the seller retains the title as security
25		for the payment of the price; and
26		3.[(e)] A transfer for a consideration of the title or possession of tangible
27		personal property or digital property which has been produced,

1		fabricated, or printed to the special order of the customer, or of any				
2		publication;				
3	<u>(31)</u> [(24)]	(31)[(24)] "Recycled materials" means materials which have been recovered or diverted				
4	from	the solid waste stream and reused or returned to use in the form of raw				
5	mate	rials or products;				
6	<u>(32)</u> [(25)]	"Recycling purposes" means those activities undertaken in which materials				
7	that	would otherwise become solid waste are collected, separated, or processed in				
8	orde	to be reused or returned to use in the form of raw materials or products;				
9	(33) "Ref	errer'' means a person that:				
10	<u>(a)</u>	Contracts with a retailer or retailer's representative to advertise or list				
11		tangible personal property or digital property for sale or lease;				
12	<u>(b)</u>	Makes referrals by connecting a person to the retailer or the retailer's				
13		representative, but not acting as a marketplace facilitator; and				
14	<u>(c)</u>	Received in the prior calendar year or the current calendar year, in the				
15		aggregate, at least ten thousand dollars (\$10,000) in consideration from				
16		remote retailers, marketplace retailers, or representatives of remote retailers				
17		or marketplace retailers for referrals on retail sales to purchasers in this				
18		state;				
19	(34) (a)	"Remote retailer" means a retailer with no physical presence in this state.				
20	<u>(b)</u>	"Remote retailer" does not include a marketplace facilitator or a referrer;				
21	<u>(35)</u> [(26)]	(a) "Repair, replacement, or spare parts" means any tangible personal				
22		property used to maintain, restore, mend, or repair machinery or equipment.				
23	(b)	"Repair, replacement, or spare parts" does not include machine oils, grease, or				
24		industrial tools;				
25	<u>(36)</u> [(27)]	(a) "Retailer" means:				
26		1. Every person engaged in the business of making retail sales of tangible				
27		personal property, digital property, or furnishing any services included in				

1		KRS 139.200;
2		2. Every person engaged in the business of making sales at auction of
3		tangible personal property or digital property owned by the person or
4		others for storage, use or other consumption, except as provided in
5		paragraph (c) of this subsection;
6		3. Every person making more than two (2) retail sales of tangible personal
7		property or digital property during any twelve (12) month period,
8		including sales made in the capacity of assignee for the benefit of
9		creditors, or receiver or trustee in bankruptcy;
10		4. Any person conducting a race meeting under the provision of KRS
11		Chapter 230, with respect to horses which are claimed during the
12		meeting.
13	(b)	When the department determines that it is necessary for the efficient
14		administration of this chapter to regard any salesmen, representatives,
15		peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
16		employers under whom they operate or from whom they obtain the tangible
17		personal property or digital property sold by them, irrespective of whether
18		they are making sales on their own behalf or on behalf of the dealers,
19		distributors, supervisors or employers, the department may so regard them and
20		may regard the dealers, distributors, supervisors or employers as retailers for
21		purposes of this chapter.
22	(c)	1. Any person making sales at a charitable auction for a qualifying entity
23		shall not be a retailer for purposes of the sales made at the charitable
24		auction if:
25		a. The qualifying entity, not the person making sales at the auction, is
26		sponsoring the auction;

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The purchaser of tangible personal property at the auction directly

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1			pays	the qualifying entity sponsoring the auction for the property
2			and n	not the person making the sales at the auction; and
3			c. The	qualifying entity, not the person making sales at the auction, is
4			respo	onsible for the collection, control, and disbursement of the
5			aucti	on proceeds.
6		2.	If the cond	litions set forth in subparagraph 1. of this paragraph are met,
7			the qualify	ying entity sponsoring the auction shall be the retailer for
8			purposes o	f the sales made at the charitable auction.
9		3.	For purpos	es of this paragraph, "qualifying entity" means a resident:
10			a. Chur	ch;
11			b. Scho	ol;
12			c. Civio	c club; or
13			d. Any	other nonprofit charitable, religious, or educational
14			orgai	nization;
15	<u>(37)</u> [(28)]	"Ret	il sale" me	ans any sale, lease, or rental for any purpose other than resale,
16	suble	ease, o	subrent;	
17	<u>(38)[(29)]</u>	(a)	"Ringtones	s" means digitized sound files that are downloaded onto a
18		devi	e and tha	t may be used to alert the customer with respect to a
19		com	nunication.	
20	(b)	"Rin	tones" sha	ll not include ringback tones or other digital files that are not
21		store	l on the pu	rchaser's communications device;
22	<u>(39)</u> [(30)]	(a)	"Sale" mea	nns <u>:</u>
23		<u>1.</u>	The furnish	hing of any services included in KRS 139.200;
24		<u>2.</u>	Any trans	fer of title or possession, exchange, barter, lease, or rental,
25			conditiona	l or otherwise, in any manner or by any means whatsoever, of:
26			<u>a.</u> Tang	ible personal property; or
27			<u>b.</u> Digit	al property transferred electronically:

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1	Ť	or a consideration.[, and]
2	<u>(b)</u> '	<u>'Sale''</u> includes, but is not limited to:
3	1	. The producing, fabricating, processing, printing, or imprinting of
4		tangible personal property or digital property for a consideration for
5		purchasers who furnish, either directly or indirectly, the materials used
6		in the producing, fabricating, processing, printing, or imprinting;
7	2	2. A transaction whereby the possession of tangible personal property or
8		digital property is transferred, but the seller retains the title as security
9		for the payment of the price; and
10	3	A transfer for a consideration of the title or possession of tangible
11		personal property or digital property which has been produced,
12		fabricated, or printed to the special order of the purchaser.
13	<u>(c)</u> [(b)	This definition shall apply regardless of the classification of a
14	tı	ransaction under generally accepted accounting principles, the Internal
15	F	Revenue Code, or other provisions of federal, state, or local law;
16	<u>(40)</u> [(31)] "	Seller" includes every person engaged in the business of selling tangible
17	person	al property, digital property, or services of a kind, the gross receipts from the
18	retail s	sale of which are required to be included in the measure of the sales tax, and
19	every p	person engaged in making sales for resale;
20	<u>(41)</u> [(32)] (a) "Storage" includes any keeping or retention in this state for any purpose
21	e	except sale in the regular course of business or subsequent use solely outside
22	t1	his state of tangible personal property or digital property purchased from a
23	r	etailer.
24	(b) "	Storage" does not include the keeping, retaining, or exercising any right or
25	p	ower over tangible personal property for the purpose of subsequently
26	t	ransporting it outside the state for use thereafter solely outside the state, or for
27	t.	he purpose of being processed, fabricated, or manufactured into, attached to,

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1		or in	corporated into, other tangible personal property to be transported outside
2		the s	tate and thereafter used solely outside the state;
3	<u>(42)</u> [(33)]	"Tan	gible personal property" means personal property which may be seen,
4	weig	hed, 1	measured, felt, or touched, or which is in any other manner perceptible to
5	the s	enses	and includes natural, artificial, and mixed gas, electricity, water, steam,
6	and p	orewri	itten computer software;
7	<u>(43)</u> [(34)]	"Tax	payer" means any person liable for tax under this chapter;
8	<u>(44)</u> [(35)]	"Tra	nsferred electronically" means accessed or obtained by the purchaser by
9	mear	s oth	er than tangible storage media; and
10	<u>(45)</u> [(36)]	(a)	"Use" includes the exercise of:
11		<u>1.</u>	Any right or power over tangible personal property or digital property
12			incident to the ownership of that property, or by any transaction in which
13			possession is given, or by any transaction involving digital property
14			where the right of access is granted; or
15		<u>2.</u>	Any right or power to benefit from extended warranty services.
16	(b)	"Use	" does not include the keeping, retaining, or exercising any right or power
17		over	tangible personal property or digital property for the purpose of:
18		1.	Selling tangible personal property or digital property in the regular
19			course of business; or
20		2.	Subsequently transporting tangible personal property outside the state
21			for use thereafter solely outside the state, or for the purpose of being
22			processed, fabricated, or manufactured into, attached to, or incorporated
23			into, other tangible personal property to be transported outside the state
24			and thereafter used solely outside the state.
25	→ Se	ection	37. KRS 139.200 is amended to read as follows:
26	A tax is h	ereby	imposed upon all retailers at the rate of six percent (6%) of the gross
27	receipts de	rived	from:

1	(1)	Reta	ail sales of:
2		(a)	Tangible personal property, regardless of the method of delivery, made within
3			this Commonwealth; and
4		(b)	Digital property regardless of whether:
5			1. The purchaser has the right to permanently use the property;
6			2. The purchaser's right to access or retain the property is not permanent; or
7			3. The purchaser's right of use is conditioned upon continued payment; and
8	(2)	The	furnishing of the following:
9		(a)	The rental of any room or rooms, lodgings, campsites, or accommodations
10			furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,
11			recreational vehicle parks, or any other place in which rooms, lodgings,
12			campsites, or accommodations are regularly furnished to transients for a
13			consideration. The tax shall not apply to rooms, lodgings, campsites, or
14			accommodations supplied for a continuous period of thirty (30) days or more
15			to a person;
16		(b)	Sewer services;
17		(c)	The sale of admissions, except:
18			1. Admissions to racetracks [those] taxed under KRS 138.480;
19			2. Admissions to historical sites exempt under KRS 139.482; and
20			3. A portion of the admissions to county fairs exempt under KRS
21			<u>139.470;</u>
22		(d)	Prepaid calling service and prepaid wireless calling service;
23		(e)	Intrastate, interstate, and international communications services as defined in
24			KRS 139.195, except the furnishing of pay telephone service as defined in
25			KRS 139.195; [and]
26		(f)	Distribution, transmission, or transportation services for natural gas that is for

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storage, use, or other consumption in this state, excluding those services

1	furnished:
2	1. For natural gas that is classified as residential use as provided in KRS
3	139.470 <u>(7)</u> [(8)] ; or
4	2. To a seller or reseller of natural gas:
5	(g) Landscaping services, including but not limited to:
6	1. Lawn care and maintenance services;
7	2. Tree trimming, pruning, or removal services;
8	3. Landscape design and installation services;
9	4. Landscape care and maintenance services; and
10	5. Snow plowing or removal services;
11	(h) Janitorial services, including but not limited to residential and commercial
12	cleaning services, and carpet, upholstery, and window cleaning services;
13	(i) Small animal veterinary services, excluding veterinary services for equine,
14	cattle, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;
15	(j) Pet care services, including but not limited to grooming and boarding
16	services, pet sitting services, and pet obedience training services;
17	(k) Industrial laundry services, including but not limited to industrial uniform
18	supply services, protective apparel supply services, and industrial mat and
19	rug supply services;
20	(l) Non-coin-operated laundry and dry cleaning services;
21	(m) Linen supply services, including but not limited to table and bed linen
22	supply services and nonindustrial uniform supply services;
23	(n) Indoor skin tanning services, including but not limited to tanning booth or
24	tanning bed services and spray tanning services;
25	(o) Non-medical diet and weight reducing services;
26	(p) Limousine services, if a driver is provided; and
27	(q) Extended warranty services.

1	Section 38. KRS 139.220 is amended to read as follows:
2	It is unlawful for any retailer to advertise or hold out or state to the public or to any
3	customer, directly or indirectly, that the tax levied by KRS 139.200 or required to be
4	collected under KRS 139.340 or any part thereof will be assumed or absorbed by the
5	retailer or that the tax will not be added to the selling price of the tangible personal
6	property, [or] digital property, or services sold or that if added the tax or any part thereof
7	will be refunded.
8	→ Section 39. KRS 139.260 is amended to read as follows:
9	For the purpose of the proper administration of this chapter and to prevent evasion of the
10	duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that
11	all gross receipts and all tangible personal property, [and] digital property, and services
12	sold by any person for delivery or access in this state are subject to the tax until the
13	contrary is established. The burden of proving the contrary is upon the person who makes
14	the sale <u>of:</u>
15	(1) Tangible personal property or digital property unless the person takes from the
16	purchaser a certificate to the effect that the property is either:
17	(a)[(1)] Purchased for resale according to the provisions of KRS 139.270;
18	(b) Purchased through a fully completed certificate of exemption or fully
19	completed Streamlined Sales and Use Tax Agreement Certificate of
20	Exemption in accordance with KRS 139.270; or
21	$\underline{(c)}$ [(3)] Purchased according to administrative regulations promulgated by the
22	department governing a direct pay authorization; and
23	(2) A service unless the person takes from the purchaser a certificate to the effect
24	that the service is purchased through a fully completed certificate of exemption or
25	fully completed Streamlined Sales and Use Tax Agreement Certificate of
26	Exemption in accordance with KRS 139.270.
27	→ Section 40. KRS 139.310 is amended to read as follows:

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1 (1) An excise tax is hereby imposed on the storage, use, or other consumption in this
2 state of tangible personal property, [and] digital property, and extended warranty

- services purchased for storage, use, or other consumption in this state at the rate of
 six percent (6%) of the sales price of the property.
- 5 (2) The excise tax applies to the purchase of digital property regardless of whether:
- 6 (a) The purchaser has the right to permanently use the goods;
- 7 (b) The purchaser's right to access or retain the digital property is not permanent;
- 8 or
- 9 (c) The purchaser's right of use is conditioned upon continued payment.
- Section 41. KRS 139.330 is amended to read as follows:
- 11 Every person storing, using or otherwise consuming in this state tangible personal
- property, [or] digital property, or an extended warranty service purchased from a retailer
- is liable for the use tax levied under KRS 139.310. His liability is not extinguished until
- 14 the tax has been paid to this state, except that a receipt from a retailer engaged in business
- in this state or from a retailer who is authorized by the department, under such rules and
- regulations as it may prescribe, to collect the tax and who is, for the purpose of this
- 17 chapter relating to the use tax, regarded as a retailer engaged in business in this state,
- given to the purchaser pursuant to KRS 139.340 is sufficient to relieve the purchaser from
- 19 further liability for the tax to which the receipt refers.
- Section 42. KRS 139.340 is amended to read as follows:
- 21 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
- in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
- give to the purchaser a receipt therefor in the manner and form prescribed by the
- department. The taxes collected or required to be collected by the retailer under this
- 25 section shall be deemed to be held in trust for and on account of the
- 26 Commonwealth.
- 27 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section

includes any of the following:

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

- Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property, [or] digital property, or an extended warranty service. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- Any retailer soliciting orders for tangible personal property, [or] digital property, or an extended warranty service from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- Any retailer deriving receipts from the lease or rental of tangible personal (d)

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1		property situated in this state;
2	(e)	Any retailer soliciting orders for tangible personal property, [or] digital
3		property, or an extended warranty service from residents of this state on a
4		continuous, regular, systematic basis if the retailer benefits from an agent or
5		representative operating in this state under the authority of the retailer to
6		repair or service tangible personal property or digital property sold by the
7		retailer; [or]
8	(f)	Any retailer located outside Kentucky that uses a representative in Kentucky,
9		either full-time or part-time, if the representative performs any activities that
10		help establish or maintain a marketplace for the retailer, including receiving or
11		exchanging returned merchandise; or
12	<u>(g)</u>	Any remote retailer selling tangible personal property or digital property
13		delivered or transferred electronically to a purchaser in this state if:
14		1. The remote retailer sold tangible personal property or digital property
15		that was delivered or transferred electronically to a purchaser in this
16		state in two hundred (200) or more separate transactions in the
17		previous calendar year or the current calendar year; or
18		2. The remote retailer's gross receipts derived from the sale of tangible
19		personal property or digital property delivered or transferred
20		electronically to a purchaser in this state in the previous calendar year
21		or current calendar year exceeds one hundred thousand dollars
22		<u>(\$100,000)</u> .
23	→ Se	ection 43. KRS 139.390 is amended to read as follows:
24	Every reta	ailer selling tangible personal property, [or] digital property, or an extended
25	warranty .	<u>service</u> for storage, use or other consumption in this state shall register with the
26	departmen	nt and give:
27	(1) The	name and address of all agents operating in this state;

1	(2)	The lo	ecation of all distribution or sales houses or offices or other places of business
2		in this	state;
3	(3)	Such o	other information as the department may require.
4		→Sec	tion 44. KRS 139.480 is amended to read as follows:
5	Any	other p	provision of this chapter to the contrary notwithstanding, the terms "sale at
6	retai	l," "reta	il sale," "use," "storage," and "consumption," as used in this chapter, shall not
7	inclu	ide the s	sale, use, storage, or other consumption of:
8	(1)	Locon	notives or rolling stock, including materials for the construction, repair, or
9		modifi	ication thereof, or fuel or supplies for the direct operation of locomotives and
10		trains,	used or to be used in interstate commerce;
11	(2)	Coal fo	or the manufacture of electricity;
12	(3)	<u>(a)</u> A	All energy or energy-producing fuels used in the course of manufacturing,
13		ŗ	processing, mining, or refining and any related distribution, transmission, and
14		t	ransportation services for this energy that are billed to the user, to the extent
15		t	hat the cost of the energy or energy-producing fuels used, and related
16		Ċ	distribution, transmission, and transportation services for this energy that are
17		t	pilled to the user exceed three percent (3%) of the cost of production.
18		<u>(b)</u> (Cost of production shall be computed on the basis of \underline{a} plant
19		£	facility, [facilities] which shall include all operations within the continuous,
20		<u>u</u>	unbroken, integrated manufacturing or industrial processing process that
21		<u>e</u>	ends with a product packaged and ready for sale. [mean all permanent
22		S	structures affixed to real property at one (1) location;]
23		(c) <u>I</u>	If a person who independently performs a manufacturing or industrial
24		<u> E</u>	processing production activity for a fee, applies for the exemption under this
25		<u>s</u>	subsection, and does not take ownership of the tangible personal property
26		t	hat is incorporated into, or becomes the product of the manufacturing or

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industrial processing activity, then all costs of production, including raw

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1		material costs, shall be allocated in proportion to all manufacturing or
2		industrial processing operations at the plant facility;
3	(4)	Livestock of a kind the products of which ordinarily constitute food for human
4		consumption, provided the sales are made for breeding or dairy purposes and by or
5		to a person regularly engaged in the business of farming;
6	(5)	Poultry for use in breeding or egg production;
7	(6)	Farm work stock for use in farming operations;
8	(7)	Seeds, the products of which ordinarily constitute food for human consumption or
9		are to be sold in the regular course of business, and commercial fertilizer to be
10		applied on land, the products from which are to be used for food for human
11		consumption or are to be sold in the regular course of business; provided such sales
12		are made to farmers who are regularly engaged in the occupation of tilling and
13		cultivating the soil for the production of crops as a business, or who are regularly
14		engaged in the occupation of raising and feeding livestock or poultry or producing
15		milk for sale; and provided further that tangible personal property so sold is to be
16		used only by those persons designated above who are so purchasing;
17	(8)	Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
18		used in the production of crops as a business, or in the raising and feeding of
19		livestock or poultry, the products of which ordinarily constitute food for human
20		consumption;
21	(9)	Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
22		products of which ordinarily constitute food for human consumption;
23	(10)	Machinery for new and expanded industry;
24	(11)	Farm machinery. As used in this section, the term "farm machinery":
25		(a) Means machinery used exclusively and directly in the occupation of:
26		1. Tilling the soil for the production of crops as a business;

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Raising and feeding livestock or poultry for sale; or

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1	3.	Producing	milk	for	sale:
*	- •	110000	*****	101	built,

- (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
- 8 (c) Does not include:
 - 1. Automobiles;
- 10 2. Trucks;

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- Trailers, except combine header trailers; or
- 12 4. Truck-trailer combinations;
- 13 (12) [Property which has been certified as a pollution control facility as defined in KRS
 14 224.1-300, and all materials, supplies, and repair and replacement parts purchased
 15 for use in the operation or maintenance of the facilities used specifically in the steel
 16 making process. The exemption provided in this subsection for materials, supplies,
 17 and repair and replacement parts purchased for use in the operation of pollution
 18 control facilities shall be effective for sales made through June 30, 1994;
- 19 (13) Tombstones and other memorial grave markers;
- 20 (13)[(14)] On-farm facilities used exclusively for grain or soybean storing, drying, 21 processing, or handling. The exemption applies to the equipment, machinery, 22 attachments, repair and replacement parts, and any materials incorporated into the 23 construction, renovation, or repair of the facilities;
- 24 (14)[(15)] On-farm facilities used exclusively for raising poultry or livestock. The
 25 exemption shall apply to the equipment, machinery, attachments, repair and
 26 replacement parts, and any materials incorporated into the construction, renovation,
 27 or repair of the facilities. The exemption shall apply but not be limited to vent board

1	equi	oment, waterer and feeding systems, brooding systems, ventilation systems,				
2	alarr	n systems, and curtain systems. In addition, the exemption shall apply whether				
3	or not the seller is under contract to deliver, assemble, and incorporate into real					
4	estat	e the equipment, machinery, attachments, repair and replacement parts, and any				
5	mate	rials incorporated into the construction, renovation, or repair of the facilities;				
6	<u>(15)</u> [(16)]	Gasoline, special fuels, liquefied petroleum gas, and natural gas used				
7	excl	usively and directly to:				
8	(a)	Operate farm machinery as defined in subsection (11) of this section;				
9	(b)	Operate on-farm grain or soybean drying facilities as defined in subsection				
10		(13)[(14)] of this section;				
11	(c)	Operate on-farm poultry or livestock facilities defined in subsection (14)[(15)]				
12		of this section;				
13	(d)	Operate on-farm ratite facilities defined in subsection (23)[(24)] of this				
14		section;				
15	(e)	Operate on-farm llama or alpaca facilities as defined in subsection (25)[(26)]				
16		of this section; or				
17	(f)	Operate on-farm dairy facilities;				
18	<u>(16)</u> [(17)]	Textbooks, including related workbooks and other course materials, purchased				
19	for 1	use in a course of study conducted by an institution which qualifies as a				
20	nonp	profit educational institution under KRS 139.495. The term "course materials"				
21	mear	ns only those items specifically required of all students for a particular course				
22	but	shall not include notebooks, paper, pencils, calculators, tape recorders, or				
23	simi	ar student aids;				
24	<u>(17)</u> [(18)]	Any property which has been certified as an alcohol production facility as				
25	defir	ned in KRS 247.910;				
26	<u>(18)</u> [(19)]	Aircraft, repair and replacement parts therefor, and supplies, except fuel, for				
27	the c	lirect operation of aircraft in interstate commerce and used exclusively for the				

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1	conveyance of property or passengers for hire. Nominal intrastate use shall not
2	subject the property to the taxes imposed by this chapter;
3	(19)[(20)] Any property which has been certified as a fluidized bed energy production
4	facility as defined in KRS 211.390;
5	(20) $\{(21)\}$ (a) 1. Any property to be incorporated into the construction, rebuilding.
6	modification, or expansion of a blast furnace or any of its components or
7	appurtenant equipment or structures as part of an approved supplemental
8	project, as defined by KRS 154.26-010; and
9	2. Materials, supplies, and repair or replacement parts purchased for use in
10	the operation and maintenance of a blast furnace and related carbon
11	steel-making operations as part of an approved supplemental project, as
12	defined by KRS 154.26-010.
13	(b) The exemptions provided in this subsection shall be effective for sales made:
14	1. On and after July 1, 2018; and
15	2. During the term of a supplemental project agreement entered into
16	pursuant to KRS 154.26-090;
17	(21)[(22)] Beginning on October 1, 1986, food or food products purchased for human
18	consumption with food coupons issued by the United States Department of
19	Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
20	be exempted by the Food Security Act of 1985 in order for the Commonwealth to
21	continue participation in the federal food stamp program;
22	(22)[(23)] Machinery or equipment purchased or leased by a business, industry, or
23	organization in order to collect, source separate, compress, bale, shred, or otherwise
24	handle waste materials if the machinery or equipment is primarily used for recycling
25	purposes;
26	(23)[(24)] Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
27	production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-

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products, and the following items used in this agricultural pursuit:

2 (a) Feed and feed additives;

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- 3 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 4 (c) On-farm facilities, including equipment, machinery, attachments, repair and 5 replacement parts, and any materials incorporated into the construction, 6 renovation, or repair of the facilities. The exemption shall apply to incubation 7 systems, egg processing equipment, waterer and feeding systems, brooding 8 systems, ventilation systems, alarm systems, and curtain systems. In addition, 9 the exemption shall apply whether or not the seller is under contract to deliver, 10 assemble, and incorporate into real estate the equipment, machinery, 11 attachments, repair and replacement parts, and any materials incorporated into 12 the construction, renovation, or repair of the facilities;

(24)[(25)] Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming; (25)[(26)] Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

- (a) Feed and feed additives:
- (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver,

1		assemble, and incorporate into real estate the equipment, machinery,
2		attachments, repair and replacement parts, and any materials incorporated into
3		the construction, renovation, or repair of the facilities;
4	<u>(26)</u> [(27)]	Baling twine and baling wire for the baling of hay and straw;
5	<u>(27)</u> [(28)]	Water sold to a person regularly engaged in the business of farming and used
6	in the	e:
7	(a)	Production of crops;
8	(b)	Production of milk for sale; or
9	(c)	Raising and feeding of:
10		1. Livestock or poultry, the products of which ordinarily constitute food for
11		human consumption; or
12		2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
13	<u>(28)</u> [(29)]	Buffalos to be used as beasts of burden or in an agricultural pursuit for the
14	prod	uction of hides, breeding stock, meat, and buffalo by-products, and the
15	follo	wing items used in this pursuit:
16	(a)	Feed and feed additives;
17	(b)	Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
18	(c)	On-farm facilities, including equipment, machinery, attachments, repair and
19		replacement parts, and any materials incorporated into the construction,
20		renovation, or repair of the facilities. The exemption shall apply to waterer
21		and feeding systems, ventilation systems, and alarm systems. In addition, the
22		exemption shall apply whether or not the seller is under contract to deliver,
23		assemble, and incorporate into real estate the equipment, machinery,
24		attachments, repair and replacement parts, and any materials incorporated into
25		the construction, renovation, or repair of the facilities;
26	<u>(29)</u> [(30)]	Aquatic organisms sold directly to or raised by a person regularly engaged in
27	the b	business of producing products of aquaculture, as defined in KRS 260.960, for

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1	sale,	and the	e follo	owing	items	used i	n this	pursuit:

- 2 Feed and feed additives: (a)
- 3 (b) Water:
- 4 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals:

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- (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- 18 (30)[(31)] Members of the genus cervidae permitted by KRS Chapter 150 that are used 19 for the production of hides, breeding stock, meat, and cervid by-products, and the 20 following items used in this pursuit:
 - (a) Feed and feed additives;
- 22 Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and (b)
 - On-site facilities, including equipment, machinery, attachments, repair and (c) replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and

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1		replacement parts, and any materials incorporated into the construction,
2		renovation, or repair of the facilities;
3	<u>(31)</u> [(32)]	(a) Repair or replacement parts for the direct operation or maintenance of a
4		motor vehicle, including any towed unit, used exclusively in interstate
5		commerce for the conveyance of property or passengers for hire, provided the
6		motor vehicle is licensed for use on the highway and its declared gross vehicle
7		weight with any towed unit is forty-four thousand and one (44,001) pounds or
8		greater. Nominal intrastate use shall not subject the property to the taxes
9		imposed by this chapter;
10	(b)	Repair or replacement parts for the direct operation and maintenance of a
11		motor vehicle operating under a charter bus certificate issued by the
12		Transportation Cabinet under KRS Chapter 281, or under similar authority
13		granted by the United States Department of Transportation; and
14	(c)	For the purposes of this subsection, "repair or replacement parts" means tires,
15		brakes, engines, transmissions, drive trains, chassis, body parts, and their
16		components. "Repair or replacement parts" shall not include fuel, machine
17		oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
18		to the operation of the motor vehicle itself, except when sold as part of the
19		assembled unit, such as cigarette lighters, radios, lighting fixtures not
20		otherwise required by the manufacturer for operation of the vehicle, or tool or
21		utility boxes; and
22	<u>(32)</u> [(33)]	Food donated by a retail food establishment or any other entity regulated
23	unde	r KRS 217.127 to a nonprofit organization for distribution to the needy.
24	→ Se	ection 45. KRS 139.510 is amended to read as follows:
25	(1) The	tax levied by KRS 139.310 shall not apply with respect to the storage, use, or
26	other	consumption of tangible personal property, [or] digital property, or extended
27	warr	anty services in this state upon which a tax substantially identical to the tax

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levied under KRS 139.200 (not including any special excise taxes such as are
imposed on alcoholic beverages, cigarettes, and the like) equal to or greater than the
amount of tax imposed by KRS 139.310 has been legally paid in another state.
Proof of payment of such tax shall be according to rules and regulations of the
department. If the amount of tax paid in another state is not equal to or greater than
the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the
department an amount sufficient to make the tax paid in the other state and in this
state equal to the amount imposed by KRS 139.310. No credit shall be given under
this section for sales taxes paid in another state if that state does not grant credit for
sales taxes paid in this state.

- (2) To prevent actual multistate taxation of a communications service subject to taxation under this chapter, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications services, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of the tax legally paid in the other state.
- → Section 46. KRS 139.538 is amended to read as follows:
- 17 (1) It is the intent and purpose of the General Assembly in enacting this section and 139.990(5), to encourage the motion picture industry to choose locations in the Commonwealth for the filming or producing of motion pictures, by providing an exemption from sales and use taxes. The exemption is accomplished by granting a refundable credit for sales and use taxes paid on purchases made in connection with the filming or producing of motion pictures in Kentucky.
- 23 (2) (a) On or after the effective date of this Act, and until July 1, 2022, the

 24 department shall not accept any new applications as provided by subsection

 25 (4) of this section.
- 26 (b) On or before June 1, 2019, the department shall provide the following
 27 information to the Interim Joint Committee on Appropriations and Revenue

1		for all fiscal years data is available:
2		1. The name of the motion picture company;
3		2. The filming location or locations in this state;
4		3. A brief description of the production;
5		4. The amount of sales and use tax refunded; and
6		5. The total amount of all sales and use tax refunded to motion picture
7		production companies during each fiscal year reported.
8	<u>(3)</u> As u	used in this section and KRS 139.990(5):
9	(a)	"Financial institution" means any bank or savings and loan institution in the
10		Commonwealth which carries FDIC or FSLIC insurance;
11	(b)	"Motion picture production company" means a company engaged in the
12		business of producing motion pictures intended for a theatrical release or for
13		exhibition on national television either by a network or for national
14		syndication, or television programs which will serve as a pilot for or a
15		segment of a nationally televised dramatic series, either by a network or for
16		national syndication; and
17	(c)	"Secretary" means the secretary of the Kentucky Finance and Administration
18		Cabinet.
19	<u>(4)</u> [(3)]	Any motion picture production company that intends to film all or parts of a
20	moti	ion picture in the Commonwealth and desires to receive the credit provided for
21	in su	absection $(7)(6)$ of this section shall, prior to the commencement of filming:
22	(a)	Provide the department with the address of a Kentucky location at which
23		records of expenditures qualifying for the tax credit will be maintained, and
24		with the name of the individual maintaining these records; and
25	(b)	File an application for the tax credit within sixty (60) days after the
26		completion of filming or production in Kentucky. The application shall
27		include a final expenditure report providing documentation for expenditures in

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1	accordance with administrative regulations promulgated by the department.
2	(5)[(4)] To qualify as a basis for the financial incentive, expenditures must be made by
3	check drawn upon any Kentucky financial institution.
4	(6)[(5)] The twelve (12) month period during which expenditures may qualify for the
5	tax credit shall begin on the date of the earliest expenditure reported.
6	(7)[(6)] Any motion picture production company which films or produces one (1) or
7	more motion pictures in the Commonwealth during any twelve (12) month period
8	shall, upon making application therefor and meeting the other requirements
9	prescribed in this section, be entitled to a refundable tax credit equal to the amount
10	of Kentucky sales and use tax paid for purchases made in connection with the
11	filming or production of a motion picture.
12	(8)[(7)] The department shall, within sixty (60) days following the receipt of an
13	application for a credit for sales and use tax paid, calculate the total expenditures of
14	the motion picture production company for which there is documentation for funds
15	expended in the Commonwealth, calculate the amount of credit to which the
16	applicant is entitled, and certify the amount of the credit to the secretary. In the case
17	of an audit, as provided for in subsection (13) [(12)] of this section, the department
18	shall certify the amount of the credit due to the secretary within one hundred eighty
19	(180) days following the receipt of the motion picture production company's
20	application.
21	(9)[(8)] Upon receipt of the certification of the amount of credit from the department,
22	the secretary shall cause the refund of sales taxes paid to be remitted to the motion
23	picture production company. For purposes of payment and funding thereof, the
24	credit shall be paid in the same manner as other claims on the State Treasury are
25	paid. They shall not be charged against any appropriation but shall be deducted
26	from tax receipts for the current fiscal year.
27	(10) The sales and use taxes paid by the motion picture production company for

1	which a refundable tax credit is granted shall be deemed not to have been legally
2	paid into the State Treasury, and the refund of the credit shall not be in violation of
3	Section 59 of the Kentucky Constitution.
4	(11)[(10)] Any tax credit or part thereof paid to a motion picture production company as
5	a result of error by the department shall be repaid by such company to the secretary.
6	(12)[(11)] Any tax credit or part thereof paid to a motion picture production company as
7	a result of error or fraudulent statements made by the motion picture production
8	company shall be repaid by such company to the secretary, together with interest, at
9	the tax interest rate provided for in KRS 131.010(6).
10	(13)[(12)] The department may require that reported expenditures and the application for
11	the tax credit from a motion picture production company be subjected to an audit by
12	the department auditors to verify expenditures.
13	(14)[(13)] For companies in the business of producing films or television shows other
14	than those which would qualify them for the credit under the definition of "motion
15	picture production company," the department may require separate accounting
16	records for the reporting of expenditures made in connection with the application
17	for a refundable tax credit.
18	(15)[(14)] The department may promulgate appropriate administrative regulations to
19	carry out the intent and purposes of this section.
20	→ Section 47. KRS 139.550 is amended to read as follows:
21	(1) On or before the twentieth day of the month following each calendar month, a
22	return for the preceding month shall be filed with the department in a form the
23	department may prescribe.
24	(2) For purposes of the sales tax, a return shall be filed by every retailer or seller. For
25	purposes of the use tax, a return shall be filed by every retailer engaged in business
26	in the state and by every person purchasing tangible personal property, [or] digital
27	property, or an extended warranty service, the storage, use or other consumption of

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1 which is subject to the use tax, who has not paid the use tax due to a retailer 2 required to collect the tax. If a retailer's responsibilities have been assumed by a 3 certified service provider as defined by KRS 139.795, the certified service provider 4 shall file the return.

- (3) Returns shall be signed by the person required to file the return or by a duly 6 authorized agent but need not be verified by oath.
- 7 Persons not regularly engaged in selling at retail and not having a permanent place (4) 8 of business, but who are temporarily engaged in selling from trucks, portable 9 roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall 10 report and remit the tax on a nonpermit basis, under rules as the department shall 11 provide for the efficient collection of the sales tax on sales.
- 12 The return shall show the amount of the taxes for the period covered by the return (5) 13 and other information the department deems necessary for the proper administration 14 of this chapter.
- 15 → Section 48. KRS 139.700 is amended to read as follows:

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- The department may, in its discretion, upon application authorize the collection of the tax imposed herein by any retailer not engaged in business within this state who, to the satisfaction of the department furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulation and agreements as the department shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property, [or] digital property, or extended warranty services sold to his knowledge for use within this state, in the same manner and subject to the same
- 25 → Section 49. KRS 139.720 is amended to read as follows:

requirements as a retailer engaged in business within this state.

26 (1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property, [or] digital property, or an 27

extended warranty service purchased from a retailer shall keep such records,
 receipts, invoices, and other pertinent papers in such form as the department may
 require.

- 4 (2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the department in writing sooner authorizes their destruction.
- 7 → Section 50. KRS 139.730 is amended to read as follows:

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- In the administration of the sales and use tax, the department may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property, [or] digital property, or an extended warranty service, the storage, use, or other consumption of which is subject to the tax. The report shall be filed at the time specified by the department and shall contain such information as the department may require.
- → Section 51. KRS 139.740 is amended to read as follows:
- 15 (1) No judgment shall be entered and no garnishment or attachment shall be permitted
 16 by any court in this Commonwealth in an action for the collection of a debt arising
 17 out of the sale of tangible personal property, or extended
 18 warranty services unless an affidavit containing a certificate of service is executed
 19 by the plaintiff to the effect that all use taxes due the Commonwealth have been
 20 paid.
 - (2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the department a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the department may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.
- 27 (3) In the event the use tax levied by this chapter is found to be due and unpaid the

1 plaintiff may elect to pay the tax to the department, and the amour	nt of t	the tax	paid
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- by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff
- does not elect to pay the use tax found to be due and unpaid, judgment for the
- 4 amount of the tax shall be awarded to the Commonwealth.
- 5 (4) Any judgment awarded to the Commonwealth under this section shall constitute a
- 6 prior claim to any judgment obtained by the plaintiff.
- 7 (5) Tax as defined herein includes interest accrued thereon at the tax interest rate as
- 8 defined in KRS 131.010(6).
- 9 (6) The provisions of this section shall not apply to a plaintiff holding a retail permit
- issued pursuant to this chapter.
- → SECTION 52. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
- 12 READ AS FOLLOWS:
- 13 The definitions in this section are the same as the definitions appearing in KRS
- 14 141.010 prior to its repeal and reenactment in Section 53 of this Act. For taxable years
- 15 beginning prior to January 1, 2018, as used in this chapter, unless the context requires
- 16 *otherwise*:
- 17 (1) "Commissioner" means the commissioner of the department;
- 18 (2) "Department" means the Department of Revenue;
- 19 (3) "Internal Revenue Code" means the Internal Revenue Code in effect on
- 20 December 31, 2015, exclusive of any amendments made subsequent to that date,
- other than amendments that extend provisions in effect on December 31, 2015,
- 22 that would otherwise terminate, and as modified by KRS 141.0101;
- 23 (4) "Dependent" means those persons defined as dependents in the Internal Revenue
- 24 *Code*;
- 25 (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal
- 26 Revenue Code;
- 27 (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the

1	Internal Revenue Code;
2	(7) ''Individual'' means a natural person;
3	(8) "Modified gross income" means the greater of:
4	(a) Adjusted gross income as defined in Section 62 of the Internal Revenue
5	Code of 1986, including any subsequent amendments in effect on December
6	31 of the taxable year, and adjusted as follows:
7	1. Include interest income derived from obligations of sister states and
8	political subdivisions thereof; and
9	2. Include lump-sum pension distributions taxed under the special
10	transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
11	(b) Adjusted gross income as defined in subsection (10) of this section and
12	adjusted to include lump-sum pension distributions taxed under the special
13	transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
14	(9) "Gross income," in the case of taxpayers other than corporations, means "gross
15	income" as defined in Section 61 of the Internal Revenue Code;
16	(10) "Adjusted gross income," in the case of taxpayers other than corporations,
17	means gross income as defined in subsection (9) of this section minus the
18	deductions allowed individuals by Section 62 of the Internal Revenue Code and
19	as modified by KRS 141.0101 and adjusted as follows, except that deductions
20	shall be limited to amounts allocable to income subject to taxation under the
21	provisions of this chapter, and except that nothing in this chapter shall be
22	construed to permit the same item to be deducted more than once:
23	(a) Exclude income that is exempt from state taxation by the Kentucky
24	Constitution and the Constitution and statutory laws of the United States
25	and Kentucky;
26	(b) Exclude income from supplemental annuities provided by the Railroad
27	Retirement Act of 1937 as amended and which are subject to federal income

1		tax by Public Law 89-699;
2	<u>(c)</u>	Include interest income derived from obligations of sister states and
3		political subdivisions thereof;
4	<u>(d)</u>	Exclude employee pension contributions picked up as provided for in KRS
5		6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
6		and 161.540 upon a ruling by the Internal Revenue Service or the federal
7		courts that these contributions shall not be included as gross income until
8		such time as the contributions are distributed or made available to the
9		employee;
10	<u>(e)</u>	Exclude Social Security and railroad retirement benefits subject to federal
11		income tax;
12	<u>(f)</u>	Include, for taxable years ending before January 1, 1991, all overpayments
13		of federal income tax refunded or credited for taxable years;
14	<u>(g)</u>	Deduct, for taxable years ending before January 1, 1991, federal income tax
15		paid for taxable years ending before January 1, 1990;
16	<u>(h)</u>	Exclude any money received because of a settlement or judgment in a
17		lawsuit brought against a manufacturer or distributor of "Agent Orange"
18		for damages resulting from exposure to Agent Orange by a member or
19		veteran of the Armed Forces of the United States or any dependent of such
20		person who served in Vietnam;
21	<u>(i)</u>	1. For taxable years ending prior to December 31, 2005, exclude the
22		applicable amount of total distributions from pension plans, annuity
23		contracts, profit-sharing plans, retirement plans, or employee savings
24		plans. The ''applicable amount'' shall be:
25		a. Twenty-five percent (25%), but not more than six thousand two
26		hundred fifty dollars (\$6,250), for taxable years beginning after
27		December 31, 1994, and before January 1, 1996;

1	b. Fifty percent (50%), but not more than twelve thousand five
2	hundred dollars (\$12,500), for taxable years beginning after
3	December 31, 1995, and before January 1, 1997;
4	c. Seventy-five percent (75%), but not more than eighteen thousand
5	seven hundred fifty dollars (\$18,750), for taxable years
6	beginning after December 31, 1996, and before January 1, 1998;
7	<u>and</u>
8	d. One hundred percent (100%), but not more than thirty-five
9	thousand dollars (\$35,000), for taxable years beginning after
10	<u>December 31, 1997.</u>
11	2. For taxable years beginning after December 31, 2005, exclude up to
12	forty-one thousand one hundred ten dollars (\$41,110) of total
13	distributions from pension plans, annuity contracts, profit-sharing
14	plans, retirement plans, or employee savings plans.
15	3. As used in this paragraph:
16	a. ''Distributions'' includes but is not limited to any lump-sum
17	distribution from pension or profit-sharing plans qualifying for
18	the income tax averaging provisions of Section 402 of the
19	Internal Revenue Code; any distribution from an individual
20	retirement account as defined in Section 408 of the Internal
21	Revenue Code; and any disability pension distribution;
22	b. "Annuity contract" has the same meaning as set forth in Section
23	1035 of the Internal Revenue Code; and
24	c. ''Pension plans, profit-sharing plans, retirement plans, or
25	employee savings plans" means any trust or other entity created
26	or organized under a written retirement plan and forming part of
27	a stock bonus, pension, or profit-sharing plan of a public or

1	private employer for the exclusive benefit of employees or their
2	beneficiaries and includes plans qualified or unqualified under
3	Section 401 of the Internal Revenue Code and individual
4	retirement accounts as defined in Section 408 of the Internal
5	Revenue Code;
6	(j) 1. a. Exclude the portion of the distributive share of a shareholder's
7	net income from an S corporation subject to the franchise tax
8	imposed under KRS 136.505 or the capital stock tax imposed
9	under KRS 136.300; and
10	b. Exclude the portion of the distributive share of a shareholder's
11	net income from an S corporation related to a qualified
12	subchapter S subsidiary subject to the franchise tax imposed
13	under KRS 136.505 or the capital stock tax imposed under KRS
14	<u>136.300.</u>
15	2. The shareholder's basis of stock held in a S corporation where the S
16	corporation or its qualified subchapter S subsidiary is subject to the
17	franchise tax imposed under KRS 136.505 or the capital stock tax
18	imposed under KRS 136.300 shall be the same as the basis for federal
19	income tax purposes;
20	(k) Exclude, to the extent not already excluded from gross income, any
21	amounts paid for health insurance, or the value of any voucher or similar
22	instrument used to provide health insurance, which constitutes medical care
23	coverage for the taxpayer, the taxpayer's spouse, and dependents, or for any
24	person authorized to be provided excludable coverage by the taxpayer
25	pursuant to the federal Patient Protection and Affordable Care Act of 2010,
26	Pub. L. No. 111-148, or the Health Care and Education Reconciliation Act
27	of 2010, Pub. L. No. 111-152, during the taxable year. Any amounts paid by

1		the taxpayer for health insurance that are excluded pursuant to this
2		paragraph shall not be allowed as a deduction in computing the taxpayer's
3		net income under subsection (11) of this section;
4	<u>(l)</u>	Exclude income received for services performed as a precinct worker for
5		election training or for working at election booths in state, county, and local
6		primary, regular, or special elections;
7	<u>(m)</u>	Exclude any amount paid during the taxable year for insurance for long-
8		term care as defined in KRS 304.14-600;
9	<u>(n)</u>	Exclude any capital gains income attributable to property taken by eminent
10		domain;
11	<u>(0)</u>	Exclude any amount received by a producer of tobacco or a tobacco quota
12		owner from the multistate settlement with the tobacco industry, known as
13		the Master Settlement Agreement, signed on November 22, 1998;
14	<u>(p)</u>	Exclude any amount received from the secondary settlement fund, referred
15		to as "Phase II," established by tobacco companies to compensate tobacco
16		farmers and quota owners for anticipated financial losses caused by the
17		national tobacco settlement;
18	<u>(q)</u>	Exclude any amount received from funds of the Commodity Credit
19		Corporation for the Tobacco Loss Assistance Program as a result of a
20		reduction in the quantity of tobacco quota allotted;
21	<u>(r)</u>	Exclude any amount received as a result of a tobacco quota buydown
22		program that all quota owners and growers are eligible to participate in;
23	<u>(s)</u>	Exclude state Phase II payments received by a producer of tobacco or a
24		tobacco quota owner;
25	<u>(t)</u>	Exclude all income from all sources for active duty and reserve members
26		and officers of the Armed Forces of the United States or National Guard
27		who are killed in the line of duty, for the year during which the death

1	occurred and the year prior to the year during which the death occurred.
2	For the purposes of this paragraph, 'all income from all sources' shall
3	include all federal and state death benefits payable to the estate or any
4	beneficiaries; and
5	(u) For taxable years beginning on or after January 1, 2010, exclude all
6	military pay received by active duty members of the Armed Forces of the
7	United States, members of reserve components of the Armed Forces of the
8	United States, and members of the National Guard, including compensation
9	for state active duty as described in KRS 38.205;
10	(11) "Net income," in the case of taxpayers other than corporations, means adjusted
11	gross income as defined in subsection (10) of this section, minus:
12	(a) The deduction allowed by KRS 141.0202;
13	(b) Any amount paid for vouchers or similar instruments that provide health
14	insurance coverage to employees or their families;
15	(c) For taxable years beginning on or after January 1, 2010, the amount of
16	domestic production activities deduction calculated at six percent (6%) as
17	allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
18	beginning before 2010; and
19	(d) 1. All the deductions allowed individuals by Chapter 1 of the Internal
20	Revenue Code as modified by KRS 141.0101 except:
21	a. Any deduction allowed by the Internal Revenue Code for state or
22	foreign taxes measured by gross or net income, including state
23	and local general sales taxes allowed in lieu of state and local
24	income taxes under the provisions of Section 164(b)(5) of the
25	Internal Revenue Code;
26	b. Any deduction allowed by the Internal Revenue Code for
27	amounts allowable under KRS 140.090(1)(h) in calculating the

1		value of the distributive shares of the estate of a decedent, unless
2		there is filed with the income return a statement that such
3		deduction has not been claimed under KRS 140.090(1)(h);
4	<u>c.</u>	The deduction for personal exemptions allowed under Section
5		151 of the Internal Revenue Code and any other deductions in
6		<u>lieu thereof;</u>
7	<u>d.</u>	For taxable years beginning on or after January 1, 2010, the
8		domestic production activities deduction allowed under Section
9		199 of the Internal Revenue Code;
10	<u>e.</u>	Any deduction for amounts paid to any club, organization, or
11		establishment which has been determined by the courts or an
12		agency established by the General Assembly and charged with
13		enforcing the civil rights laws of the Commonwealth, not to
14		afford full and equal membership and full and equal enjoyment
15		of its goods, services, facilities, privileges, advantages, or
16		accommodations to any person because of race, color, religion,
17		national origin, or sex, except nothing shall be construed to deny
18		a deduction for amounts paid to any religious or denominational
19		club, group, or establishment or any organization operated solely
20		for charitable or educational purposes which restricts
21		membership to persons of the same religion or denomination in
22		order to promote the religious principles for which it is
23		established and maintained;
24	<u>f.</u>	Any deduction directly or indirectly allocable to income which is
25		either exempt from taxation or otherwise not taxed under this
26		chapter;
2.7	9 .	The itemized deduction limitation established in 26 U.S.C. sec.

1	68 shall be determined using the applicable amount from 26
2	U.S.C. sec. 68 as it existed on December 31, 2006; and
3	h. A taxpayer may elect to claim the standard deduction allowed by
4	KRS 141.081 instead of itemized deductions allowed pursuant to
5	26 U.S.C. sec. 63 and as modified by this section; and
6	2. Nothing in this chapter shall be construed to permit the same item to
7	be deducted more than once;
8	(12) "Gross income," in the case of corporations, means "gross income" as defined
9	in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101
10	and adjusted as follows:
11	(a) Exclude income that is exempt from state taxation by the Kentucky
12	Constitution and the Constitution and statutory laws of the United States;
13	(b) Exclude all dividend income received after December 31, 1969;
14	(c) Include interest income derived from obligations of sister states and
15	political subdivisions thereof;
16	(d) Exclude fifty percent (50%) of gross income derived from any disposal of
17	coal covered by Section 631(c) of the Internal Revenue Code if the
18	corporation does not claim any deduction for percentage depletion, or for
19	expenditures attributable to the making and administering of the contract
20	under which such disposition occurs or to the preservation of the economic
21	interests retained under such contract;
22	(e) Include in the gross income of lessors income tax payments made by lessees
23	to lessors, under the provisions of Section 110 of the Internal Revenue
24	Code, and exclude such payments from the gross income of lessees;
25	(f) Include the amount calculated under KRS 141.205;
26	(g) Ignore the provisions of Section 281 of the Internal Revenue Code in
27	computing gross income;

1	(h)	Exclude income from "safe harbor leases" (Section 168(f)(8) of the
2		Internal Revenue Code);
3	<u>(i)</u>	Exclude any amount received by a producer of tobacco or a tobacco quota
4		owner from the multistate settlement with the tobacco industry, known as
5		the Master Settlement Agreement, signed on November 22, 1998;
6	<u>(j)</u>	Exclude any amount received from the secondary settlement fund, referred
7		to as "Phase II," established by tobacco companies to compensate tobacco
8		farmers and quota owners for anticipated financial losses caused by the
9		national tobacco settlement;
10	<u>(k)</u>	Exclude any amount received from funds of the Commodity Credit
11		Corporation for the Tobacco Loss Assistance Program as a result of a
12		reduction in the quantity of tobacco quota allotted;
13	<u>(1)</u>	Exclude any amount received as a result of a tobacco quota buydown
14		program that all quota owners and growers are eligible to participate in;
15	<u>(m)</u>	For taxable years beginning after December 31, 2004, and before January
16		1, 2007, exclude the distributive share income or loss received from a
17		corporation defined in subsection (24)(b) of this section whose income has
18		been subject to the tax imposed by KRS 141.040. The exclusion provided in
19		this paragraph shall also apply to a taxable year that begins prior to
20		January 1, 2005, if the tax imposed by KRS 141.040 is paid on the
21		distributive share income by a corporation defined in subparagraphs 2. to 8.
22		of subsection (24)(b) of this section with a return filed for a period of less
23		than twelve (12) months that begins on or after January 1, 2005, and ends
24		on or before December 31, 2005. This paragraph shall not be used to delay
25		payment of the tax imposed by KRS 141.040; and
26	<u>(n)</u>	Exclude state Phase II payments received by a producer of tobacco or a
27		tobacco quota owner;

1	<u>(13)</u>	''Ne	t income," in the case of corporations, means "gross income" as defined in
2		<u>subs</u>	ection (12) of this section minus:
3		<u>(a)</u>	The deduction allowed by KRS 141.0202;
4		<u>(b)</u>	Any amount paid for vouchers or similar instruments that provide health
5			insurance coverage to employees or their families;
6		<u>(c)</u>	For taxable years beginning on or after January 1, 2010, the amount of
7			domestic production activities deduction calculated at six percent (6%) as
8			allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
9			beginning before 2010; and
10		<u>(d)</u>	All the deductions from gross income allowed corporations by Chapter 1 of
11			the Internal Revenue Code and as modified by KRS 141.0101, except:
12			1. Any deduction for a state tax which is computed, in whole or in part,
13			by reference to gross or net income and which is paid or accrued to
14			any state of the United States, the District of Columbia, the
15			Commonwealth of Puerto Rico, any territory or possession of the
16			United States, or to any foreign country or political subdivision
17			<u>thereof;</u>
18			2. The deductions contained in Sections 243, 244, 245, and 247 of the
19			Internal Revenue Code;
20			3. The provisions of Section 281 of the Internal Revenue Code shall be
21			ignored in computing net income;
22			4. Any deduction directly or indirectly allocable to income which is either
23			exempt from taxation or otherwise not taxed under the provisions of
24			this chapter, and nothing in this chapter shall be construed to permit
25			the same item to be deducted more than once;
26			5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of
27			the Internal Revenue Code);

1		6. Any aeauction for amounts pata to any club, organization, or
2		establishment which has been determined by the courts or an agency
3		established by the General Assembly and charged with enforcing the
4		civil rights laws of the Commonwealth, not to afford full and equal
5		membership and full and equal enjoyment of its goods, services,
6		facilities, privileges, advantages, or accommodations to any person
7		because of race, color, religion, national origin, or sex, except nothing
8		shall be construed to deny a deduction for amounts paid to any
9		religious or denominational club, group, or establishment or any
10		organization operated solely for charitable or educational purposes
11		which restricts membership to persons of the same religion or
12		denomination in order to promote the religious principles for which it
13		is established and maintained;
14		7. Any deduction prohibited by KRS 141.205;
15		8. Any dividends-paid deduction of any captive real estate investment
16		trust; and
17		9. For taxable years beginning on or after January 1, 2010, the domestic
18		production activities deduction allowed under Section 199 of the
19		Internal Revenue Code;
20	(14) (a)	"Taxable net income," in the case of corporations that are taxable in this
21		state, means "net income" as defined in subsection (13) of this section;
22	<u>(b)</u>	"Taxable net income," in the case of corporations that are taxable in this
23		state and taxable in another state, means "net income" as defined in
24		subsection (13) of this section and as allocated and apportioned under
25		Section 59 of this Act. A corporation is taxable in another state if, in any
26		state other than Kentucky, the corporation is required to file a return for or
27		pay a net income tax, franchise tax measured by net income, franchise tax

1	for the privilege of doing business, or corporate stock tax;
2	(c) "Taxable net income," in the case of homeowners' associations as defined
3	in Section 528(c) of the Internal Revenue Code, means "taxable income" as
4	defined in Section 528(d) of the Internal Revenue Code. Notwithstanding
5	the provisions of subsection (3) of this section, the Internal Revenue Code
6	sections referred to in this paragraph shall be those code sections in effect
7	for the applicable tax year; and
8	(d) "Taxable net income," in the case of a corporation that meets the
9	requirements established under Section 856 of the Internal Revenue Code
10	to be a real estate investment trust, means "real estate investment trust
11	taxable income" as defined in Section 857(b)(2) of the Internal Revenue
12	Code, except that a captive real estate investment trust shall not be allowed
13	any deduction for dividends paid;
14	(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal
15	Revenue Code;
16	(16) "Taxable year" means the calendar year or fiscal year ending during such
17	calendar year, upon the basis of which net income is computed, and in the case of
18	a return made for a fractional part of a year under the provisions of this chapter
19	or under regulations prescribed by the commissioner, ''taxable year'' means the
20	period for which the return is made;
21	(17) ''Resident'' means an individual domiciled within this state or an individual who
22	is not domiciled in this state, but maintains a place of abode in this state and
23	spends in the aggregate more than one hundred eighty-three (183) days of the
24	taxable year in this state;
25	(18) "Nonresident" means any individual not a resident of this state;
26	(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal
27	Revenue Code;

1	(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal
2	Revenue Code;
3	(21) "Number of withholding exemptions claimed" means the number of withholding
4	exemptions claimed in a withholding exemption certificate in effect under KRS
5	141.325, except that if no such certificate is in effect, the number of withholding
6	exemptions claimed shall be considered to be zero (0);
7	(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue
8	Code and includes other income subject to withholding as provided in Section
9	3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
10	(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the
11	Internal Revenue Code;
12	(24) (a) For taxable years beginning before January 1, 2005, and after December
13	31, 2006, "corporation" means "corporation" as defined in Section
14	7701(a)(3) of the Internal Revenue Code; and
15	(b) For taxable years beginning after December 31, 2004, and before January
16	1, 2007, "corporations" means:
17	1. "Corporations" as defined in Section 7701(a)(3) of the Internal
18	Revenue Code;
19	2. S corporations as defined in Section 1361(a) of the Internal Revenue
20	Code;
21	3. A foreign limited liability company as defined in KRS 275.015;
22	4. A limited liability company as defined in KRS 275.015;
23	5. A professional limited liability company as defined in KRS 275.015;
24	6. A foreign limited partnership as defined in KRS 362.2-102(9);
25	7. A limited partnership as defined in KRS 362.2-102(14);
26	8. A limited liability partnership as defined in KRS 362.155(7) or in
27	362.1-101(7) or (8);

1	9. A real estate investment trust as defined in Section 856 of the Internal
2	Revenue Code;
3	10. A regulated investment company as defined in Section 851 of the
4	Internal Revenue Code;
5	11. A real estate mortgage investment conduit as defined in Section 860D
6	of the Internal Revenue Code;
7	12. A financial asset securitization investment trust as defined in Section
8	860L of the Internal Revenue Code; and
9	13. Other similar entities created with limited liability for their partners,
10	members, or shareholders.
11	For purposes of this paragraph, "corporation" shall not include any
12	publicly traded partnership as defined by Section 7704(b) of the Internal
13	Revenue Code that is treated as a partnership for federal tax purposes
14	under Section 7704(c) of the Internal Revenue Code or its publicly traded
15	partnership affiliates. As used in this paragraph, "publicly traded
16	partnership affiliates'' shall include any limited liability company or limited
17	partnership for which at least eighty percent (80%) of the limited liability
18	company member interests or limited partner interests are owned directly or
19	indirectly by the publicly traded partnership;
20	(25) "Doing business in this state" includes but is not limited to:
21	(a) Being organized under the laws of this state;
22	(b) Having a commercial domicile in this state;
23	(c) Owning or leasing property in this state;
24	(d) Having one (1) or more individuals performing services in this state;
25	(e) Maintaining an interest in a pass-through entity doing business in this
26	state;
27	(f) Deriving income from or attributable to sources within this state, including

1	aeriving income airectly or indirectly from a trust doing business in this
2	state, or deriving income directly or indirectly from a single-member limited
3	liability company that is doing business in this state and is disregarded as
4	an entity separate from its single member for federal income tax purposes;
5	<u>or</u>
6	(g) Directing activities at Kentucky customers for the purpose of selling them
7	goods or services.
8	Nothing in this subsection shall be interpreted in a manner that goes beyond the
9	limitations imposed and protections provided by the United States Constitution or
10	Pub. L. No. 86-272;
11	(26) "Pass-through entity" means any partnership, S corporation, limited liability
12	company, limited liability partnership, limited partnership, or similar entity
13	recognized by the laws of this state that is not taxed for federal purposes at the
14	entity level, but instead passes to each partner, member, shareholder, or owner
15	their proportionate share of income, deductions, gains, losses, credits, and any
16	other similar attributes;
17	(27) "S corporation" means "S corporation" as defined in Section 1361(a) of the
18	Internal Revenue Code;
19	(28) "Limited liability pass-through entity" means any pass-through entity that
20	affords any of its partners, members, shareholders, or owners, through function
21	of the laws of this state or laws recognized by this state, protection from general
22	liability for actions of the entity; and
23	(29) "Captive real estate investment trust" means a real estate investment trust as
24	defined in Section 856 of the Internal Revenue Code that meets the following
25	requirements:
26	(a) 1. The shares or other ownership interests of the real estate investment
27	trust are not regularly traded on an established securities market; or

1	2. Ine real estate investment trust does not have enough shareholders of
2	owners to be required to register with the Securities and Exchange
3	Commission; and
4	(b) 1. The maximum amount of stock or other ownership interest that is
5	owned or constructively owned by a corporation equals or exceeds:
6	a. Twenty-five percent (25%), if the corporation does not occupy
7	property owned, constructively owned, or controlled by the rea
8	estate investment trust; or
9	b. Ten percent (10%), if the corporation occupies property owned
10	constructively owned, or controlled by the real estate investmen
11	<u>trust.</u>
12	The total ownership interest of a corporation shall be determined by
13	aggregating all interests owned or constructively owned by a
14	corporation;
15	2. For the purposes of this paragraph:
16	a. "Corporation" means a corporation taxable under KRS 141.040
17	and includes an affiliated group as defined in KRS 141.200, that
18	is required to file a consolidated return pursuant to the
19	provisions of KRS 141.200; and
20	b. ''Owned or constructively owned' means owning shares or
21	having an ownership interest in the real estate investment trust
22	or owning an interest in an entity that owns shares or has an
23	ownership interest in the real estate investment trust
24	Constructive ownership shall be determined by looking across
25	multiple layers of a multilayer pass-through structure; and
26	(c) The real estate investment trust is not owned by another real estate
27	investment trust.

1		→SECTION 53. KRS 141.010 IS REPEALED AND REENACTED TO READ
2	AS l	FOLLOWS:
3	As u	sed in this chapter, for taxable years beginning on or after January 1, 2018:
4	<u>(1)</u>	"Adjusted gross income," in the case of taxpayers other than corporations,
5		means the amount calculated in Section 55 of this Act;
6	<u>(2)</u>	"Captive real estate investment trust" means a real estate investment trust as
7		defined in Section 856 of the Internal Revenue Code that meets the following
8		requirements:
9		(a) 1. The shares or other ownership interests of the real estate investment
10		trust are not regularly traded on an established securities market; or
11		2. The real estate investment trust does not have enough shareholders or
12		owners to be required to register with the Securities and Exchange
13		Commission;
14		(b) 1. The maximum amount of stock or other ownership interest that is
15		owned or constructively owned by a corporation equals or exceeds:
16		a. Twenty-five percent (25%), if the corporation does not occupy
17		property owned, constructively owned, or controlled by the real
18		estate investment trust; or
19		b. Ten percent (10%), if the corporation occupies property owned,
20		constructively owned, or controlled by the real estate investment
21		<u>trust.</u>
22		The total ownership interest of a corporation shall be determined by
23		aggregating all interests owned or constructively owned by a
24		corporation; and
25		2. For the purposes of this paragraph:
26		a. "Corporation" means a corporation taxable under Section 58 of
2.7		this Act, and includes an affiliated group as defined in Section

1		79 of this Act, that is required to file a consolidated return
2		pursuant to the provisions of Section 79 of this Act; and
3		b. "Owned or constructively owned" means owning shares or
4		having an ownership interest in the real estate investment trust,
5		or owning an interest in an entity that owns shares or has an
6		ownership interest in the real estate investment trust.
7		Constructive ownership shall be determined by looking across
8		multiple layers of a multilayer pass-through structure; and
9		(c) The real estate investment trust is not owned by another real estate
10		investment trust;
11	<u>(3)</u>	"Commissioner" means the commissioner of the department;
12	<u>(4)</u>	"Corporation" has the same meaning as in Section 7701(a)(3) of the Internal
13		Revenue Code;
14	<u>(5)</u>	"Department" means the Department of Revenue;
15	<u>(6)</u>	"Dependent" means those persons defined as dependents in the Internal Revenue
16		Code;
17	<u>(7)</u>	"Doing business in this state" includes but is not limited to:
18		(a) Being organized under the laws of this state;
19		(b) Having a commercial domicile in this state;
20		(c) Owning or leasing property in this state;
21		(d) Having one (1) or more individuals performing services in this state;
22		(e) Maintaining an interest in a pass-through entity doing business in this
23		state;
24		(f) Deriving income from or attributable to sources within this state, including
25		deriving income directly or indirectly from a trust doing business in this
26		state, or deriving income directly or indirectly from a single-member limited
27		liability company that is doing business in this state and is disregarded as

1	1 an entity separate from its single memb	<u>er for federal income tax purposes;</u>
2	2 <u>or</u>	
3	3 (g) Directing activities at Kentucky custom	ers for the purpose of selling them
4	4 goods or services.	
5	5 <u>Nothing in this subsection shall be interpreted</u>	d in a manner that goes beyond the
6	6 <u>limitations imposed and protections provided</u>	by the United States Constitution or
7	7 <u>Pub. L. No. 86-272;</u>	
8	8 (8) "Employee" has the same meaning as in Sect	ion 3401(c) of the Internal Revenue
9	9 <u>Code;</u>	
10	10 (9) "Employer" has the same meaning as in Sect	ion 3401(d) of the Internal Revenue
11	11 <u>Code;</u>	
12	12 (10) "Fiduciary" has the same meaning as in	Section 7701(a)(6) of the Internal
13	13 <u>Revenue Code;</u>	
14	14 (11) "Fiscal year" has the same meaning as in	Section 7701(a)(24) of the Internal
15	15 <u>Revenue Code;</u>	
16	16 <u>(12) "Gross income":</u>	
17	(a) In the case of taxpayers other than corp	porations, has the same meaning as
18	in Section 61 of the Internal Revenue Co	ode; and
19	(b) In the case of corporations, means the	amount calculated in Section 56 of
20	20 <u>this Act;</u>	
21	21 (13) ''Individual'' means a natural person;	
22	22 (14) ''Internal Revenue Code'' means the Inte	rnal Revenue Code in effect on
23	December 31, 2017, including the provisions	s contained in Pub. L. No. 115-97,
24	24 <u>exclusive of any amendments made subs</u>	equent to that date, other than
25	25 <u>amendments that extend provisions in effect</u>	on December 31, 2017, that would
26	26 <u>otherwise terminate;</u>	
27	27 (15) "Limited liability pass-through entity" me	ans any pass-through entity that

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1	<u>affords any</u>	of its partners, members, shareholders, or owners, through function
2	of the laws	of this state or laws recognized by this state, protection from general
3	<u>liability for</u>	actions of the entity;
4	(16) ''Modified ;	gross income" means the greater of:
5	(a) Adjus	ted gross income as defined in 26 U.S.C. sec. 62, including any
6	amen	dments in effect on December 31 of the taxable year, and adjusted as
7	<u>follow</u>	<u>s:</u>
8	<u>1. </u>	Include interest income derived from obligations of sister states and
9	1	political subdivisions thereof; and
10	<u>2.</u>	Include lump-sum pension distributions taxed under the special
11	<u>!</u>	transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
12	(b) Adjus	ted gross income as defined in subsection (1) of this section and
13	<u>adjust</u>	ed to include lump-sum pension distributions taxed under the special
14	<u>transi</u>	tion rules of Pub. L. No. 104-188, sec. 1401(c)(2);
15	(17) ''Net incom	<u>e'':</u>
16	(a) In th	e case of taxpayers other than corporations, means the amount
17	<u>calcul</u>	ated in Section 55 of this Act; and
18	(b) In the	case of corporations, means the amount calculated in Section 56 of
19	this A	<u>ct;</u>
20	(18) ''Nonreside	nt" means any individual not a resident of this state;
21	(19) ''Number o	f withholding exemptions claimed" means the number of withholding
22	exemptions	claimed in a withholding exemption certificate in effect under Section
23	83 of this	Act, except that if no such certificate is in effect, the number of
24	withholding	g exemptions claimed shall be considered to be zero;
25	(20) ''Part-year	resident'' means any individual that has established or abandoned
26	Kentucky re	esidency during the calendar year;
27	(21) "Pass-thron	igh entity" means any partnership, S corporation, limited liability

1	company, limited liability partnership, limited partnership, or similar entity
2	recognized by the laws of this state that is not taxed for federal purposes at the
3	entity level, but instead passes to each partner, member, shareholder, or owner
4	their proportionate share of income, deductions, gains, losses, credits, and any
5	other similar attributes;
6	(22) "Payroll period" has the same meaning as in Section 3401(b) of the Internal
7	Revenue Code;
8	(23) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue
9	<u>Code;</u>
10	(24) "Resident" means an individual domiciled within this state or an individual who
11	is not domiciled in this state, but maintains a place of abode in this state and
12	spends in the aggregate more than one hundred eighty-three (183) days of the
13	taxable year in this state;
14	(25) "S corporation" has the same meaning as in Section 1361(a) of the Internal
15	Revenue Code;
16	(26) "State" means a state of the United States, the District of Columbia, the
17	Commonwealth of Puerto Rico, or any territory or possession of the United
18	States;
19	(27) "Taxable net income":
20	(a) In the case of corporations that are taxable in this state, means "net
21	income" as defined in subsection (17) of this section;
22	(b) In the case of corporations that are taxable in this state and taxable in
23	another state, means "net income" as defined in subsection (17) of this
24	section and as allocated and apportioned under Section 60 of this Act;
25	(c) For homeowners' associations as defined in Section 528(c) of the Internal
26	Revenue Code, means "taxable income" as defined in Section 528(d) of the
27	Internal Revenue Code. Notwithstanding the provisions of subsection (14)

1	of this section, the Internal Revenue Code sections referred to in this
2	paragraph shall be those code sections in effect for the applicable tax year;
3	<u>and</u>
4	(d) For a corporation that meets the requirements established under Section
5	856 of the Internal Revenue Code to be a real estate investment trust, means
6	"real estate investment trust taxable income" as defined in Section
7	857(b)(2) of the Internal Revenue Code, except that a captive real estate
8	investment trust shall not be allowed any deduction for dividends paid;
9	(28) ''Taxable year'' means the calendar year or fiscal year ending during such
10	calendar year, upon the basis of which net income is computed, and in the case of
11	a return made for a fractional part of a year under the provisions of this chapter
12	or under administrative regulations prescribed by the commissioner, "taxable
13	year" means the period for which the return is made; and
14	(29) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue
15	Code and includes other income subject to withholding as provided in Section
16	3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.
17	→ SECTION 54. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
18	READ AS FOLLOWS:
19	(1) (a) All deductions allowed by this chapter shall be limited to amounts directly
20	or indirectly allocable to income subject to taxation under the provisions of
21	this chapter.
22	(b) Any deduction directly or indirectly allocable to income which is either
23	exempt from taxation or otherwise not taxed under this chapter shall not be
24	<u>allowed.</u>
25	(2) Nothing in this chapter shall be construed to permit the same item to be deducted
26	more than once.
27	→SECTION 55. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO

1	READ AS	S FOLLOWS:
2	For taxab	ole years beginning on or after January 1, 2018, in the case of taxpayers other
3	than corp	orations:
4	(1) Adju	usted gross income shall be calculated by subtracting from the gross income
5	of t	hose taxpayers the deductions allowed individuals by Section 62 of the
6	Inte	rnal Revenue Code and adjusting as follows:
7	<u>(a)</u>	Exclude income that is exempt from state taxation by the Kentucky
8		Constitution and the Constitution and statutory laws of the United States;
9	<u>(b)</u>	Exclude income from supplemental annuities provided by the Railroad
10		Retirement Act of 1937 as amended and which are subject to federal income
11		tax by Pub. L. No. 89-699;
12	<u>(c)</u>	Include interest income derived from obligations of sister states and
13		political subdivisions thereof;
14	<u>(d)</u>	Exclude employee pension contributions picked up as provided for in KRS
15		6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
16		and 161.540 upon a ruling by the Internal Revenue Service or the federal
17		courts that these contributions shall not be included as gross income until
18		such time as the contributions are distributed or made available to the
19		employee;
20	<u>(e)</u>	Exclude Social Security and railroad retirement benefits subject to federal
21		income tax;
22	<u>(f)</u>	Exclude any money received because of a settlement or judgment in a
23		lawsuit brought against a manufacturer or distributor of "Agent Orange"
24		for damages resulting from exposure to Agent Orange by a member or
25		veteran of the Armed Forces of the United States or any dependent of such
26		person who served in Vietnam;
27	(g)	1. a. For taxable years beginning after December 31, 2005, but before

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1	January 1, 2018, exclude up to forty-one thousand one hundred
2	ten dollars (\$41,110) of total distributions from pension plans,
3	annuity contracts, profit-sharing plans, retirement plans, or
4	employee savings plans; and
5	b. For taxable years beginning on or after January 1, 2018,
6	exclude up to thirty-one thousand one hundred ten dollars
7	(\$31,110) of total distributions from pension plans, annuity
8	contracts, profit-sharing plans, retirement plans, or employee
9	savings plans.
10	2. As used in this paragraph:
11	a. "Annuity contract" has the same meaning as set forth in Section
12	1035 of the Internal Revenue Code;
13	b. "Distributions" includes but is not limited to any lump-sum
14	distribution from pension or profit-sharing plans qualifying for
15	the income tax averaging provisions of Section 402 of the
16	Internal Revenue Code; any distribution from an individual
17	retirement account as defined in Section 408 of the Internal
18	Revenue Code; and any disability pension distribution; and
19	c. ''Pension plans, profit-sharing plans, retirement plans, or
20	employee savings plans" means any trust or other entity created
21	or organized under a written retirement plan and forming part of
22	a stock bonus, pension, or profit-sharing plan of a public or
23	private employer for the exclusive benefit of employees or their
24	beneficiaries and includes plans qualified or unqualified under
25	Section 401 of the Internal Revenue Code and individual
26	retirement accounts as defined in Section 408 of the Internal
27	Revenue Code;

1	(h) 1. a. Exclude the portion of the distributive share of a shareholder's
2	net income from an S corporation subject to the franchise tax
3	imposed under KRS 136.505 or the capital stock tax imposed
4	under KRS 136.300; and
5	b. Exclude the portion of the distributive share of a shareholder's
6	net income from an S corporation related to a qualified
7	subchapter S subsidiary subject to the franchise tax imposed
8	under KRS 136.505 or the capital stock tax imposed under KRS
9	<u>136.300.</u>
10	2. The shareholder's basis of stock held in an S corporation where the S
11	corporation or its qualified subchapter S subsidiary is subject to the
12	franchise tax imposed under KRS 136.505 or the capital stock tax
13	imposed under KRS 136.300 shall be the same as the basis for federal
14	income tax purposes;
15	(i) Exclude income received for services performed as a precinct worker for
16	election training or for working at election booths in state, county, and local
17	primaries or regular or special elections;
18	(j) Exclude any capital gains income attributable to property taken by eminent
19	<u>domain;</u>
20	(k) 1. Exclude all income from all sources for active duty and reserve
21	members and officers of the Armed Forces of the United States or
22	National Guard who are killed in the line of duty, for the year during
23	which the death occurred and the year prior to the year during which
24	the death occurred.
25	2. For the purposes of this paragraph, "all income from all sources"
26	shall include all federal and state death benefits payable to the estate
27	or any beneficiaries;

1	(l) Exclude all military pay received by active duty members of the Armed
2	Forces of the United States, members of reserve components of the Armed
3	Forces of the United States, and members of the National Guard, including
4	compensation for state active duty as described in KRS 38.205;
5	(m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec.
6	<u>167 or 168; and</u>
7	2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and
8	(n) Include the amount deducted under 26 U.S.C. sec. 199A; and
9	(2) Net income shall be calculated by subtracting from adjusted gross income all the
10	deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
11	modified by KRS 141.0101, except:
12	(a) Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;
13	(b) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
14	(c) Any deduction allowed by 26 U.S.C. sec. 165 for losses;
15	(d) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
16	(e) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
17	(f) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
18	deduction;
19	(g) Any deduction allowed by the Internal Revenue Code for amounts allowable
20	under KRS 140.090(1)(h) in calculating the value of the distributive shares
21	of the estate of a decedent, unless there is filed with the income return a
22	statement that the deduction has not been claimed under KRS
23	140.090(1)(h);
24	(h) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
25	any other deductions in lieu thereof;
26	(i) Any deduction allowed for amounts paid to any club, organization, or
27	establishment which has been determined by the courts or an agency

1	established by the General Assembly and charged with enforcing the civil
2	rights laws of the Commonwealth, not to afford full and equal membership
3	and full and equal enjoyment of its goods, services, facilities, privileges,
4	advantages, or accommodations to any person because of race, color,
5	religion, national origin, or sex, except nothing shall be construed to deny a
6	deduction for amounts paid to any religious or denominational club, group,
7	or establishment or any organization operated solely for charitable or
8	educational purposes which restricts membership to persons of the same
9	religion or denomination in order to promote the religious principles for
10	which it is established and maintained; and
11	(j) A taxpayer may elect to claim the standard deduction allowed by KRS
12	141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec.
13	63 and as modified by this section.
14	→SECTION 56. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
15	READ AS FOLLOWS:
16	For taxable years beginning on or after January 1, 2018, in the case of corporations:
17	(1) Gross income shall be calculated by adjusting federal gross income as defined in
18	Section 61 of the Internal Revenue Code as follows:
19	(a) Exclude income that is exempt from state taxation by the Kentucky
20	Constitution and the Constitution and statutory laws of the United States;
21	(b) Exclude all dividend income;
22	(c) Include interest income derived from obligations of sister states and
23	political subdivisions thereof;
24	(d) Exclude fifty percent (50%) of gross income derived from any disposal of
25	coal covered by Section 631(c) of the Internal Revenue Code if the
26	corporation does not claim any deduction for percentage depletion, or for
27	expenditures attributable to the making and administering of the contract

1			under which such disposition occurs or to the preservation of the economic
2			interests retained under such contract;
3		<u>(e)</u>	Include in the gross income of lessors income tax payments made by lessees
4			to lessors, under the provisions of Section 110 of the Internal Revenue
5			Code, and exclude such payments from the gross income of lessees;
6		<u>(f)</u>	Include the amount calculated under Section 80 of this Act;
7		<u>(g)</u>	Ignore the provisions of Section 281 of the Internal Revenue Code in
8			computing gross income;
9		<u>(h)</u>	Include the amount of deprecation deduction calculated under 26 U.S.C.
10			sec. 167 or 168; and
11	<u>(2)</u>	Net	income shall be calculated by subtracting from gross income:
12		<u>(a)</u>	The deduction for depreciation allowed by KRS 141.0101;
13		<u>(b)</u>	Any amount paid for vouchers or similar instruments that provide health
14			insurance coverage to employees or their families; and
15		<u>(c)</u>	All the deductions from gross income allowed corporations by Chapter 1 of
16			the Internal Revenue Code, as modified by KRS 141.0101, except:
17			1. Any deduction for a state tax which is computed, in whole or in part,
18			by reference to gross or net income and which is paid or accrued to
19			any state of the United States, the District of Columbia, the
20			Commonwealth of Puerto Rico, any territory or possession of the
21			United States, or to any foreign country or political subdivision
22			thereof;
23			2. The deductions contained in Sections 243, 244, 245, and 247 of the
24			Internal Revenue Code;
25			3. The provisions of Section 281 of the Internal Revenue Code shall be
26			ignored in computing net income;
27			4. Any deduction directly or indirectly allocable to income which is either

1		exempt from taxation or otherwise not taxed under the provisions of
2		this chapter, and nothing in this chapter shall be construed to permit
3		the same item to be deducted more than once;
4		5. Any deduction for amounts paid to any club, organization, or
5		establishment which has been determined by the courts or an agency
6		established by the General Assembly and charged with enforcing the
7		civil rights laws of the Commonwealth, not to afford full and equal
8		membership and full and equal enjoyment of its goods, services,
9		facilities, privileges, advantages, or accommodations to any person
10		because of race, color, religion, national origin, or sex, except nothing
11		shall be construed to deny a deduction for amounts paid to any
12		religious or denominational club, group, or establishment or any
13		organization operated solely for charitable or educational purposes
14		which restricts membership to persons of the same religion or
15		denomination in order to promote the religious principles for which it
16		is established and maintained;
17		6. Any deduction prohibited by Section 80 of this Act; and
18		7. Any dividends-paid deduction of any captive real estate investment
19		<u>trust.</u>
20		→ Section 57. KRS 141.020 is amended to read as follows:
21	(1)	An annual tax shall be paid for each taxable year by every resident individual of this
22		state upon his entire net income as defined in this chapter. The tax shall be
23		determined by applying the rates in subsection (2) of this section to net income and
24		subtracting allowable tax credits provided in subsection (3) of this section.
25	(2)	(a) For taxable years beginning on or after January 1, 2018, the tax shall be
26		five percent (5%) of net income [For taxable years beginning before January 1,
27		2005, the tax shall be determined by applying the following rates to net

1		income:
2		1. Two percent (2%) of the amount of net income up to three thousand
3		dollars (\$3,000);
4		2. Three percent (3%) of the amount of net income over three thousand
5		dollars (\$3,000) and up to four thousand dollars (\$4,000);
6		3. Four percent (4%) of the amount of net income over four thousand
7		dollars (\$4,000) and up to five thousand dollars (\$5,000);
8		4. Five percent (5%) of the amount of net income over five thousand
9		dollars (\$5,000) and up to eight thousand dollars (\$8,000); and
10		5. Six percent (6%) of the amount of net income over eight thousand
11		dollars (\$8,000)].
12	(b)	For taxable years beginning after December 31, 2004, and before January 1,
13		2018, the tax shall be determined by applying the following rates to net
14		income:
15		1. Two percent (2%) of the amount of net income up to three thousand
16		dollars (\$3,000);
17		2. Three percent (3%) of the amount of net income over three thousand
18		dollars (\$3,000) and up to four thousand dollars (\$4,000);
19		3. Four percent (4%) of the amount of net income over four thousand
20		dollars (\$4,000) and up to five thousand dollars (\$5,000);
21		4. Five percent (5%) of the amount of net income over five thousand
22		dollars (\$5,000) and up to eight thousand dollars (\$8,000);
23		5. Five and eight-tenths percent (5.8%) of the amount of net income over
24		eight thousand dollars (\$8,000) and up to seventy-five thousand dollars
25		(\$75,000); and
26		6. Six percent (6%) of the amount of net income over seventy-five
27		thousand dollars (\$75,000).

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1	(3)	(a)	[Fo	r taxa	ble years beginning before January 1, 2014,]The following tax
2			cred	dits, v	when applicable, shall be deducted from the result obtained under
3			sub	sectio	n (2) of this section to arrive at the annual tax:
4			1.	<u>a.</u>	For taxable years beginning before January 1, 2014, twenty
5					dollars (\$20) for an unmarried individual; and
6				<u>b.</u>	For taxable years beginning on or after January 1, 2014, and
7					before January 1, 2018, ten dollars (\$10) for an unmarried
8					individual;
9			2.	<u>a.</u>	For taxable years beginning before January 1, 2014, twenty
10					dollars (\$20) for a married individual filing a separate return and
11					an additional twenty dollars (\$20) for the spouse of taxpayer if a
12					separate return is made by the taxpayer and if the spouse, for the
13					calendar year in which the taxable year of the taxpayer begins, had
14					no Kentucky gross income and is not the dependent of another
15					taxpayer; or forty dollars (\$40) for married persons filing a joint
16					return, provided neither spouse is the dependent of another
17					taxpayer. The determination of marital status for the purpose of
18					this section shall be made in the manner prescribed in Section 153
19					of the Internal Revenue Code; and
20				<u>b.</u>	For taxable years beginning on or after January 1, 2014, and
21					before January 1, 2018, ten dollars (\$10) for a married
22					individual filing a separate return and an additional ten dollars
23					(\$10) for the spouse of a taxpayer if a separate return is made by
24					the taxpayer and if the spouse, for the calendar year in which the
25					taxable year of the taxpayer begins, had no Kentucky gross
26					income and is not the dependent of another taxpayer; or twenty
27					dollars (\$20) for married persons filing a joint return, provided

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1		neither spouse is the dependent of another taxpayer. The
2		determination of marital status for the purpose of this section
3		shall be made in the manner prescribed in Section 153 of the
4		Internal Revenue Code;
5	3.	a. For taxable years beginning before January 1, 2014, twenty
6		dollars (\$20) credit for each dependent. No credit shall be allowed
7		for any dependent who has made a joint return with his or her
8		spouse; <u>and</u>
9		b. For taxable years beginning on or after January 1, 2014, and
10		before January 1, 2018, ten dollars (\$10) credit for each
11		dependent. No credit shall be allowed for any dependent who has
12		made a joint return with his or her spouse;
13	4.	An additional forty dollars (\$40) credit if the taxpayer has attained the
14		age of sixty-five (65) before the close of the taxable year;
15	5.	An additional forty dollars (\$40) credit for taxpayer's spouse if a
16		separate return is made by the taxpayer and if the taxpayer's spouse has
17		attained the age of sixty-five (65) before the close of the taxable year,
18		and, for the calendar year in which the taxable year of the taxpayer
19		begins, has no Kentucky gross income and is not the dependent of
20		another taxpayer;
21	6.	An additional forty dollars (\$40) credit if the taxpayer is blind at the
22		close of the taxable year;
23	7.	An additional forty dollars (\$40) credit for taxpayer's spouse if a
24		separate return is made by the taxpayer and if the taxpayer's spouse is
25		blind, and, for the calendar year in which the taxable year of the taxpayer
26		begins, has no Kentucky gross income and is not the dependent of
27		another taxpayer;

1		8. <u>In the case of a fiduciary, other than an estate, the allowable tax credit</u>
2		shall be two dollars (\$2);
3		9. In the case of an estate, the allowable tax credit shall be ten dollars
4		(\$10); and
5		10. An additional twenty dollars (\$20) credit shall be allowed if the
6		taxpayer is a member of the Kentucky National Guard at the close of
7		the taxable year.
8	<u>(b)</u>	In the case of nonresidents, the tax credits allowable under this subsection
9		shall be the portion of the credits that are represented by the ratio of the
10		taxpayer's Kentucky adjusted gross income as determined by Section 55 of
11		this Act[KRS 141.010(10), without the adjustments contained in (f) and (g) of
12		that subsection,] to the taxpayer's adjusted gross income as defined in Section
13		62 of the Internal Revenue Code. However, in the case of a married
14		nonresident taxpayer with income from Kentucky sources, whose spouse has
15		no income from Kentucky sources, the taxpayer shall determine allowable tax
16		credit(s) by either:
17		$\underline{I.[a.]}$ The method contained above applied to the taxpayer's tax credit(s),
18		excluding credits for a spouse and dependents; or
19		2.[b.] Prorating the taxpayer's tax credit(s) plus the tax credits for the
20		taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky
21		adjusted gross income as determined by Section 55 of this Act[KRS
22		141.010(10), without the adjustments contained in (f) and (g) of that
23		subsection,] to the total joint federal adjusted gross income of the
24		taxpayer and the taxpayer's spouse.[;]
25	<u>(c)</u> [9	.] In the case of <u>a part-year resident</u> [an individual who becomes a resident
26		of Kentucky during the taxable year], the tax credits allowable under this
27		subsection shall be the portion of the credits represented by the ratio of the

1	taxpayer's Kentucky adjusted gross income as determined by Section 55 of
2	this Act [subsection (10) of KRS 141.010, without the adjustments contained
3	in paragraphs (f) and (g) of that subsection,] to the taxpayer's adjusted gross
4	income as defined in Section 62 of the Internal Revenue Code[;
5	10. In the case of a fiduciary, other than an estate, the allowable tax credit
6	shall be two dollars (\$2);
7	11. In the case of an estate, the allowable tax credit shall be twenty dollars
8	(\$20); and
9	12. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer
10	is a member of the Kentucky National Guard at the close of the taxable
11	year.
12	(b) 1. For taxable years beginning on or after January 1, 2014, the following
13	tax credits, when applicable, shall be deducted from the result obtained
14	under subsection (2) of this section to arrive at the annual tax:
15	a. Ten dollars (\$10) for an unmarried individual;
16	b. Ten dollars (\$10) for a married individual filing a separate return
17	and an additional ten dollars (\$10) for the spouse of taxpayer if a
18	separate return is made by the taxpayer and if the spouse, for the
19	calendar year in which the taxable year of the taxpayer begins, had
20	no Kentucky gross income and is not the dependent of another
21	taxpayer; or twenty dollars (\$20) for married persons filing a joint
22	return, provided neither spouse is the dependent of another
23	taxpayer. The determination of marital status for the purpose of
24	this section shall be made in the manner prescribed in Section 153
25	of the Internal Revenue Code;
26	e. Ten dollars (\$10) credit for each dependent. No credit shall be
27	allowed for any dependent who has made a joint return with his

1	spouse;
2	d. An additional forty dollars (\$40) credit if the taxpayer has attained
3	the age of sixty five (65) before the close of the taxable year;
4	e. An additional forty dollars (\$40) credit for taxpayer's spouse if a
5	separate return is made by the taxpayer and if the taxpayer's spouse
6	has attained the age of sixty five (65) before the close of the
7	taxable year, and, for the calendar year in which the taxable year of
8	the taxpayer begins, has no Kentucky gross income and is not the
9	dependent of another taxpayer;
10	f. An additional forty dollars (\$40) credit if the taxpayer is blind at
11	the close of the taxable year;
12	g. An additional forty dollars (\$40) credit for taxpayer's spouse if a
13	separate return is made by the taxpayer and if the taxpayer's spouse
14	is blind, and, for the calendar year in which the taxable year of the
15	taxpayer begins, has no Kentucky gross income and is not the
16	dependent of another taxpayer;
17	h. In the case of a fiduciary, other than an estate, the allowable tax
18	credit shall be two dollars (\$2);
19	i. In the case of an estate, the allowable tax credit shall be ten dollars
20	(\$10); and
21	j. An additional twenty dollars (\$20) credit shall be allowed if the
22	taxpayer is a member of the Kentucky National Guard at the close
23	of the taxable year.
24	2. In the case of nonresidents, the tax credits allowable under this
25	subsection shall be the portion of the credits that are represented by the
26	ratio of the taxpayer's Kentucky adjusted gross income as determined by
27	KRS 141.010(10), without the adjustments contained in paragraphs (f)

1		and (g) of that subsection, to the taxpayer's adjusted gross income as
2		defined in Section 62 of the Internal Revenue Code. However, in the
3		case of a married nonresident taxpayer with income from Kentucky
4		sources, whose spouse has no income from Kentucky sources, the
5		taxpayer shall determine allowable tax credit(s) by either:
6		a. The method contained above applied to the taxpayer's tax credit(s),
7		excluding credits for a spouse and dependents; or
8		b. Prorating the taxpayer's tax credit(s) plus the tax credits for the
9		taxpayer's spouse and dependents by the ratio of the taxpayer's
10		Kentucky adjusted gross income as determined by KRS
11		141.010(10), without the adjustments contained in paragraphs (f)
12		and (g) of that subsection, to the total joint federal adjusted gross
13		income of the taxpayer and the taxpayer's spouse.
14		3. In the case of an individual who becomes a resident of Kentucky during
15		the taxable year, the tax credits allowable under this subsection shall be
16		the portion of the credits represented by the ratio of the taxpayer's
17		Kentucky adjusted gross income as determined by KRS 141.010(10),
18		without the adjustments contained in paragraphs (f) and (g) of that
19		subsection, to the taxpayer's adjusted gross income as defined in Section
20		62 of the Internal Revenue Code].
21	(4)	An annual tax shall be paid for each taxable year as specified in this section upon
22		the entire net income except as herein provided, from all tangible property located
23		in this state, from all intangible property that has acquired a business situs in this
24		state, and from business, trade, profession, occupation, or other activities carried on
25		in this state, by natural persons not residents of this state. A nonresident individual
26		shall be taxable only upon the amount of income received by the individual from
27		labor performed, business done, or from other activities in this state, from tangible

property located in this state, and from intangible property which has acquired a
business situs in this state; provided, however, that the situs of intangible personal
property shall be at the residence of the real or beneficial owner and not at the
residence of a trustee having custody or possession thereof. The remainder of the
income received by such nonresident shall be deemed nontaxable by this state.

- 6 (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- 8 (6) <u>A part-year resident</u>[An individual who becomes a resident of Kentucky during the
 9 taxable year is subject to taxation as prescribed in subsection (4) of this section
 10 prior to establishing residence and as prescribed in subsection (1) of this section
 11 following the establishment of residence.
- 12 (7) An individual who becomes a nonresident of Kentucky during the taxable year] is
 13 subject to taxation, as prescribed in subsection (1) of this section, during that
 14 portion of the taxable year that the individual is a resident and, as prescribed in
 15 subsection (4) of this section, during that portion of the taxable year when the
 16 individual is a nonresident.
- → Section 58. KRS 141.040 is amended to read as follows:
- 18 (1) Every corporation doing business in this state, except those corporations listed in
 19 paragraphs (a) to (h)[(i)] of this subsection, shall pay for each taxable year a tax to
 20 be computed by the taxpayer on taxable net income[or the alternative minimum
 21 calculation computed under this section] at the rates specified in this section:
- 22 (a) Financial institutions, as defined in KRS 136.500, except bankers banks 23 organized under KRS 286.3-135;
- 24 (b) Savings and loan associations organized under the laws of this state and under 25 the laws of the United States and making loans to members only;
- 26 (c) Banks for cooperatives;

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27 (d) Production credit associations;

1	(e)	Insurance companies, including farmers or other mutual hail, cyclone,
2		windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
3	(f)	Corporations or other entities exempt under Section 501 of the Internal
4		Revenue Code;
5	(g)	Religious, educational, charitable, or like corporations not organized or
6		conducted for pecuniary profit; and
7	(h)	Corporations whose only owned or leased property located in this state is
8		located at the premises of a printer with which it has contracted for printing,
9		provided that:
10		1. The property consists of the final printed product, or copy from which
11		the printed product is produced; and
12		2. The corporation has no individuals receiving compensation in this state
13		as provided in KRS 141.120(8)(b)[; and
14	(i)	For all taxable years except those beginning after December 31, 2004, and
15		before January 1, 2007, S corporations.
16	(2) Fo	r tax years ending before January 1, 1990, the following rates shall apply:
17	(a)	Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of
18		taxable net income;
19	(b)	Four percent (4%) of the amount of taxable net income in excess of twenty-
20		five thousand dollars (\$25,000), but not in excess of fifty thousand dollars
21		(\$50,000);
22	(c)	Five percent (5%) of the amount of taxable net income in excess of fifty
23		thousand dollars (\$50,000), but not in excess of one hundred thousand dollars
24		(\$100,000);
25	(d)	Six percent (6%) of the amount of taxable net income in excess of one
26		hundred thousand dollars (\$100,000), but not in excess of two hundred fifty
27		thousand dollars (\$250,000); and

1	(e	Seven and twenty five one hundredths percent (7.25%) of the amount of
2		taxable net income in excess of two hundred fifty thousand dollars
3		(\$250,000).
4	(3) Fo	or tax years beginning after December 31, 1989, and before January 1, 2005, the
5	fe	llowing rates shall apply:
6	(a) Four percent (4%) of the first twenty-five thousand dollars (\$25,000) of
7		taxable net income;
8	(b	Five percent (5%) of the amount of taxable net income in excess of twenty-
9		five thousand dollars (\$25,000) but not in excess of fifty thousand dollars
10		(\$50,000);
11	(e) Six percent (6%) of the amount of taxable net income in excess of fifty
12		thousand dollars (\$50,000), but not in excess of one hundred thousand dollars
13		(\$100,000);
14	(d	Seven percent (7%) of the amount of taxable net income in excess of one
15		hundred thousand dollars (\$100,000), but not in excess of two hundred fifty
16		thousand dollars (\$250,000); and
17	(e	Eight and twenty-five one hundredths percent (8.25%) of the amount of
18		taxable net income in excess of two hundred fifty thousand dollars
19		(\$250,000).
20	(4) Fo	or tax years beginning before January 1, 1990, and ending after December 31,
21	19	989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b)
22	as	follows:
23	(a) Apply the tax rates in subsection (2) of this section to the taxable net income
24		for the year and multiply the result by a fraction, the numerator of which is the
25		number of days from the first day of the taxable year through December 31,
26		1989, and the denominator of which is the total number of days of the taxable
27		year; and

1	(b) Apply the tax rates in subsection (3) of this section to the taxable net income
2	for the year and multiply the result by a fraction, the numerator of which is the
3	number of days from January 1, 1990, through the last day of the taxable year
4	and the denominator of which is the total number of days of the taxable year.
5	(5) For taxable years beginning after December 31, 2004, and before January 1, 2007
6	corporations subject to the tax imposed by this section shall pay the greater of the
7	tax computed under paragraph (a) of this subsection, the tax computed under
8	paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection
9	(7) of this section. The tax computed under this subsection is as follows:
10	(a) 1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable
11	net income;
12	2. Five percent (5%) of taxable net income over fifty thousand dollars
13	(\$50,000) up to one hundred thousand dollars (\$100,000); and
14	3. Seven percent (7%) of taxable net income over one hundred thousand
15	dollars (\$100,000); or
16	(b) An alternative minimum calculation of an amount equal to the lesser of the
17	amount computed under subparagraph 1. or 2. of this paragraph:
18	1. The gross receipts calculation contained in subsection (11) of this
19	section; or
20	2. The gross profits calculation contained in subsection (12) of this
21	section].
22	(2) For taxable years beginning on or after January 1, 2018, the rate of five percent
23	(5%) of taxable net income shall apply.
24	(3)[(6)] For taxable years beginning on or after January 1, 2007, and before January
25	<u>1, 2018,</u> the following rates shall apply:
26	(a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable new
27	income;

1		(b)	Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000)
2			up to one hundred thousand dollars (\$100,000); and
3		(c)	Six percent (6%) of taxable net income over one hundred thousand dollars
4			(\$100,000).
5	[(7)	For t	taxable years beginning on or after January 1, 2005, and before January 1, 2007,
6		a mi	nimum of one hundred seventy five dollars (\$175) shall be due for the taxable
7		year	from each corporation subject to the tax imposed by this section, regardless of
8		the a	application of any tax credits provided under this chapter or any other provision
9		of th	e Kentucky Revised Statutes for which the business entity may qualify.
10	(8)	The	alternative minimum calculation portion of the tax computation provided in
11		subs	ection (5) of this section shall not apply to:
12		(a)	Public service corporations subject to tax under KRS 136.120;
13		(b)	Open end registered investment companies organized under the laws of this
14			state and registered under the Investment Company Act of 1940;
15		(c)	Any property or facility which has been certified as a fluidized bed energy
16			production facility as defined in KRS 211.390;
17		(d)	An alcohol production facility as defined in KRS 247.910; and
18		(e)	For taxable years beginning after December 31, 2005, and before January 1,
19			2007, political organizations as defined in Internal Revenue Code Section 527
20			and related regulations.
21	(9)	For t	taxable years beginning after December 31, 2004, and before January 1, 2007:
22		(a)	As used in this subsection, "qualified exempt organization" means an entity
23			listed in subsection (1)(a) to (h) of this section and shall not include any entity
24			whose exempt status has been disallowed by the Internal Revenue Service.
25		(b)	Notwithstanding any other provisions of this section or KRS 141.010, any
26			corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in
27			whole or in part by a qualified exempt organization shall, in calculating its

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1		taxable net income, gross receipts, or Kentucky gross profits, exclude the
2		proportionate share of its taxable net income, gross receipts, or Kentucky
3		gross profits attributable to the ownership interest of the qualified exempt
4		organization.
5	(c)	Any corporation that reduces taxable net income, gross receipts, or Kentucky
6		gross profits in accordance with paragraph (b) of this subsection shall
7		disregard the ownership interest of the qualified exempt organization in
8		determining the amount of credit available under KRS 141.420.
9	(d)	The Department of Revenue may promulgate an administrative regulation to
10		further define "qualified exempt organization" to include an entity for which
11		exemption is constitutionally or legally required, or to exclude any entity
12		created primarily for tax avoidance purposes with no legitimate business
13		purpose.
14	(10) For to	axable years beginning after December 31, 2004, and before January 1, 2007:
15	(a)	To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is
16		doing business in this state, any member, shareholder or partner of the
17		corporation may elect to pay, on behalf of the corporation, his, her or its
18		proportionate share of the tax imposed by this section against the corporation.
19		If an election is made, the electing member, shareholder or partner shall be
20		treated in the same manner as the corporation regarding the proportionate part
21		of the tax paid by the member, shareholder or partner. An election made
22		pursuant to this subsection shall not:
23		1. Be used by the Department of Revenue or the taxpayer to assert that the
24		party making the election is doing business in Kentucky;
25		2. Result in an increase of the amount of credit allowable under KRS
26		141.420; or
27		3. Apply to any corporation that is required to be included in a

1	consolidated return under KRS 141.200(2) to (5) and (9) to (12).
2	(b) The Department of Revenue shall prescribe forms and promulgate regulations
3	to execute and administer the provisions of this subsection.
4	(11) The alternative minimum calculation for gross receipts shall be:
5	(a) For taxable years beginning on or after January 1, 2005, and before January 1,
6	2006, nine and one half cents (\$0.095) per one hundred dollars (\$100) of the
7	corporation's Kentucky gross receipts; and
8	(b) For taxable years beginning on or after January 1, 2006, and before January 1,
9	2007:
10	1. If the corporation's gross receipts from all sources are three million
11	dollars (\$3,000,000) or less, the alternative minimum calculation shall
12	be zero;
13	2. If the corporation's gross receipts from all sources are greater than three
14	million dollars (\$3,000,000) but less than six million dollars
15	(\$6,000,000), the alternative minimum calculation shall be nine and one
16	half cents (\$0.095) per one hundred dollars (\$100) of the corporation's
17	Kentucky gross receipts, reduced by an amount equal to two thousand
18	eight hundred fifty dollars (\$2,850) multiplied by a fraction, the
19	numerator of which is six million dollars (\$6,000,000) less the amount
20	of the corporation's Kentucky gross receipts for the taxable year, and the
21	denominator of which is three million dollars (\$3,000,000), but in no
22	case shall the result be less than zero;
23	3. If the corporation's gross receipts from all sources are equal to or greater
24	than six million dollars (\$6,000,000), the alternative minimum
25	calculation shall be nine and one-half cents (\$0.095) per one hundred
26	dollars (\$100) of the corporation's Kentucky gross receipts.
27	In determining eligibility for the reductions contained in this paragraph when

1	the alternative minimum calculation is computed on a consolidated return, the
2	gross receipts of the affiliated group shall include the total gross receipts from
3	all sources of the affiliated group, including eliminating entries for
4	transactions among the group.
5	(12) The alternative minimum calculation for gross profits shall be:
6	(a) For taxable years beginning on or after January 1, 2005, and before January 1,
7	2006, seventy-five cents (\$0.75) per one hundred dollars (\$100) of the
8	corporation's Kentucky gross profits; and
9	(b) For taxable years beginning on or after January 1, 2006, and before January 1,
10	2007:
11	1. If the corporation's gross profits from all sources are three million
12	dollars (\$3,000,000) or less, the tax shall be zero;
13	2. If the corporation's gross profits from all sources are at least three
14	million dollars (\$3,000,000) but less than six million dollars
15	(\$6,000,000), the tax shall be seventy five cents (\$0.75) per one hundred
16	dollars (\$100) of the corporation's Kentucky gross profits, reduced by an
17	amount equal to twenty-two thousand five hundred dollars (\$22,500)
18	multiplied by a fraction, the numerator of which is six million dollars
19	(\$6,000,000) less the amount of the corporation's Kentucky gross profits,
20	and the denominator of which is three million dollars (\$3,000,000), but
21	in no case shall the result be less than zero;
22	3. If the corporation's gross profits from all sources are equal to or greater
23	than six million dollars (\$6,000,000), the tax shall be seventy-five cents
24	(\$0.75) per one hundred dollars (\$100) on all of the corporation's
25	Kentucky gross profits.
26	In determining eligibility for the reductions contained in this paragraph when
27	the alternative minimum calculation is computed on a consolidated return, the

gross profits of the affiliated group shall include the total gross profits from all

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2		sources of the affiliated group, including eliminating entries for transactions
3		among the group.
4	(13) As u	sed in subsections (11) and (12) of this section:
5	(a)	"Kentucky gross receipts" means an amount equal to the computation of the
6		numerator of the sales factor under the provisions of KRS 141.120(8)(c);
7	(b) —	"Gross receipts from all sources" means an amount equal to the computation
8		of the denominator of the sales factor under the provisions of KRS
9		141.120(8)(c); and
10	(c)	The terms defined in KRS 141.0401(1)(d) to (l) shall have the same meaning
11		as provided in KRS 141.0401.]
12	<u>(4)</u> [(14)]	(a) [For taxable years beginning on or after January 1, 2007,]An S
13		corporation shall pay income tax on the same items of income and in the same
14		manner as required for federal purposes, except to the extent required by
15		differences between this chapter and the federal income tax law and
16		regulations.
17	(b)	1. If the S corporation is required under Section 1363(d) of the Internal
18		Revenue Code to submit installments of tax on the recapture of LIFO
19		benefits, installments to pay the Kentucky tax due shall be paid on or
20		before the due date of the S corporation's return, as extended, if
21		applicable.
22		2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the
23		installment payment for the period of extension.
24	(c)	If the S corporation is required under Section 1374 or 1375 of the Internal
25		Revenue Code to pay tax on built-in gains or on passive investment income,
26		the amount of tax imposed by this subsection shall be computed by applying
27		the highest rate of tax for the taxable year.

1	→SECTION 59. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
2	READ AS FOLLOWS:
3	The provisions of this section are the same as appeared in KRS 141.120 prior to its
4	repeal and reenactment in Section 60 of this Act. This section applies to all
5	corporations for taxable years beginning prior to January 1, 2018, and to a provider, as
6	defined in Section 78 of this Act, for taxable years beginning on or after January 1,
7	<u>2018.</u>
8	(1) As used in this section, unless the context requires otherwise:
9	(a) "Business income" means income arising from transactions and activity in
10	the regular course of a trade or business of the corporation and includes
11	income from tangible and intangible property if the acquisition,
12	management, or disposition of the property constitutes integral parts of the
13	corporation's regular trade or business operations;
14	(b) "Commercial domicile" means the principal place from which the trade or
15	business of the corporation is managed;
16	(c) "Compensation" means wages, salaries, commissions, and any other form
17	of remuneration paid or payable to employees for personal services;
18	(d) "Financial organization" means any bank, trust company, savings bank,
19	industrial bank, land bank, safe deposit company, private banker, savings
20	and loan association, credit union, cooperative bank, investment company,
21	or any type of insurance company;
22	(e) "Nonbusiness income" means all income other than business income;
23	(f) "Public service company" means any business entity subject to taxation
24	<u>under KRS 136.120;</u>
25	(g) "Sales" means all gross receipts of the corporation not allocated under
26	subsections (3) to (7) of this section, except as provided by KRS 141.121;
27	<u>and</u>

I		(h) "State" means any state of the United States, the District of Columbia, the
2		Commonwealth of Puerto Rico, any territory or possession of the United
3		States, and any foreign country or political subdivision thereof.
4	<u>(2)</u>	Any corporation which is required by Section 52 of this Act to allocate and
5		apportion its net income shall allocate and apportion its net income as provided
6		in this section.
7	<u>(3)</u>	Rents and royalties from real property, intangible or tangible personal property,
8		capital gains and losses, interest, or patent or copyright royalties, to the extent
9		that they constitute nonbusiness income, shall be allocated as provided in
10		subsections (4) to (7) of this section.
11	<u>(4)</u>	(a) Net rents and royalties from real property located in this state are allocable
12		to this state.
13		(b) Net rents and royalties from tangible personal property are allocable to this
14		state if and to the extent that the property is utilized in this state; or in their
15		entirety if the corporation's commercial domicile is in this state and the
16		corporation is not organized under the laws of or taxable in the state in
17		which the property is utilized.
18		(c) The extent of utilization of tangible personal property in a state is
19		determined by multiplying the rents and royalties by a fraction, the
20		numerator of which is the number of days of physical location of the
21		property in the state during the rental or royalty period in the taxable year
22		and the denominator of which is the number of days of physical location of
23		the property everywhere during all rental or royalty periods in the taxable
24		year. If the physical location of the property during the rental or royalty
25		period is unknown or unascertainable by the corporation, the tangible
26		personalty is utilized in the state in which the property was located at the
27		time the rental or royalty payer obtained possession.

1		<u>(d)</u>	Net rents and royalties from intangible personal property located in this
2			state are allocable to this state. For purposes of this section, royalties from
3			property leased in Kentucky shall be considered as royalties from intangible
4			personal property.
5	<u>(5)</u>	(a)	Capital gains and losses from sales or other dispositions of real property
6			located in this state are allocable to this state.
7		<u>(b)</u>	Capital gains and losses from sales or other dispositions of tangible
8			personal property are allocable to this state if the property had a situs in this
9			state at the time of the sale, or the corporation's commercial domicile is in
10			this state and the corporation is not taxable in the state in which the
11			property had a situs.
12		<u>(c)</u>	Capital gains and losses from sales or other dispositions of intangible
13			personal property are allocable to this state if the corporation's commercial
14			domicile is in this state.
15	<u>(6)</u>	Inte	rest is allocable to this state if the corporation's commercial domicile is in
16		<u>this</u>	<u>state.</u>
17	<u>(7)</u>	(a)	Patent and copyright royalties are allocable to this state if and to the extent
18			that the patent or copyright is utilized by the payer in this state; or if and to
19			the extent that the patent or copyright is utilized by the payer in a state in
20			which the corporation is not taxable and the corporation's commercial
21			domicile is in this state.
22		<u>(b)</u>	A patent is utilized in a state to the extent that it is employed in production,
23			fabrication, manufacturing, or other processing in the state or to the extent
24			that a patented product is produced in the state. If the basis of receipts from
25			patent royalties does not permit allocation to states or if the accounting
26			procedures do not reflect states of utilization, the patent is utilized in the
27			state in which the corporation's commercial domicile is located.

1	(c)	A copyright is utilized in a state to the extent that printing or other
2		publication originates in the state. If the basis of receipts from copyright
3		royalties does not permit allocation to states or if the accounting procedures
4		do not reflect states of utilization, the copyright is utilized in the state in
5		which the corporation's commercial domicile is located.
6	(8) (a)	Except as provided in subsection (9) of this section, all business income
7		shall be apportioned to this state by multiplying the income by a fraction,
8		the numerator of which is the property factor, representing twenty-five
9		percent (25%) of the fraction, plus the payroll factor, representing twenty-
10		five percent (25%) of the fraction, plus the sales factor, representing fifty
11		percent (50%) of the fraction, and the denominator of which is four (4),
12		reduced by the number of factors, if any, having no denominator, provided
13		that if the sales factor has no denominator, then the denominator shall be
14		reduced by two (2).
15	<u>(b)</u>	1. The property factor is a fraction, the numerator of which is the
16		average value of the corporation's real and tangible personal property
17		owned or rented and used in this state during the tax period and the
18		denominator of which is the average value of all the corporation's real
19		and tangible personal property owned or rented and used during the
20		tax period; provided, however, that property which has been certified
21		as a pollution control facility as defined in KRS 224.1-300 shall be
22		excluded from the property factor.
23		2. Property owned is valued at its original cost. If the original cost of any
24		property is not determinable or is nominal or zero (0) the property
25		shall be valued by the department pursuant to administrative
26		regulations promulgated by the department. Property rented is valued
27		at eight (8) times the net annual rental rate. Net annual rental rate is

1	the annual rental rate paid by the corporation less any annual rental
2	rate received by the corporation from subrentals, provided that the
3	rental and subrentals are reasonable. If the department determines
4	that the annual rental or subrental rate is unreasonable, or if a
5	nominal or zero (0) rate is charged, the department may determine
6	and apply the rental rate as will reasonably reflect the value of the
7	property rented by the corporation.
8	3. The average value of property shall be determined by averaging the
9	values at the beginning and ending of the tax period but the
10	department may require the averaging of monthly values during the
11	tax period if reasonably required to reflect properly the average value
12	of the property.
13	(c) The payroll factor is a fraction, the numerator of which is the total amount
14	paid or payable in this state during the tax period by the corporation for
15	compensation, and the denominator of which is the total compensation paid
16	or payable by the corporation everywhere during the tax period.
17	Compensation is paid or payable in this state if:
18	1. The individual's service is performed entirely within the state;
19	2. The individual's service is performed both within and without the
20	state, but the service performed without the state is incidental to the
21	individual's service within the state; or
22	3. Some of the service is performed in the state and the base of
23	operations or, if there is no base of operations, the place from which
24	the service is directed or controlled is in the state, or the base of
25	operations or the place from which the service is directed or controlled
26	is not in any state in which some part of the service is performed, but
27	the individual's residence is in this state.

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1	(a)	1. The sales factor is a fraction, the numerator of which is the total sales
2		of the corporation in this state during the tax period, and the
3		denominator of which is the total sales of the corporation everywhere
4		during the tax period.
5		2. Sales of tangible personal property are in this state if:
6		a. The property is delivered or shipped to a purchaser, other than
7		the United States government, or to the designee of the
8		purchaser within this state regardless of the f.o.b. point or other
9		conditions of the sale; or
10		b. The property is shipped from an office, store, warehouse, factory,
11		or other place of storage in this state and the purchaser is the
12		United States government.
13		3. Sales, other than sales of tangible personal property, are in this state if
14		the income-producing activity is performed in this state; or the
15		income-producing activity is performed both in and outside this state
16		and a greater proportion of the income-producing activity is
17		performed in this state than in any other state, based on costs of
18		performance.
19	(9) (a)	If the allocation and apportionment provisions of this section do not fairly
20		represent the extent of the corporation's business activity in this state, the
21		corporation may petition for or the department may require, in respect to all
22		or any part of the corporation's business activity, if reasonable:
23		1. Separate accounting;
24		2. The exclusion of any one (1) or more of the factors;
25		3. The inclusion of one (1) or more additional factors which will fairly
26		represent the corporation's business activity in this state; or
27		4. The employment of any other method to effectuate an equitable

1	allocation and apportionment of income.
2	(b) A corporation may elect the allocation and apportionment methods for the
3	corporation's business income provided for in subparagraphs 1. and 2. of
4	this paragraph. The election, if made, shall be irrevocable for a period of
5	five years.
6	1. All business income derived directly or indirectly from the sale of
7	management, distribution, or administration services to or on behalf
8	of regulated investment companies, as defined under the Internal
9	Revenue Code of 1986, as amended, including trustees, and sponsors
10	or participants of employee benefit plans which have accounts in a
11	regulated investment company, shall be apportioned to this state only
12	to the extent that shareholders of the investment company are
13	domiciled in this state as follows:
14	a. Total business income shall be multiplied by a fraction, the
15	numerator of which shall be Kentucky receipts from the services
16	for the tax period and the denominator of which shall be the
17	total receipts everywhere from the services for the tax period;
18	b. For purposes of subdivision a. of this subparagraph, Kentucky
19	receipts shall be determined by multiplying total receipts for the
20	tax period from each separate investment company for which the
21	services are performed by a fraction. The numerator of the
22	fraction shall be the average of the number of shares owned by
23	the investment company's shareholders domiciled in this state at
24	the beginning of and at the end of the investment company's
25	taxable year, and the denominator of the fraction shall be the
26	average of the number of the shares owned by the investment
27	company shareholders everywhere at the beginning of and at the

I	end of the investment company's taxable year; and
2	c. Nonbusiness income shall be allocated to this state as provided
3	in subsections (4) to (7) of this section.
4	2. All business income derived directly or indirectly from the sale of
5	securities brokerage services by a business which operates within the
6	boundaries of any area of the Commonwealth, which on June 30,
7	1992, was designated as a Kentucky Enterprise Zone, as described in
8	KRS 154.655(2) before that statute was renumbered in 1992, shall be
9	apportioned to this state only to the extent that customers of the
10	securities brokerage firm are domiciled in this state. The portion of
11	business income apportioned to Kentucky shall be determined by
12	multiplying the total business income from the sale of these services by
13	a fraction determined in the following manner:
14	a. The numerator of the fraction shall be the brokerage
15	commissions and total margin interest paid in respect of
16	brokerage accounts owned by customers domiciled in Kentucky
17	for the brokerage firm's taxable year;
18	b. The denominator of the fraction shall be the brokerage
19	commissions and total margin interest paid in respect of
20	brokerage accounts owned by all of the brokerage firm's
21	customers for that year; and
22	c. Nonbusiness income shall be allocated to this state as provided
23	in subsections (4) to (7) of this section.
24	(10) Public service companies and financial organizations required by Section 52 of
25	this Act to allocate and apportion net income shall allocate and apportion such
26	income as follows:
27	(a) Nonbusiness income shall be allocated to this state as provided in

1		Subsections (4) to (7) of this section;
2	<u>(b)</u>	Business income shall be apportioned to this state by multiplying the
3		business income by a fraction, the numerator of which is the property
4		factor, representing twenty-five percent (25%) of the fraction, plus the
5		payroll factor, representing twenty-five percent (25%) of the fraction, plus
6		the sales factor, representing fifty percent (50%) of the fraction, and the
7		denominator of which is four (4), reduced by the number of factors, if any,
8		having no denominator, provided that if the sales factor has no
9		denominator, then the denominator shall be reduced by two (2). The payroll
10		factor shall be determined as provided in subsection (8)(c) of this section.
11		The property factor and sales factor shall be determined as provided by
12		administrative regulations promulgated by the department.
13	<u>(c)</u>	An affiliated group electing to file a consolidated return under KRS
14		141.200(4) or required to file a consolidated return under KRS 141.200(11)
15		that includes a public service company, a provider of communications
16		services or multichannel video programming services as defined in KRS
17		136.602, or a financial organization shall determine the amount of payroll
18		to be included in the apportionment factor as provided in subsection (8)(c)
19		of this section. The amount of property and sales of the public service
20		company, provider of communications services or multichannel video
21		programming services as defined in KRS 136.602, or financial organization
22		to be included in the apportionment factors of the affiliated group shall be
23		determined in accordance with administrative regulations promulgated by
24		the department under paragraph (b) of this subsection.
25	(11) For	taxable years beginning on or after January 1, 2007, a corporation that:
26	<u>(a)</u>	Owns an interest in a limited liability pass-through entity; or
27	<i>(b)</i>	Owns an interest in a general partnership organized or formed as a general

1	partnership after January 1, 2006;
2	shall include the proportionate share of sales, property, and payroll of the limited
3	liability pass-through entity or general partnership when apportioning income,
4	and shall include the proportionate share of sales in calculating the tax due
5	pursuant to KRS 141.0401. The phrases "an interest in a limited liability pass-
6	through entity" and "an interest in a general partnership organized or formed as
7	a general partnership after January 1, 2006," shall extend to each level of
8	multiple-tiered pass-through entities.
9	→SECTION 60. KRS 141.120 IS REPEALED AND REENACTED TO READ
10	AS FOLLOWS:
11	This section applies to taxable years beginning on or after January 1, 2018.
12	(1) As used in this section:
13	(a) ''Apportionable income'' means:
14	1. All income that is apportionable under the Constitution of the United
15	States and is not allocated under this section, including:
16	a. Income arising from transactions and activity in the regular
17	course of the taxpayer's trade or business; and
18	b. Income arising from tangible and intangible property if the
19	acquisition, management, employment, development, or
20	disposition of the property is or was related to the operation of
21	the taxpayer's trade or business; and
22	2. Any income that would be allocable to this state under the
23	Constitution of the United States, but that is apportioned rather than
24	allocated pursuant to this section;
25	(b) "Commercial domicile" means the principal place from which the trade or
26	business of the taxpayer is directed or managed;
27	(c) "Financial organization" means any bank, trust company, savings bank,

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1		industrial bank, land bank, safe deposit company, private banker, savings
2		and loan association, cooperative bank, small loan company, sales finance
3		company, investment company, or any similar type of entity;
4		(d) "Non-apportionable income" means all income other than apportionable
5		income;
6		(e) "Receipts" means all gross receipts of the taxpayer that are not allocated
7		under this section, and that are received from transactions and activity in
8		the regular course of the taxpayer's trade or business, except that receipts of
9		a taxpayer from:
10		1. Hedging transactions; and
11		2. The maturity, redemption, sale, exchange, loan, or other disposition of
12		cash or securities;
13		shall be excluded; and
14		(f) "This state" means the Commonwealth of Kentucky.
15	<u>(2)</u>	Any taxpayer having income from business activity which is taxable both within
16		and without this state, other than activity as a provider as defined in KRS
17		136.602, a financial organization, or a public service company, shall allocate and
18		apportion net income as provided in this section.
19	<u>(3)</u>	For purposes of allocation and apportionment of income under this section, a
20		taxpayer is taxable in another state if:
21		(a) In that state the taxpayer is subject to a net income tax, a franchise tax
22		measured by net income, a franchise tax for the privilege of doing business,
23		or a corporate stock tax; or
24		(b) That state has jurisdiction to subject the taxpayer to a net income tax
25		regardless of whether, in fact, the state does or does not do so.
26	<u>(4)</u>	Rents and royalties from real or tangible personal property, capital gains,
27		interest, or patent or copyright royalties, to the extent that they constitute

1		none	apportionable income, shall be allocated as provided in subsections (5) to (8)
2		of th	nis section.
3	<u>(5)</u>	(a)	Net rents and royalties from real property located in this state are allocable
4			to this state.
5		<u>(b)</u>	Net rents and royalties from tangible personal property are allocable to this
6			state:
7			1. If and to the extent that the property is utilized in this state; or
8			2. In their entirety if the taxpayer's commercial domicile is in this state
9			and the taxpayer is not organized under the laws of or taxable in the
10			state in which the property is utilized.
11		<u>(c)</u>	The extent of utilization of tangible personal property in a state is
12			determined by multiplying the rents and royalties by a fraction the
13			numerator of which is the number of days of physical location of the
14			property in this state during the rental or royalty period in the taxable year
15			and the denominator of which is the number of days of physical location of
16			the property everywhere during all rental or royalty periods in the taxable
17			year. If the physical location of the property during all rental or royalty
18			periods is unknown or unascertainable by the taxpayer, tangible personal
19			property is utilized in the state in which the property was located at the time
20			the rental or royalty payer obtained possession.
21	<u>(6)</u>	(a)	Capital gains and losses from sales of real property located in this state are
22			allocable to this state.
23		<u>(b)</u>	Capital gains and losses from sales of tangible personal property are
24			allocable to this state if:
25			1. The property had a situs in this state at the time of the sale; or
26			2. The taxpayer's commercial domicile is in this state and the taxpayer is
27			not taxable in the state in which the property had a situs.

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1	(c) Capital gains and losses from sales of intangible personal property are
2	allocable to this state if the taxpayer's commercial domicile is in this state.
3	(7) Interest is allocable to this state if the taxpayer's commercial domicile is in this
4	state.
5	(8) (a) Patent and copyright royalties are allocable to this state:
6	1. If and to the extent that the patent or copyright is utilized by the payer
7	in this state; or
8	2. If and to the extent that the patent or copyright is utilized by the payer
9	in a state in which the taxpayer is not taxable and the taxpayer's
10	commercial domicile is in this state.
11	(b) A patent is utilized in a state to the extent that it is employed in production,
12	fabrication, manufacturing, or other processing in the state or to the extent
13	that a patented product is produced in the state. If the basis of receipts from
14	patent royalties does not permit allocation to states or if the accounting
15	procedures do not reflect states of utilization, the patent is utilized in the
16	state in which the taxpayer's commercial domicile is located.
17	(9) All apportionable income shall be apportioned to this state by multiplying the
18	income by a fraction the numerator of which is the total receipts of the taxpayer
19	in this state during the taxable year and the denominator of which is the total
20	receipts of the taxpayer everywhere during the taxable year.
21	(10) Receipts from the sale of tangible personal property are in this state if:
22	(a) The property is delivered or shipped to a purchaser, other than the United
23	States government, within this state regardless of the f.o.b. point or other
24	conditions of the sale; or
25	(b) The property is shipped from an office, store, warehouse, factory, or other
26	place of storage in this state and the purchaser is the United States
27	government.

1	(11) (a)	Receipts, other than receipts described in subsection (10) of this section, are
2		in this state if the taxpayer's market for the sales is in this state. The
3		taxpayer's market for sales is in this state:
4		1. In the case of sale, rental, lease, or license of real property, if and to
5		the extent the property is located in this state;
6		2. In the case of rental, lease, or license of tangible personal property, if
7		and to the extent the property is located in this state;
8		3. In the case of sale of a service, if and to the extent the service is
9		delivered to a location in this state; and
10		4. In the case of intangible property:
11		a. That is rented, leased, or licensed, if and to the extent the
12		property is used in this state, provided that intangible property
13		utilized in marketing a good or service to a consumer is used in
14		this state if that good or service is purchased by a consumer who
15		is in this state; and
16		b. That is sold, if and to the extent the property is used in this state,
17		provided that:
18		i. A contract right, government license, or similar intangible
19		property that authorizes the holder to conduct a business
20		activity in a specific geographic area is used in this state if
21		the geographic area includes all or part of this state;
22		ii. Receipts from intangible property sales that are contingent
23		on the productivity, use, or disposition of the intangible
24		property shall be treated as receipts from the rental, lease,
25		or licensing of the intangible property under subdivision a.
26		of this subparagraph; and
27		iii. All other receipts from a sale of intangible property shall be

1		<u>excluded from the numerator and denominator of the</u>
2		receipts factor.
3	<u>(b)</u>	If the state or states of assignment under paragraph (a) of this subsection
4		cannot be determined, the state or states of assignment shall be reasonably
5		approximated.
6	<u>(c)</u>	If the taxpayer is not taxable in a state to which a receipt is assigned under
7		paragraph (a) or (b) of this subsection, or if the state of assignment cannot
8		be determined under paragraph (a) of this subsection or reasonably
9		approximated under paragraph (b) of this subsection, the receipt shall be
10		excluded from the denominator of the receipts factor.
11	<u>(d)</u>	The department may promulgate administrative regulations necessary to
12		carry out the purposes of this section.
13	(12) (a)	If the allocation and apportionment provisions of this section do not fairly
14		represent the extent of the taxpayer's business activity in this state, the
15		taxpayer may petition for or the department may require, in respect to all or
16		any part of the taxpayer's business activity, if reasonable:
17		1. Separate accounting;
18		2. The inclusion of one (1) or more additional factors which will fairly
19		represent the taxpayer's business activity in this state; or
20		3. The employment of any other method to effectuate an equitable
21		allocation and apportionment of the taxpayer's income.
22	<u>(b)</u>	1. If the allocation and apportionment provisions of this section do not
23		fairly represent the extent of business activity in this state of taxpayers
24		engaged in a particular industry or in a particular transaction or
25		activity, the department may, in addition to the authority provided in
26		paragraph (a) of this subsection, promulgate administrative
27		regulations for determining alternative allocation and apportionment

I			methods for those taxpayers.
2		<u>2.</u>	An administrative regulation promulgated pursuant to this paragraph
3			shall be applied uniformly, except that with respect to any taxpayer to
4			whom the administrative regulation applies, the taxpayer may petition
5			for or the department may require adjustment according to paragraph
6			(a) of this subsection.
7	<u>(c)</u>	1.	The party petitioning for or the department requiring the use of any
8			method to effectuate an equitable allocation and apportionment of the
9			taxpayer's income pursuant to paragraph (a) of the subsection shall
10			prove by clear and convincing evidence:
11			a. That the allocation and apportionment provisions of this section
12			do not fairly represent the extent of the taxpayer's business
13			activity in this state; and
14			b. That the alternative to the provisions is reasonable.
15		2.	The same burden of proof shall apply whether the taxpayer is
16			petitioning for, or the department is requiring, the use of any
17			reasonable method to effectuate an equitable allocation and
18			apportionment of the taxpayer's income. Notwithstanding the previous
19			sentence, if the department can show that in any two (2) of the prior
20			five (5) taxable years, the taxpayer had used an allocation or
21			apportionment method at variance with its allocation or
22			apportionment method or methods used for the other taxable years,
23			then the department shall not bear the burden of proof in imposing a
24			different method provided by paragraph (a) of this subsection.
25	<u>(d)</u>	If th	e department requires any method to effectuate an equitable allocation
26		and	apportionment of the taxpayer's income, the department cannot impose
27		anv	civil or criminal penalty with reference to the tax due that is

1		attributable to the taxpayer's reasonable reliance solely on the allocation
2		and apportionment provisions of this subsection.
3		(e) A taxpayer that has received written permission from the department to use
4		a reasonable method to effectuate an equitable allocation and
5		apportionment of the taxpayer's income shall not have that permission
6		revoked with respect to transactions and activities that have already
7		occurred unless there has been a material change in, or a material
8		misrepresentation of, the facts provided by the taxpayer upon which the
9		department reasonably relied.
10		→ Section 61. KRS 148.542 is amended to read as follows:
11	As u	sed in KRS 148.542 to 148.546:
12	(1)	"Above-the-line production crew" means employees involved with the production
13		of a motion picture or entertainment production whose salaries are negotiated prior
14		to commencement of production, such as actors, directors, producers, and writers;
15	(2)	"Animated production" means a nationally distributed feature-length film created
16		with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork
17		or model positions in order to create an illusion of movement;
18	(3)	"Approved company" means an eligible company approved for incentives provided
19		under KRS 141.383 and 148.544;
20	(4)	"Below-the-line production crew" means employees involved with the production
21		of a motion picture or entertainment production except above-the-line production
22		crew. "Below-the-line production crew" includes but is not limited to:
23		(a) Casting assistants;
24		(b) Costume design;
25		(c) Extras;
26		(d) Gaffers;
27		(e) Grips;

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1	(f)	Location managers;
2	(g)	Production assistants;
3	(h)	Set construction staff; and
4	(i)	Set design staff;
5	(5) "Cab	pinet" means the Finance and Administration Cabinet;
6	(6) ["Cor	nmercial" means an individual production or series of live action or animated
7	prod	uctions, music videos, infomercials, or interstitials that are:
8	(a)	Less than thirty one (31) minutes in length;
9	(b)	Made for the purpose of promoting a product, service, or idea; and
10	(c)	Produced for regional or national distribution via broadcast, cable, or any
11		digital format, including but not limited to cable, satellite, Internet, or mobile
12		electronic devices;
13	(7)] "Con	nmonwealth" means the Commonwealth of Kentucky;
14	<u>(7)</u> [(8)]	"Compensation" means compensation included in adjusted gross income as
15	defin	ned in KRS 141.010 [(10)] ;
16	<u>(8)</u> [(9)]	"Documentary" means a production based upon factual information and not
17	subje	ective interjections;
18	<u>(9)</u> [(10)]	"Eligible company" means any person that intends to film or produce a motion
19	pictu	are or entertainment production in the Commonwealth;
20	<u>(10)</u> [(11)]	"Employee" has the same meaning as [means the same as defined] in KRS
21	141.0	010 [(20)] ;
22	<u>(11)</u> [(12)]	"Enhanced incentive county" has the same meaning as in KRS 154.32-010;
23	<u>(12)</u> [(13)]	"Feature-length film" means a live-action or animated production that is:
24	(a)	More than thirty (30) minutes in length; and
25	(b)	Produced for distribution in theaters or via digital format, including but not
26		limited to DVD, Internet, or mobile electronic devices;

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(13) [(14)] "Industrial film" means a business-to-business film that may be viewed by the

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1	publi	c, including but not limited to videos used for training or for viewing at a trade		
2	show	<i>y</i> ;		
3	(14)[(15)] "Kentucky-based company" has the same meaning as in KRS 164.6011;			
4	<u>(15)</u> [(16)]	(a) "Motion picture or entertainment production" means:		
5		1. The following if filmed in whole or in part, or produced in whole or in		
6		part, in the Commonwealth:		
7		a. A feature-length film;		
8		b. A television program;		
9		c. An industrial film; <u>or</u>		
10		d. A documentary; for		
11		e. A commercial;] or		
12		2. A national touring production of a Broadway show produced in		
13		Kentucky;		
14	(b)	"Motion picture or entertainment production" does not include the filming or		
15		production of obscene material or television coverage of news or athletic		
16		events;		
17	<u>(16)</u> [(17)]	"Obscene" has the same meaning as [means the same as defined] in KRS		
18	531.0	010;		
19	<u>(17)</u> [(18)]	"Office" means the Kentucky Film Office in the Tourism, Arts and Heritage		
20	Cabi	net;		
21	<u>(18)[(19)]</u>	"Person" has the same meaning as [means the same as defined] in KRS		
22	141.0	010 [(15)] ;		
23	<u>(19)</u> [(20)]	(a) "Qualifying expenditure" means expenditures made in the		
24		Commonwealth for the following if directly used in or for a motion picture or		
25		entertainment production:		
26		1. The production script and synopsis;		
27		2. Set construction and operations, wardrobe, accessories, and related		

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1		services;
2		3. Lease or rental of real property in Kentucky as a set location;
3		4. Photography, sound synchronization, lighting, and related services;
4		5. Editing and related services;
5		6. Rental of facilities and equipment;
6		7. Vehicle leases;
7		8. Food; and
8		9. Accommodations.
9	(b)	"Qualifying expenditure" does not include Kentucky sales and use tax paid by
10		the approved company on the qualifying expenditure;
11	<u>(20)</u> [(21)]	"Qualifying payroll expenditure" means compensation paid to above-the-line
12	crew	and below-the line crew while working on a motion picture or entertainment
13	prod	action in the Commonwealth if the compensation is for services performed in
14	the C	Commonwealth;
15	<u>(21)</u> [(22)]	"Resident" has the same meaning as in KRS 141.010;
16	<u>(22)</u> [(23)]	"Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet;
17	<u>(23)</u> [(24)]	"Tax incentive agreement" means the agreement entered into pursuant to KRS
18	148.	546 between the office and the approved company; and
19	<u>(24)</u> [(25)]	"Television program" means any live-action or animated production or
20	docu	mentary, including but not limited to:
21	(a)	An episodic series;
22	(b)	A miniseries;
23	(c)	A television movie; or
24	(d)	A television pilot;
25	that	is produced for distribution on television via broadcast, cable, or any digital
26	form	at, including but not limited to cable, satellite, Internet, or mobile electronic
27	devid	ces.

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1		Section 62. KRS 148.544 is amended to read as follows:				
2	(1)	The purposes of KRS 141.383 and 148.542 to 148.546 are to:				
3		a) Encourage the film and entertainment industry to choose locations in the				
4		Commonwealth for the filming and production of motion picture or				
5		entertainment productions;				
6		b) Encourage the development of a film and entertainment industry in Kentucky;				
7		c) Encourage increased employment opportunities for the citizens of the				
8		Commonwealth within the film and entertainment industry; and				
9		d) Encourage the development of a production and postproduction infrastructure				
10		in the Commonwealth for film production and touring Broadway show				
11		production facilities containing state-of-the-art technologies.				
12	(2)	The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage				
13		Cabinet to administer, together with the Finance and Administration Cabinet and				
14		the Tourism Development Finance Authority, the tax incentive established by KRS				
15		141.383 and 148.542 to 148.546.				
16	(3)	To qualify for the tax incentive provided in subsection (5) (4) of this section, the				
17		following requirements shall be met:				
18		a) For an approved company that is also a Kentucky-based company that:				
19		1. Films or produces a feature-length film, television program, or industrial				
20		film in whole or in part in the Commonwealth, the minimum combined				
21		total of qualifying expenditures and qualifying payroll expenditures shall				
22		be one hundred twenty-five thousand dollars (\$125,000);				
23		2.[Films or produces a commercial in whole or in part in the				
24		Commonwealth that is distributed regionally or nationally, the minimum				
25		combined total of qualifying expenditures and qualifying payroll				
26		expenditures shall be one hundred thousand dollars (\$100,000);				
27		3.] Produces a national touring production of a Broadway show in whole or				

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1			in part in the Commonwealth, the minimum combined total of					
2			qualifying expenditures and qualifying payroll expenditures shall be					
3			twenty thousand dollars (\$20,000); or					
4			3.[4.] Films or produces a documentary in whole or in part in the					
5			Commonwealth, the minimum combined total of qualifying					
6			expenditures and qualifying payroll expenditures shall be ten thousand					
7			dollars (\$10,000); and					
8		(b)	For an approved company that is not a Kentucky-based company that:					
9			1. Films or produces a feature-length film, television program, or industrial					
10			film in whole or in part in the Commonwealth, the minimum combined					
11			total of qualifying expenditures and qualifying payroll expenditures shall					
12			be two hundred fifty thousand dollars (\$250,000); or					
13			2.[Films or produces a commercial in whole or in part in the					
14			Commonwealth that is distributed regionally or nationally, the minimum					
15			combined total of qualifying expenditures and qualifying payroll					
16			expenditures shall be one hundred thousand dollars (\$100,000); or					
17			3.] Films or produces a documentary in whole or in part in the					
18			Commonwealth or that produces a national touring production of a					
19			Broadway show, the minimum combined total of qualifying					
20			expenditures and qualifying payroll expenditures shall be twenty					
21			thousand dollars (\$20,000).					
22	(4)	(a)	Beginning on the effective date of this Act, the total tax incentive approved					
23			under KRS 141.383 and 148.542 to 148.546 shall be limited to one hundred					
24			million dollars (\$100,000,000) for calendar year 2018 and each calendar					
25			year thereafter.					
26		<u>(b)</u>	On the effective date of this Act, if applications have been approved during					
27			the 2018 calendar year which exceed the amount in paragraph (a) of this					

1		<u>sub</u> :	<u>section</u>	n, the office shall immediately cease in approving any further			
2		app	licatio	ons for tax incentives for that calendar year.			
3	(5) (a)	The	The incentive available under KRS 141.383 and 148.542 to 148.546 is:				
4		<u>1.</u>	A re	efundable credit for applications approved prior to the effective date			
5			of th	his Act; and			
6		<u>2.</u>	A no	onrefundable and nontransferable credit for applications approved			
7			on o	or after the effective date of this Act;			
8		agai	inst th	e Kentucky income tax imposed under KRS 141.020 or 141.040, and			
9		the	limite	d liability entity tax imposed under KRS 141.0401, as provided in			
10		KR	S 141.	383.			
11	(b)	1.	For	a motion picture or entertainment production filmed or produced in			
12			its e	entirety in an enhanced incentive county, the amount of the incentive			
13			shal	l be equal to thirty-five percent (35%) of the approved company's:			
14			a.	Qualifying expenditures;			
15			b.	Qualifying payroll expenditures paid to resident and nonresident			
16				below-the-line production crew; and			
17			c.	Qualifying payroll expenditures paid to resident and nonresident			
18				above-the-line production crew not to exceed one million dollars			
19				(\$1,000,000) in payroll expenditures per employee.			
20		2.	a.	To the extent the approved company films or produces a motion			
21				picture or entertainment production in part in an enhanced			
22				incentive county and in part a Kentucky county that is not an			
23				enhanced incentive county, the approved company shall be eligible			
24				to receive the incentives provided in this paragraph for those			
25				expenditures incurred in the enhanced incentive county and all			
26				other expenditures shall be subject to the incentives provided in			
27				paragraph (c) of this subsection.			

1		b. The approved company shall track the requisite expenditures by
2		county. If the approved company can demonstrate to the
3		satisfaction of the cabinet that it is not practical to use a separate
4		accounting method to determine the expenditures by county, the
5		approved company shall determine the correct expenditures by
6		county using an alternative method approved by the cabinet.
7	(c)	For a motion picture or entertainment production filmed or produced in whole
8		or in part in any Kentucky county other than in an enhanced incentive county,
9		the amount of the incentive shall be equal to:
10		1. Thirty percent (30%) of the approved company's:
11		a. Qualifying expenditures;
12		b. Qualifying payroll expenditures paid to below-the-line production
13		crew that are not residents; and
14		c. Qualifying payroll expenditures paid to above-the-line production
15		crew that are not residents, not to exceed one million dollars
16		(\$1,000,000) in payroll expenditures per employee; and
17		2. Thirty-five percent (35%) of the approved company's:
18		a. Qualifying payroll expenditures paid to resident below-the-line
19		production crew; and
20		b. Qualifying payroll expenditures paid to resident above-the-line
21		production crew not to exceed one million dollars (\$1,000,000) in
22		payroll expenditures per employee.
23	(d)	Prior to June 1, 2019, the office and the Department of Revenue shall work
24		jointly to provide the following information for each approved motion
25		picture or entertainment production project to the Interim Joint Committee
26		on Appropriations and Revenue by taxable year for all years that a credit
27		under KRS 141.383 is or has been claimed:

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1			<u>I.</u>	The name of the approved company and whether it is Kentucky-based
2				or not;
3			<u>2.</u>	A brief description of the motion picture or entertainment production
4				project;
5			<u>3.</u>	The amount of qualifying expenditures and the amount of qualifying
6				payroll expenditures included in the agreement;
7			<u>4.</u>	The amount of qualifying expenditures and the amount of qualifying
8				payroll expenditures paid to below-the-line production crew and paid
9				to above-the-line production crew in an enhanced incentive county;
10			<u>5.</u>	The amount of qualifying expenditures and the amount of qualifying
11				payroll expenditures paid to below-the-line production crew and paid
12				to above-the line production crew in a county other than an enhanced
13				incentive county; and
14			<u>6.</u>	The total amount of the tax credit claimed on a return by tax type, any
15				amount denied, any amount applied against a tax liability, any
16				amount refunded, and any amount remaining that may be claimed on
17				a return filed in the future [The Tourism Development Finance
18				Authority may accept applications, authorize the execution of tax
19				incentive agreements, and enter into tax incentive agreements beginning
20				on June 26, 2009; however, no credit amount shall be claimed by the
21				taxpayer as a refund or paid by the Department of Revenue prior to July
22				1, 2010] .
23		→ Se	ection	63. KRS 6.505 is amended to read as follows:
24	(1)	(a)	Each	legislator in office on July 1, 1980, may within thirty (30) days after that
25			date,	and any legislator thereafter taking office may within thirty (30) days
26			after	the date thereof, elect to make monthly contributions to the Legislators'
27			Retir	rement Plan, in an amount equal to five percent (5%) of his monthly

> creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.

- 1. (b) For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530.
 - 2. a. For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly

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1		reserves the right to amend, suspend, or reduce the benefits and
2		rights provided under KRS 6.500 to 6.577 if, in its judgment, the
3		welfare of the Commonwealth so demands, except that the amount
4		of benefits the member has accrued at the time of amendment
5		suspension, or reduction shall not be affected.
6		b. For purposes of this subparagraph, the amount of benefits the
7		member has accrued at the time of amendment, suspension, or
8		reduction shall be limited to the accumulated account balance the
9		member has accrued at the time of amendment, suspension, or
10		reduction.
11		c. The provisions of this subsection shall not be construed to limit the
12		General Assembly's authority to change any other benefit or right
13		specified by KRS 6.500 to 6.577, for members who begin
14		participating in the Legislators' Retirement Plan on or after January
15		1, 2014, except the benefits specified by subparagraph 2.b. of this
16		paragraph.
17		3. The provisions of this paragraph shall not be construed to limit the
18		General Assembly's authority to amend, reduce, or suspend the benefits
19		and rights of members of the Legislators' Retirement Plan as provided by
20		KRS 6.500 to 6.577 that the General Assembly had the authority to
21		amend, reduce, or suspend, prior to July 1, 2013.
22	(c)	An election once made under this section either to participate or not to
23		participate in the Legislators' Retirement Plan, shall be considered to apply to
24		all future service as a legislator, whether in the same or a different office as a
25		legislator, and whether or not it is in successive terms.

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Notwithstanding the provisions of this subsection:

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(d)

1.

A legislator who becomes a member of the Legislators' Retirement Plan

on or after September 1, 2008, but prior to January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his monthly creditable compensation, as defined in KRS 61.510(13).

- 2. A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:
 - a. Five percent (5%) of his or her monthly creditable compensation,
 as defined in KRS 61.510(13), shall be used to provide funding for
 benefits provided under KRS 21.402; and
 - b. One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by KRS 6.577 and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.530.
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577.

(3)

When any legislator makes a delayed election of membership in the Legislators'
Retirement Plan under subsection (2) of this section, his active membership in the
Kentucky Employees Retirement System shall terminate, as of the date his
membership in the Legislators' Retirement Plan becomes effective, and any credit in
the Kentucky Employees Retirement System, earned for service as a legislator,
which he then has or which he subsequently regains while being an active member
of the Legislators' Retirement Plan, shall be transferred to and counted as service
credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the
Kentucky Employees Retirement System, except for the purpose of validating any
other credit in that system if the member pays the difference, if any, between the
amount transferred from the Kentucky Employees Retirement System and the
actuarial value of the transferred service. However, any credit he then has in the
Kentucky Employees Retirement System, earned for service in any capacity other
than a legislator, shall not be affected. No person may attain credit in more than one
(1) of the retirement plans or systems mentioned in this section for the same period
of service. When credit is transferred from the Kentucky Employees Retirement
System to the Legislators' Retirement Plan, the Kentucky Employees Retirement
System shall transfer to the Legislators' Retirement Fund an amount equal to the
employee's and employer's contributions attributable to that credit, together with
interest on the contributions from the date made to the date of transfer at the
actuarially assumed interest rate of the Kentucky Employees Retirement System in
effect at the time the contributions were made, compounded annually at that same
interest rate.

(4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining

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tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.

(6) A member of the Legislators' Retirement Plan who would be entitled, under KRS61.552, to repurchase credit in the Kentucky Employees Retirement System, for

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previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.

→ Section 64. KRS 16.545 is amended to read as follows:

- 15 (1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be 16 required to contribute, each member shall, commencing on July 1, 1998, contribute 17 for each pay period for which he receives compensation, eight percent (8%) of his 18 creditable compensation.
- 19 (2) The employer shall cause to be deducted from the compensation of each member 20 for each and every payroll period subsequent to July 1, 1958, the contributions 21 payable by such member as provided in KRS 16.510 to 16.652.
- 22 (3) Every member shall be deemed to consent to deductions made as provided herein; 23 and the payment of salary or compensation less such deduction shall be a full and 24 complete discharge of all claims for services rendered by such person during the 25 period covered by such payment, except as to any benefits provided by KRS 16.510 26 to 16.652.
- 27 (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of

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the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

17 → Section 65. KRS 21.360 is amended to read as follows:

18 (1) Each Judge of the District Court in office on July 1, 1978, may within thirty (a) 19 (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, 20 elect to make monthly contributions to the retirement system in an amount 22 equal to:

- 1. Five percent (5%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008;
- 2. Six percent (6%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan on

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or after September 1, 2008, but prior to January 1, 2014; or

3. Six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:

- a. Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under KRS 21.402; and
- b. One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by KRS 21.427 and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.
- (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement benefits shall not be affected thereby.

(3)

(2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.

(a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.

(b) Any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected. Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the

1 judge elects membership in the Judicial Retirement Plan.

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No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuariallyassumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.

- (4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.
- When any Judge of the District Court in office on July 1, 1978, elects membership 18 (5) 19 in the Judicial Retirement System in accordance with this section, his membership 20 in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.
 - The state shall, solely for the purpose of compliance with Section 414(h) of the (6)United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining

tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.
- 16 → Section 66. KRS 45A.067 is amended to read as follows:
- 17 As used in this section: (1)

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- 18 "Affiliate" means a person who directly or indirectly owns or controls, is 19 owned or controlled by, or is under common ownership or control with 20 another person or group of persons; and
- 21 (b) "Person" includes any individual, firm, copartnership, pass-through entity as 22 defined in KRS 141.010[(26)], joint venture, association, social club, fraternal 23 organization, corporation, estate, trust, business trust, receiver, trustee, 24 syndicate, cooperative, assignee, governmental unit or agency, or any other 25 group or combination acting as a unit.
- 26 (2) The Commonwealth shall not contract to acquire goods or services, and a person 27 shall not contract to supply goods or services to the Commonwealth, unless, prior to

1		or contemporaneous with entering into the contract, the person contracting to supply				
2		goods or services and its affiliates register with the Department of Revenue to				
3		collect and remit the sales and use tax imposed by KRS Chapter 139.				
4	(3)	Nothing in this section shall require a person or affiliate to register if the person or				
5		affiliate does not make sales to customers in the Commonwealth.				
6	(4)	The provisions of subsection (2) of this section are specifically applicable to foreign				
7		persons, notwithstanding the fact that the foreign person or the affiliate may not				
8		otherwise be legally obligated to collect and remit the sales and use tax.				
9	(5)	The secretary of the Finance and Administration Cabinet shall promulgate an				
10		administrative regulation to establish the procedure ensuring compliance with the				
11		provisions of this section.				
12		→ Section 67. KRS 61.523 is amended to read as follows:				
13	The	following shall apply if an employer ceases participation in the Kentucky Employees				
14	Reti	rement System or the County Employees Retirement System under KRS 61.522 and,				
15	after ceasing participation, establishes an alternative retirement plan as required by KRS					
16	61.522, which is a governmental plan within the meaning of 26 U.S.C. sec. 414(d) that					
17	prov	ides for mandatory employee contributions:				
18	(1)	Each employee of the employer participating in the governmental plan shall				
19		contribute a fixed percentage of compensation for each pay period he or she				
20		receives compensation. The fixed percentage of compensation provided by this				
21		subsection shall:				
22		(a) Be established in a written plan document by the board of directors or other				
23		governing body of the employer for specific classes of employees;				
24		(b) Comply with subsections (2) to (4) of this section; and				
25		(c) Only be changed by the board of directors or other governing body of the				

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paragraph (a) of this subsection is amended to reflect the change;

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employer prospectively, provided the written plan document established by

1	(2)	The employer shall cause to be deducted from the compensation of each employee
2		the contribution rate specified by subsection (1) of this section;

The deductions provided by this section shall be made notwithstanding that the

- minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided by this section, and payment of salary or compensation less these deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by such payment, except as to benefits payable under the plans established by the employer that are covered by this section;

 (4) Each employer shall, solely for the purpose of compliance with 26 U.S.C. sec. 414(h), pick up the employee contributions required by this section and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)], except for purposes of the Federal Insurance Contributions Act. The
 - (a) Be in lieu of employee contributions;

picked-up employee contribution shall:

- 17 (b) Not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee; and
- 19 (c) Be paid by the employer from the same source of funds which is used to pay compensation to the employee.
 - The employee shall not be permitted to opt-out of the picked-up employee contributions, to receive the picked-up employee contributions directly instead of having them paid by the employer to the retirement plan, or to have any other cash or deferred election right to the picked-up contributions within the meaning of 26 C.F.R. sec. 1.401(k)-1(a)(3); and
- 26 (5) The provisions of this section shall not be construed to be a determination or opinion by the Kentucky General Assembly as to whether or not an employer who

1 ceases participation in the Kentucky Employees Retirement System or the County

2 Employees Retirement System under KRS 61.522 is a governmental agency for

purposes of establishing a governmental plan within the meaning of 26 U.S.C. sec.

4 414(d).

- 5 → Section 68. KRS 61.560 is amended to read as follows:
- 6 Each employee shall, commencing on August 1, 1986, contribute for each pay (1) 7 period for which he receives compensation five percent (5%) of his creditable compensation, except that members of the General Assembly, who elect the 8 9 survivorship option provided in KRS 61.635(13), shall each contribute six and six-10 tenths percent (6.6%) of creditable compensation commencing with the payroll 11 period immediately following his election of the option. Any other provisions of 12 KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in 13 KRS 61.637, who became reemployed prior to September 1, 2008, and began 14 participating in another retirement account shall contribute five percent (5%) of his 15 creditable compensation, or the amount required by KRS 61.592(3) if applicable.
- 16 (2) Each employer shall cause to be deducted from the creditable compensation of each 17 employee for each and every payroll period the contribution payable by each such 18 employee as provided in KRS 61.515 to 61.705.
- 19 (3) The deductions provided for herein shall be made notwithstanding that the
 20 minimum compensation provided by law for any employee shall be reduced
 21 thereby. Every employee shall be deemed to consent and agree to the deductions
 22 made as provided herein; and payment of salary or compensation less such
 23 deductions shall be a full and complete discharge of all claims for services rendered
 24 by such person during the period covered by such payment, except as to any
 25 benefits provided by KRS 61.515 to 61.705.
- 26 (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of 27 the United States Internal Revenue Code, pick up the employee contributions

required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- 16 (5) The provisions of this section shall not apply to individuals who are not eligible for 17 membership as provided by KRS 61.522.
- 18 → Section 69. KRS 65.155 is amended to read as follows:
- 19 (1) Each local government or local government agency which has a pension plan which 20 is qualified under Section 401(a) of the Internal Revenue Code shall, solely for the 21 purpose of compliance with Section 414(h) of the United States Internal Revenue 22 Code, pick up the employee contributions made to the respective retirement system 23 pursuant to KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 24 95.867, or 96.180 for all compensation earned after August 1, 1982, or after 25 qualification pursuant to Section 401(a) of the Internal Revenue Code, whichever is 26 later, and all contributions so picked up shall be treated as employer contributions in 27 determining tax treatment under the United States Internal Revenue Code and KRS

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141.010[(10)]. However, each local government or local government agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, or later date, as the case may be, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The local governments or local government agencies shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the local government or local government agency to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 95.867, or 96.180 in the same manner and to the same extent as employee contributions made prior to August 1, 1982, or later date of pick up, as the case may be.

- (2) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit may be based in any of the retirement systems covered by this section.
- 22 → Section 70. KRS 67A.320 is amended to read as follows:
 - (1) Any urban-county government in which there existed a municipality which had in effect an employees' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the pension fund for those employees covered by the pension fund, and shall in each case provide for the payment to the pension fund in each month of the sum

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necessary to maintain the fund in accordance with the actuarial principles established by the actuarial studies described in this section, and may assess monthly the amount or percent of the salary of the employees as determined on a fair actuarial basis, and in any case not in excess of nine percent (9%) of the monthly salary of each employee unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employees' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the pension fund, provide for the performance of an actuarial valuation, which shall be completed within six (6) months thereafter, and shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the fund, including any payments required to bring the fund to an actuarially sound position if it was not so at the time of the performance of the valuation. The legislative body shall determine a reasonable period over which additional funding, if any, shall be made, which period shall not exceed thirty (30) years. A similar valuation shall be arranged by the board at the cost of the urban-county government at least once in every three (3) year to five (5) year period thereafter as prescribed by KRS 65.156. If the fund created by this section is extended to cover employees not described in the first sentence of this section, the actuarial valuation shall determine the required payments necessary to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain the fund, and shall assess against the additional covered employees the same monthly contribution as required for other government employees.

(2) The urban-county government shall, solely for the purpose of compliance with

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Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The pickedup employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of this section in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- (3) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit is based.
- (4) There is hereby created a board for the existing employees' pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the Finance and Administration Cabinet, the director of the Division of Personnel, and three (3) civil service

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employees or retirees to be elected to the board by those employees and retirees covered by the employees' pension fund. In the event that there is no position in the urban-county government denominated secretary of the Finance and Administration Cabinet and/or director of the Division of Personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

- 7 (5) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.
- 9 (6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.
- 12 (7) The trustees of the pension fund shall, at least once every three (3) months, report in
 13 writing to the mayor the receipts, expenditures, and financial status of the pension
 14 fund, stating the places of deposit of funds, or the character of investments made,
 15 and the mayor shall cause copies of the report to be posted in at least three (3)
 16 places where urban-county employees frequent and report.
 - (8) If the urban-county government issues the appropriate order allowing participation in the County Employees Retirement System alternate participation plan pursuant to KRS 78.530(3) and 78.531(2), the urban-county government shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local pension fund and to retirees and their survivors as determined by actuarial valuation and other than assets payable to the County Employees Retirement System pursuant to KRS 78.531(2), to assist in the payment of both the employee's and employer's costs of alternate participation pursuant to KRS 78.530(3)(d).
- 26 (9) If all liabilities to all individuals entitled to benefits from the employees' pension 27 fund have been satisfied, any ordinances established for creation or maintenance of

the fund may be repealed by the majority vote of the duly elected members of the entire legislative body of the urban-county government. If repealed, the fund's board of trustees shall, within sixty (60) days of repeal, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the board of trustees to the urban-county government's general fund which shall then contribute the entire distribution received into the policemen's and firefighters' retirement fund as a supplemental contribution, so long as the return of assets complies with federal and state law governing the distribution of assets. The supplemental contribution provided to the policemen's and firefighters' retirement fund under this subsection shall be in addition to the contributions required by KRS 67A.360 to 67A.690 and shall not be used to offset any other contributions required to be paid to the fund under the provisions of KRS 67A.360 to 67A.690. Within thirty (30) days following the distribution of residual assets, the board of trustees of the fund shall as its last act file a complete report with the legislative body of the urban-county government of the actions taken to terminate the fund and liquidate residual assets of the fund. Upon completion of the provisions specified by this subsection, the provisions of KRS 67A.320 to 67A.330 as it relates to the employees' pension fund shall be void.

→ Section 71. KRS 67A.510 is amended to read as follows:

20 (1) Each active member shall contribute a sum equal to not less than ten and one-(a) 21 half percent (10.5%) nor more than eleven percent (11%) of current salary, to 22 be determined by the legislative body of the urban-county government, except 23 that:

- For members whose participation date in the fund is prior to March 14, 1. 2013, the members shall, effective July 1, 2013, contribute a sum equal to twelve percent (12%) of current salary to the fund; and
- 2. For members whose participation date in the fund is on or after March

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14, 2013, the member shall contribute a sum equal to twelve percent (12%) of current salary to the fund.

(2)

(b) The commissioner of finance of the government is hereby authorized to deduct such amount provided by this subsection from the salary paid to each active member during any pay period. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982, employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.

The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund

satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 72. KRS 78.610 is amended to read as follows:

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- 11 (1) Each employee shall, commencing on August 1, 1990, contribute, for each pay 12 period for which he receives compensation, five percent (5%) of his creditable 13 compensation.
- 14 (2) The agency reporting official of a participating county shall cause to be deducted 15 from the "creditable compensation" of each employee for each and every payroll 16 period subsequent to the date the county participated in the system the contribution 17 payable by the member as provided in KRS 78.510 to 78.852. The agency reporting 18 official shall promptly pay the deducted employee contributions to the system in 19 accordance with KRS 78.625.
- 20 (3) The deductions provided for in subsection (2) of this section shall be made
 21 notwithstanding that the minimum compensation provided by law for any employee
 22 shall be reduced thereby. Every employee shall be deemed to consent and agree to
 23 the deductions made as provided in subsection (2) of this section; and payment of
 24 salary or compensation less the deductions shall be a full and complete discharge of
 25 all claims for services rendered by the person during the period covered by the
 26 payment, except as to any benefits provided by KRS 78.510 to 78.852.
- 27 (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of

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the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- 16 (5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.
- 18 → Section 73. KRS 136.310 is amended to read as follows:
- 19 (1) Every federally or state chartered savings and loan association, savings bank, and 20 other similar institution authorized to transact business in this state, with property 21 and payroll within and without this state, shall, during January of each year, file 22 with the Department of Revenue a report containing information and in such form 23 as the department may require.
 - The Department of Revenue shall fix the fair cash value, as of January 1 of each (2) year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the department shall be a three (3) step process as follows:

1	(a)	1.	The total value of deposits maintained in Kentucky less any amounts
2			where the amount borrowed by a member equals or exceeds the amount
3			deposited by that member shall be determined.
4		2.	The total value of deposits maintained in Kentucky shall be determined
5			by the same method used for filing the summary of deposits report with
6			the Federal Deposit Insurance Corporation;
7	(b)	1.	The Kentucky apportioned value of capital shall be determined by
8			including undivided profits, surplus, general reserves, and paid-up stock.
9		2.	For Agricultural Credit Associations chartered by the Farm Credit
10			Administration, capital shall be computed by deducting the book value
11			of the association's investment in any other wholly owned institution
12			chartered by the Farm Credit Administration that is either subject to the
13			tax imposed by KRS 136.300 or this section or that is exempt from state
14			taxation by federal law.
15		3.	The Kentucky value of capital shall be determined by a fraction, the
16			numerator of which is the receipts factor plus the outstanding loan
17			balance factor plus the payroll factor, and the denominator of which is
18			three (3); and
19	(c)	1.	The values determined in steps (a) and (b) of this subsection shall be
20			added together to determine total Kentucky capital and then reduced by
21			the influence of ownership in tax-exempt United States obligations to
22			determine Kentucky taxable capital.
23		2.	The influence of tax-exempt United States obligations is to be
24			determined from the reports of condition filed with the applicable
25			supervisory agency as follows: the average amount of tax-exempt United
26			States obligations for the calendar year, over the average amount of total

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assets for the calendar year multiplied by total Kentucky capital.

1		3. The department shall immediately notify each institution of the value so
2		fixed.
3	(3)	The receipts factor specified in subsection (2)(b) of this section is a fraction, the
4		numerator of which is all receipts derived from loans and other sources negotiated
5		through offices or derived from customers in Kentucky, and the denominator of
6		which is total business receipts for the preceding calendar year.
7	(4)	(a) The outstanding loan balance factor specified in subsection (2)(b) of this
8		section is a fraction, the numerator of which is the average balance of
9		outstanding loans negotiated from offices or made to customers in Kentucky,
10		and the denominator of which is the average balance of all outstanding loans.
11		(b) 1. The average outstanding loan balance is determined by adding the
12		outstanding loan balance at the beginning of the preceding calendar year
13		to the outstanding loan balance at the end of the preceding calendar year
14		and dividing by two (2).
15		2. If the yearly beginning balance and ending balance results in an
16		inequitable factor, the average outstanding loan balance may be
17		computed on a monthly average balance.
18	(5)	The payroll factor specified in subsection (2)(b) of this section shall be determined
19		for the preceding calendar year under the provisions of <u>Section 59 of this Act</u> [KRS
20		141.120(8)(b)] and administrative regulations promulgated according to KRS
21		Chapter 13A.
22	(6)	(a) By July 1 succeeding the filing of the report as provided in subsection (1) of
23		this section, each financial institution included in subsection (1) of this section
24		shall pay directly into the State Treasury a tax of one dollar (\$1) for each one
25		thousand dollars (\$1,000) paid in on its Kentucky taxable capital as fixed in
26		subsection (2)(c) of this section.

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(b) The institution shall not be required to pay local taxes upon its capital stock,

1	surplus, undivided profits, notes, mortgages, or other credits, and the tax
2	provided by this section shall be in lieu of all taxes for state purposes on
3	intangible property of the institution, nor shall any depositor of the institution
4	be required to list his deposits for taxation under KRS 132.020.

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- (c) Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.
- 8 (7) If a financial institution included in subsection (1) of this section selects, it may
 9 deduct taxes imposed in subsection (6) of this section from the dividends paid or
 10 credited to a nonborrowing shareholder.
- 11 (8) (a) Every Agricultural Credit Association chartered by the Farm Credit
 12 Administration being authorized to transact business in Kentucky but having
 13 no employees located within or without the state shall be subject to the same
 14 tax imposed pursuant to either KRS 136.300 or this section as that imposed
 15 upon its wholly owned Production Credit Association subsidiary.
 - (b) For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.
 - → Section 74. KRS 136.530 is amended to read as follows:
 - (1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:
- 27 (a) Receipts from the lease or rental of real property owned by the financial

1		institution;
2	(b)	Receipts from the lease or rental of tangible personal property owned by the
3		financial institution;
4	(c)	Interest and fees or penalties in the nature of interest from loans secured by
5		real property;
6	(d)	Interest and fees or penalties in the nature of interest from loans not secured
7		by real property;
8	(e)	Net gains from the sale of loans. Net gains from the sale of loans includes
9		income recorded under the coupon stripping rules of Section 1286 of the
10		Internal Revenue Code;
11	(f)	Interest and fees or penalties in the nature of interest from credit card
12		receivables and receipts from fees charged to card holders, such as annual
13		fees;
14	(g)	Net gains, but not less than zero (0), from the sale of credit card receivables;
15	(h)	All credit card issuer's reimbursement fees;
16	(i)	Receipts from merchant discount. Receipts from merchant discount shall be
17		computed net of any cardholder charge backs, but shall not be reduced by any
18		interchange transaction fees or by any issuer's reimbursement fees paid to
19		another for charges made by its card holders;
20	(j)	Loan servicing fees derived from loans secured by real property;
21	(k)	Loan servicing fees derived from loans not secured by real property;
22	(1)	Interest, dividends, net gains, but not less than zero (0), and other income
23		from investment assets and activities and from trading assets and activities.
24		Investment assets and activities and trading assets and activities include but
25		are not limited to investment securities, trading account assets, federal funds,
26		securities purchased and sold under agreements to resell or repurchase,

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options, futures contracts, forward contracts, notional principal contracts such

1			as sv	waps, equities, and foreign currency transactions. The receipts factor shall		
2			inclu	ade the following amounts:		
3			1.	The amount by which interest from federal funds sold and securities		
4				purchased under resale agreements exceeds interest expense on federal		
5				funds purchased and securities sold under repurchase agreements; and		
6			2.	The amount by which interest, dividends, gains, and other income from		
7				trading assets and activities, including but not limited to assets and		
8				activities in the matched book, in the arbitrage book, and foreign		
9				currency transactions, exceed amounts paid in lieu of interest, amounts		
10				paid in lieu of dividends, and losses from these assets and activities;		
11		(m)	All 1	receipts derived from sales that would be included in the factor established		
12			by <u>S</u>	ection 59 of this Act[KRS 141.120(8)(e)]; and		
13		(n)	Rece	eipts from services not otherwise specifically listed.		
14	(2)	A de	eterm	etermination of whether receipts should be included in the numerator of the		
15		fract	ion shall be made as follows:			
16		(a)	Rece	eipts from the lease or rental of real property owned by the financial		
17			insti	tution shall be included in the numerator if the property is located within		
18			this	Commonwealth or receipts from the sublease of real property if the		
19			prop	erty is located within this Commonwealth.		
20		(b)	1.	Except as described in subparagraph 2. of this paragraph, receipts from		
21				the lease or rental of tangible personal property owned by the financial		
22				institution shall be included in the numerator if the property is located		
23				within this Commonwealth when it is first placed in service by the		
24				lessee.		
25			2.	Receipts from the lease or rental of transportation property owned by the		
26				financial institution are included in the numerator of the receipts factor		
27				to the extent that the property is used in this Commonwealth. The extent		

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> an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

- (c) 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.
 - 2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.
- Interest and fees or penalties in the nature of interest from loans not secured (d) by real property shall be included in the numerator if the borrower is located

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in this Commonwealth.

(e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

- 1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
- 2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.
- (f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.
- (g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts

factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

- (h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.
- (i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.
- (j) 1. a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
 - b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of

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subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

- 2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.
- (k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the incomeproducing activity is performed in this Commonwealth based on cost of performance.
- (l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.
 - a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a

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> regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.

- b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (1) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and denominator of which is the average value of all funds and securities.
 - The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (1) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.

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> For purposes of this subparagraph, average value shall be d. determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).

- 2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the department may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.
 - a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.
 - The amount of interest from federal funds sold and purchased and b. from securities purchased under resale agreements and securities sold under repurchase agreements attributable this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (1) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and

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1 securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (1) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

- 3. If the financial institution elects or is required by the department to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the department to use, or the department requires, a different method.
- 4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business

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1			is ou	utside this Commonwealth, the asset or activity shall be considered
2			to be	e located at the regular place of business of the financial institution
3			wher	re the investment or trading policies or guidelines with respect to the
4			asset	t or activity are established. Unless the financial institution
5			demo	onstrates to the contrary, the policies and guidelines shall be
6			presu	umed to be established at the commercial domicile of the financial
7			instit	tution.
8	(m)	The	numer	erator of the receipts factor includes all other receipts derived from
9		sale	s as de	etermined in Section 59 of this Act[pursuant to the provisions set
10		fortl	ı in KI	RS 141.120(8)(c)].
11	(n)	1.	All re	receipts that would be assigned under this section to a state in which
12			the fi	inancial institution is not taxable shall be included in the numerator
13			of the	e receipts factor, if the financial institution's commercial domicile is
14			in thi	is Commonwealth.
15		2.	For 1	purposes of subparagraph 1. of this paragraph, "taxable" means
16			eithe	er:
17			a.	That a financial institution is subject in another state to a net
18				income tax, a franchise tax measured by net income, a franchise
19				tax for the privilege of doing business, a corporate stock tax
20				including a bank shares tax, a single business tax, an earned
21				surplus tax, or any tax which is imposed upon or measured by net
22				income; or
23			b.	That another state has statutory authority to subject the financial
24				institution to any of the taxes in subdivision a. of this
25				subparagraph, whether in fact the state does or does not impose the

→ Section 75. KRS 139.531 is amended to read as follows:

tax.

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1	(1)	Not	withstanding any other provisions of this chapter to the contrary, the taxes
2		imp	osed by this chapter shall apply to:
3		(a)	Fees paid for breeding a stallion to a mare in this state;
4		(b)	Sales of horses unless exempted under the provisions of subsections (2)(a) or
5			(2)(d) of this section; and
6		(c)	The sales price of any horse claimed at any race meeting within this state.
7	(2)	In a	ddition to any other exemptions provided for the horse industry in this chapter,
8		the	taxes imposed under the provisions of this chapter shall not apply to the
9		follo	owing activities:
10		(a)	The sale or use of horses, or interests or shares in horses, provided the
11			purchase or use is made for breeding purposes only;
12		(b)	The use of a stallion for breeding purposes by an owner or shareholder of the
13			stallion;
14		(c)	The trading of stallion services by an owner or shareholder of the stallion;
15		(d)	The sale of horses less than two (2) years of age at the time of sale, provided
16			the sale is made to a nonresident of Kentucky. For the purposes of this section,
17			a nonresident means a person as defined in KRS 141.010 [(15)] who is not a
18			resident in this state as defined by KRS 141.010[(17)] or who is not
19			commercially domiciled in this state as defined in <u>Section 59 of this Act</u> [KRS
20			141.120(1)(b)] ;
21		(e)	The boarding and training of horses within this state; and
22		(f)	The temporary use of horses within this state for purposes of racing,
23			exhibiting, or performing.
24		→ S	ection 76. KRS 141.050 is amended to read as follows:
25	(1)	Exc	ept to the extent required by differences between this chapter and its application
26		and	the federal income tax law and its application, the administrative and judicial

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interpretations of the federal income tax law, computations of gross income and

deductions therefrom, accounting methods, and accounting procedures, for purposes
of this chapter shall be as nearly as practicable identical with those required for
federal income tax purposes. Changes to federal income tax law made after the
Internal Revenue Code reference date contained in KRS 141.010[(3)] shall no
apply for purposes of this chapter unless adopted by the General Assembly.

- 6 Every person subject to the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with the rules and administrative 8 regulations as the department from time to time may promulgate. Whenever the department judges it necessary, it may require a person, by notice served upon him 10 or her, to make a return, render under oath statements, or keep records, as the department deems sufficient to show whether or not the person is liable for tax, and 12 the extent of the liability.
- 13 The commissioner or his or her authorized agent or representative, for the purpose 14 of ascertaining the correctness of any return or for the purposes of making an 15 estimate of the taxable income of any taxpayers, may require the attendance of the 16 taxpayer or of any other person having knowledge in the premises.
- 17 The department shall promulgate rules and regulations necessary to effectively carry (4) 18 out the provisions of this chapter.
- 19 → Section 77. KRS 141.0401 is amended to read as follows:
- 20 (1) As used in this section:

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21 "Kentucky gross receipts" means an amount equal to the computation of the 22 numerator of the apportionment fraction[sales factor] under Section 60 of 23 this Act the provisions of KRS 141.120(8)(c), KRS 141.120(9), any 24 administrative regulations related to the computation of the sales factor, and 25 KRS 141.121 and includes the proportionate share of Kentucky gross receipts 26 of all wholly or partially owned limited liability pass-through entities, 27 including all layers of a multi-layered pass-through structure;

1	(b)	"Gross red	ceipts from all sources" means an amount equal to the computation
2		of the den	ominator of the <u>apportionment fraction</u> [sales factor] under <u>Section</u>
3		60 of this	Act [the provisions of KRS 141.120(8)(c), KRS 141.120(9)], any
4		administra	ative regulations related to the computation of the sales factor, and
5		KRS 141.	121 and includes the proportionate share of gross receipts from all
6		sources of	all wholly or partially owned limited liability pass-through entities,
7		including	all layers of a multi-layered pass-through structure;
8	(c)	"Combine	d group" means all members of an affiliated group as defined in
9		KRS 141.	200(9)(b) and all limited liability pass-through entities that would be
10		included i	n an affiliated group if organized as a corporation;
11	(d)	"Cost of g	oods sold" means:
12		1. Amo	ounts that are:
13		a.	Allowable as cost of goods sold pursuant to the Internal Revenue
14			Code and any guidelines issued by the Internal Revenue Service
15			relating to cost of goods sold, unless modified by this paragraph;
16			and
17		b.	Incurred in acquiring or producing the tangible product generating
18			the Kentucky gross receipts.
19		2. For	manufacturing, producing, reselling, retailing, or wholesaling
20		activ	vities, cost of goods sold shall only include costs directly incurred in
21		acqu	iring or producing the tangible product. In determining cost of
22		good	ds sold:
23		a.	Labor costs shall be limited to direct labor costs as defined in
24			paragraph (f) of this subsection;
25		b.	Bulk delivery costs as defined in paragraph (g) of this subsection
26			may be included; and
27		c.	Costs allowable under Section 263A of the Internal Revenue Code

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1		may be included only to the extent the costs are incurred in
2		acquiring or producing the tangible product generating the
3		Kentucky gross receipts. Notwithstanding the foregoing, indirect
4		labor costs allowable under Section 263A shall not be included;
5		3. For any activity other than manufacturing, producing, reselling, retailing,
6		or wholesaling, no costs shall be included in cost of goods sold.
7		As used in this paragraph, "guidelines issued by the Internal Revenue Service"
8		includes regulations, private letter rulings, or any other guidance issued by the
9		Internal Revenue Service that may be relied upon by taxpayers under reliance
10		standards established by the Internal Revenue Service;
11	(e)	1. "Kentucky gross profits" means Kentucky gross receipts reduced by
12		returns and allowances attributable to Kentucky gross receipts, less the
13		cost of goods sold attributable to Kentucky gross receipts. If the amount
14		of returns and allowances attributable to Kentucky gross receipts and the
15		cost of goods sold attributable to Kentucky gross receipts is zero, then
16		"Kentucky gross profits" means Kentucky gross receipts; and
17		2. "Gross profits from all sources" means gross receipts from all sources
18		reduced by returns and allowances attributable to gross receipts from all
19		sources, less the cost of goods sold attributable to gross receipts from all
20		sources. If the amount of returns and allowances attributable to gross
21		receipts from all sources and the cost of goods sold attributable to gross
22		receipts from all sources is zero, then gross profits from all sources
23		means gross receipts from all sources;
24	(f)	"Direct labor" means labor that is incorporated into the tangible product sold
25		or is an integral part of the manufacturing process;
26	(g)	"Bulk delivery costs" means the cost of delivering the product to the consumer

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if:

1			1. The tangible product is delivered in bulk and requires specialized
2			equipment that generally precludes commercial shipping; and
3			2. The tangible product is taxable under KRS 138.220;
4		(h)	"Manufacturing" and "producing" means:
5			1. Manufacturing, producing, constructing, or assembling components to
6			produce a significantly different or enhanced end tangible product;
7			2. Mining or severing natural resources from the earth; or
8			3. Growing or raising agricultural or horticultural products or animals;
9		(i)	"Real property" means land and anything growing on, attached to, or erected
10			on it, excluding anything that may be severed without injury to the land;
11		(j)	"Reselling," "retailing," and "wholesaling" mean the sale of a tangible
12			product;
13		(k)	"Tangible personal property" means property, other than real property, that has
14			physical form and characteristics; and
15		(1)	"Tangible product" means real property and tangible personal property;
16	(2)	(a)	For taxable years beginning on or after January 1, 2007, an annual limited
17			liability entity tax shall be paid by every corporation and every limited liability
18			pass-through entity doing business in Kentucky on all Kentucky gross receipts
19			or Kentucky gross profits except as provided in this subsection. A small
20			business exclusion from this tax shall be provided based on the reduction
21			contained in this subsection. The tax shall be the greater of the amount
22			computed under paragraph (b) of this subsection or one hundred seventy-five
23			dollars (\$175), regardless of the application of any tax credits provided under
24			this chapter or any other provisions of the Kentucky Revised Statutes for
25			which the business entity may qualify.
26		(b)	The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of

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this paragraph:

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1	1.	a.	If the corporation's or limited liability pass-through entity's gross
2			receipts from all sources are three million dollars (\$3,000,000) or
3			less, the limited liability entity tax shall be zero;
4		b.	If the corporation's or limited liability pass-through entity's gross
5			receipts from all sources are greater than three million dollars
6			(\$3,000,000) but less than six million dollars (\$6,000,000), the
7			limited liability entity tax shall be nine and one-half cents (\$0.095)
8			per one hundred dollars (\$100) of the corporation's or limited
9			liability pass-through entity's Kentucky gross receipts reduced by
10			an amount equal to two thousand eight hundred fifty dollars
11			(\$2,850) multiplied by a fraction, the numerator of which is six
12			million dollars (\$6,000,000) less the amount of the corporation's or
13			limited liability pass-through entity's Kentucky gross receipts for
14			the taxable year, and the denominator of which is three million
15			dollars (\$3,000,000), but in no case shall the result be less than
16			zero;
17		c.	If the corporation's or limited liability pass-through entity's gross
18			receipts from all sources are equal to or greater than six million
19			dollars (\$6,000,000), the limited liability entity tax shall be nine
20			and one-half cents (\$0.095) per one hundred dollars (\$100) of the
21			corporation's or limited liability pass-through entity's Kentucky
22			gross receipts.
23	2.	a.	If the corporation's or limited liability pass-through entity's gross
24			profits from all sources are three million dollars (\$3,000,000) or
25			less, the limited liability entity tax shall be zero;
26		b.	If the corporation's or limited liability pass-through entity's gross

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profits from all sources are at least three million dollars

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(\$3,000,000) but less than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;

If the corporation's or limited liability pass-through entity's gross c. profits from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of the corporation's or limited liability pass-through entity's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph, a member of a combined group shall consider the combined gross receipts and the combined gross profits from all sources of the entire combined group, including eliminating entries for transactions among the group.

A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability passthrough entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit shall

apply across multiple layers of a multi-layered pass-through entity structure.

The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars (\$175) at each layer.

- (d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.
- (3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:
 - (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars (\$175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.
 - (b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability

1			pass-through entity. Any remaining credit from the limited liability pass-
2			through entity shall be disallowed.
3	(4)	Eacl	h taxpayer subject to the tax imposed in this section shall file a return, on forms
4		prep	pared by the department, on or before the fifteenth day of the fourth month
5		follo	owing the close of the taxpayer's taxable year. Any tax remaining due after
6		mak	ing the payments required in KRS 141.042 shall be paid by the original due
7		date	of the return.
8	(5)	The	department shall prescribe forms and promulgate administrative regulations as
9		need	ded to administer the provisions of this section.
10	(6)	The	tax imposed by subsection (2) of this section shall not apply to:
11		(a)	Financial institutions, as defined in KRS 136.500, except banker's banks
12			organized under KRS 287.135 or 286.3-135;
13		(b)	Savings and loan associations organized under the laws of this state and under
14			the laws of the United States and making loans to members only;
15		(c)	Banks for cooperatives;
16		(d)	Production credit associations;
17		(e)	Insurance companies, including farmers' or other mutual hail, cyclone,
18			windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
19		(f)	Corporations or other entities exempt under Section 501 of the Internal
20			Revenue Code;
21		(g)	Religious, educational, charitable, or like corporations not organized or
22			conducted for pecuniary profit;
23		(h)	Corporations whose only owned or leased property located in this state is
24			located at the premises of a printer with which it has contracted for printing,
25			provided that:
26			1. The property consists of the final printed product, or copy from which
27			the printed product is produced; and

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1		2. The corporation has no individuals receiving compensation in this state
2		as provided in Section 59 of this Act[KRS 141.120(8)(b)];
3	(i)	Public service corporations subject to tax under KRS 136.120;
4	(j)	Open-end registered investment companies organized under the laws of this
5		state and registered under the Investment Company Act of 1940;
6	(k)	Any property or facility which has been certified as a fluidized bed energy
7		production facility as defined in KRS 211.390;
8	(1)	An alcohol production facility as defined in KRS 247.910;
9	(m)	Real estate investment trusts as defined in Section 856 of the Internal Revenue
10		Code;
11	(n)	Regulated investment companies as defined in Section 851 of the Internal
12		Revenue Code;
13	(o)	Real estate mortgage investment conduits as defined in Section 860D of the
14		Internal Revenue Code;
15	(p)	Personal service corporations as defined in Section 269A(b)(1) of the Internal
16		Revenue Code;
17	(q)	Cooperatives described in Sections 521 and 1381 of the Internal Revenue
18		Code, including farmers' agricultural and other cooperatives organized or
19		recognized under KRS Chapter 272, advertising cooperatives, purchasing
20		cooperatives, homeowners associations including those described in Section
21		528 of the Internal Revenue Code, political organizations as defined in
22		Section 527 of the Internal Revenue Code, and rural electric and rural
23		telephone cooperatives; or
24	(r)	Publicly traded partnerships as defined by Section 7704(b) of the Internal
25		Revenue Code that are treated as partnerships for federal tax purposes under
26		Section 7704(c) of the Internal Revenue Code, or their publicly traded
27		partnership affiliates. "Publicly traded partnership affiliates" shall include any

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1			limited liability company or limited partnership for which at least eighty
2			percent (80%) of the limited liability company member interests or limited
3			partner interests are owned directly or indirectly by the publicly traded
4			partnership.
5	(7)	(a)	As used in this subsection, "qualified exempt organization" means an entity
6			listed in subsection (6)(a) to (r) of this section and shall not include any entity

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- listed in subsection (6)(a) to (r) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.
 - Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
 - Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.
 - (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.
- The credit permitted by subsection (3) of this section shall flow through multiple (8) layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

1		→ Se	ection 78. KRS 141.121 is amended to read as follows:				
2	(1)	As u	As used in this section:				
3		(a)	"Affiliated airline" means an airline:				
4			1. For which a qualified air freight forwarder facilitates air transportation;				
5			and				
6			2. That is in the same affiliated group as a qualified air freight forwarder;				
7		(b)	"Affiliated group" has the same meaning as in KRS 141.200;				
8		(c)	"Kentucky revenue passenger miles" means the total revenue passenger miles				
9			within the borders of Kentucky for all flight stages that either originate or				
10			terminate in this state;				
11		(d) ["Liquid asset" means an asset, other than functional currency or funds held in				
12			bank accounts, held to provide a relatively immediate source of funds to				
13			satisfy the liquidity needs of the trade or business. "Liquid assets" include:				
14			1. Foreign currency and trading positions therein, other than functional				
15			currency used in the regular course of the corporation's trade or business;				
16			2. Marketable instruments, including stocks, bonds, debentures, options,				
17			warrants, and futures contracts; and				
18			3. Mutual funds which hold liquid assets;				
19		(e)	"Marketable instrument" means an instrument that is traded in an established				
20			stock or securities market and is regularly quoted by brokers or dealers in				
21			making a market;				
22		(f)	"Overall net gain" means the total net gain from all transactions incurred at				
23			each treasury function for the entire taxable period. "Overall net gain" does				
24			not mean the net gain from a specific transaction if multiple transactions occur				
25			during the taxable period;				
26		(g)]	"Passenger airline" means a person or corporation engaged primarily in the				
27			carriage by aircraft of passengers in interstate commerce;				

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1		(e)	''Pro	ovider" means any corporation engaged in the business of providing:
2			<u>1.</u>	Communications service as defined in KRS 136.602;
3			<u>2.</u>	Cable service as defined in KRS 136.602; or
4			<u>3.</u>	Internet access as defined in 47 U.S.C. sec. 151;
5		<u>(f)</u> [(l	1)]	"Qualified air freight forwarder" means a person that:
6			1.	Is engaged primarily in the facilitation of the transportation of property
7				by air;
8			2.	Does not itself operate aircraft; and
9			3.	Is in the same affiliated group as an affiliated airline; <u>and</u>
10		<u>(g)</u> [(i	i)]	"Revenue passenger miles" means miles calculated in accordance with
11			14 C	F.R. Part 241 [; and
12		(j)	"Tre	asury function" means the pooling and management of liquid assets for
13			the 1	ourpose of satisfying the cash flow needs of the trade or business and
14			inclu	ides the following situations:
15			1.	Providing liquidity for a corporation's business cycle; and
16			2.	Providing a reserve for business contingencies or business acquisitions].
17	(2) [If a	corpe	pration holds liquid assets in connection with one (1) or more treasury
18		funct	ions	of the corporation, and the liquid assets produce business income when
19		sold,	excl	nanged, or otherwise disposed of, the overall net gain from those
20		trans	action	ns for each treasury function for the tax period shall be included in the
21		sales	facto	r. For purposes of this subsection:
22		(a)	Each	treasury function shall be considered separately; and
23		(b)	A co	prporation principally engaged in the trade or business of purchasing and
24			sellii	ng instruments or other items included in the definition of liquid assets is
25			not p	performing a treasury function with respect to that income produced.
26	(3)]	<u>(a)</u>	For 1	purposes of apportioning business income to this state for taxable years
27			<u>begi</u>	nning prior to January 1, 2018:

1	<u>I.[(a)]</u>	Passenger airlines shall determine the property, payroll, and sales
2	facto	ors as follows:
3	<u>a.[1.</u>	Except as modified by this <u>subdivision</u> [subparagraph], the
4		property factor shall be determined as provided in Section 59 of
5		this Act[KRS 141.120(8)(a)]. Aircraft operated by a passenger
6		airline shall be included in both the numerator and denominator of
7		the property factor. Aircraft shall be included in the numerator of
8		the property factor by determining the product of:
9		$\underline{i.[a.]}$ The total average value of the aircraft operated by the
10		passenger airline; and
11		\underline{ii} .[b.]A fraction, the numerator of which is the Kentucky revenue
12		passenger miles of the passenger airline for the taxable year
13		and the denominator of which is the total revenue passenger
14		miles of the passenger airline for the taxable year;
15	<u>b.</u> [2.	Except as modified by this <u>subdivision</u> [subparagraph], the payroll
16		factor shall be determined as provided in Section 59 of this
17		Act[KRS 141.120(8)(b)]. Compensation paid during the tax period
18		by a passenger airline to flight personnel shall be included in the
19		numerator of the payroll factor by determining the product of:
20		\underline{i} [a.] The total amount paid during the taxable year to flight
21		personnel; and
22		<u>ii.[b.]</u> A fraction, the numerator of which is the Kentucky revenue
23		passenger miles of the passenger airline for the taxable year
24		and the denominator of which is the total revenue passenger
25		miles of the passenger airline for the taxable year; and
26	<u>c.[3.</u>	Except as modified by this subdivision [subparagraph], the sales
27		factor shall be determined as provided in Section 59 of this

1	<u>Act</u> [KRS 141.120(8)(c)]. Transportation revenues shall be
2	included in the numerator of the sales factor by determining
3	the product of:
4	\underline{i} [a.] The total transportation revenues of the passenger airline for
5	the taxable year; and
6	<u>ii.[b.]</u> A fraction, the numerator of which is the Kentucky revenue
7	passenger miles for the taxable year and the denominator of
8	which is the total revenue passenger miles for the taxable
9	year; and
10	2.[(b)] Qualified air freight forwarders shall determine the property,
11	payroll, and sales factors as follows:
12	$\underline{a.[1.]}$ The property factor shall be determined as provided in <u>Section 59</u>
13	of this Act[KRS 141.120(8)(a)];
14	$\underline{b.[2.]}$ The payroll factor shall be determined as provided in <u>Section 59 of</u>
15	<u>this Act</u> [KRS 141.120(8)(b)]; and
16	$\underline{c.[3.]}$ Except as modified by this subparagraph, the sales factor shall be
17	determined as provided in Section 59 of this Act[KRS
18	141.120(8)(c)]. Freight forwarding revenues shall be included in
19	the numerator of the sales factor by determining the product of:
20	\underline{i} . The total freight forwarding revenues of the qualified air
21	freight forwarder for the taxable year; and
22	<u>ii.[b.]</u> A fraction, the numerator of which is miles operated in
23	Kentucky by the affiliated airline and the denominator of
24	which is the total miles operated by the affiliated airline.
25	(b) For purposes of apportioning income to this state for taxable years
26	beginning on or after January 1, 2018, except as modified by this
27	paragraph, the apportionment fraction shall be determined as provided in

1	Section 60 of this Act, except that:
2	1. Transportation revenues shall be determined to be in this state b
3	multiplying the total transportation revenues by a fraction, th
4	numerator of which is the Kentucky revenue passenger miles for the
5	taxable year and the denominator of which is the total revenue
6	passenger miles for the taxable year; and
7	2. Freight forwarding revenues shall be determined to be in this state b
8	multiplying the total freight forwarding revenues by a fraction, the
9	numerator of which is miles operated in Kentucky by the affiliated
10	airline and the denominator of which is the total miles operated by the
11	affiliated airline.
12	(3) For purposes of apportioning income to this state for taxable years beginning or
13	or after January 1, 2018, the apportionment fraction for a provider shall continu
14	to be calculated using a three (3) factor formula as provided in Section 59 of this
15	Act.
16	(4) (a) A corporation may elect the allocation and apportionment methods for the
17	corporation's apportionable income provided for in paragraphs (b) and (c
18	of this subsection. The election, if made, shall be irrevocable for a period of
19	five (5) years.
20	(b) All business income derived directly or indirectly from the sale of
21	management, distribution, or administration services to or on behalf o
22	regulated investment companies, as defined under the Internal Revenue
23	Code of 1986, as amended, including trustees, and sponsors or participant
24	of employee benefit plans which have accounts in a regulated investmen
25	company, shall be apportioned to this state only to the extent that
26	shareholders of the investment company are domiciled in this state a
27	follows:

1	1. Total apportionable income shall be multiplied by a fraction, the
2	numerator of which shall be Kentucky receipts from the services for
3	the tax period and the denominator of which shall be the total receipts
4	everywhere from the services for the tax period;
5	2. For purposes of subparagraph 1. of this paragraph, Kentucky receipts
6	shall be determined by multiplying total receipts for the taxable year
7	from each separate investment company for which the services are
8	performed by a fraction. The numerator of the fraction shall be the
9	average of the number of shares owned by the investment company's
10	shareholders domiciled in this state at the beginning of and at the end
11	of the investment company's taxable year, and the denominator of the
12	fraction shall be the average of the number of the shares owned by the
13	investment company shareholders everywhere at the beginning of and
14	at the end of the investment company's taxable year; and
15	3. Nonapportionable income shall be allocated to this state as provided in
16	Section 60 of this Act.
17	(c) All apportionable income derived directly or indirectly from the sale of
18	securities brokerage services by a business which operates within the
19	boundaries of any area of the Commonwealth, which on June 30, 1992, was
20	designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2)
21	before that statute was renumbered in 1992, shall be apportioned to this
22	state only to the extent that customers of the securities brokerage firm are
23	domiciled in this state. The portion of business income apportioned to
24	Kentucky shall be determined by multiplying the total business income from
25	the sale of these services by a fraction determined in the following manner:
26	1. The numerator of the fraction shall be the brokerage commissions
27	and total margin interest paid in respect of brokerage accounts owned

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1	by customers domiciled in Kentucky for the brokerage firm's taxable
2	<u>year;</u>
3	2. The denominator of the fraction shall be the brokerage commissions
4	and total margin interest paid in respect of brokerage accounts owned
5	by all of the brokerage firm's customers for that year; and
6	3. Nonapportionable income shall be allocated to this state as provided in
7	Section 60 of this Act.
8	(5) Public service companies and financial organizations required by Section 53 of
9	this Act to allocate and apportion net income shall allocate and apportion that
10	income as follows:
11	(a) Nonapportionable income shall be allocated to this state as provided in
12	Section 60 of this Act;
13	(b) Apportionable income shall be apportioned to this state as provided by
14	Section 60 of this Act. Receipts shall be determined as provided by
15	administrative regulations promulgated by the department; and
16	(c) An affiliated group required to file a consolidated return under Section 79
17	of this Act that includes a public service company, a provider of
18	communications services or multichannel video programming services as
19	defined in KRS 136.602, or a financial organization shall determine the
20	amount of receipts as provided by administrative regulations promulgated
21	by the department.
22	(6) A corporation:
23	(a) That owns an interest in a limited liability pass-through entity; or
24	(b) That owns an interest in a general partnership;
25	shall include the proportionate share of receipts of the limited liability pass-
26	through entity or general partnership when apportioning income. The phrases
27	"an interest in a limited liability pass-through entity" and "an interest in a

1		gene	eral partnership" shall extend to each level of multiple-tiered pass-through
2		<u>entit</u>	ties.
3		→ S	ection 79. KRS 141.200 is amended to read as follows:
4	(1)	Subs	sections (2) to (7) of this section shall apply for taxable periods ending before
5		Janu	ary 1, 2005, and election periods beginning prior to January 1, 2005.
6	(2)	As	used in subsections (2) to (7) of this section, unless the context requires
7		othe	rwise:
8		(a)	"Affiliated group" means affiliated group as defined in Section 1504(a) of the
9			Internal Revenue Code and related regulations;
10		(b)	"Consolidated return" means a Kentucky corporation income tax return filed
11			by members of an affiliated group in accordance with this section. The
12			determinations and computations required by this chapter shall be made in
13			accordance with the provisions of Section 1502 of the Internal Revenue Code
14			and related regulations, except as required by differences between this chapter
15			and the Internal Revenue Code. Corporations exempt from taxation under
16			KRS 141.040 shall not be included in the return;
17		(c)	"Separate return" means a Kentucky corporation income tax return in which
18			only the transactions and activities of a single corporation are considered in
19			making all determinations and computations necessary to calculate taxable net
20			income, tax due, and credits allowed in accordance with the provisions of this
21			chapter;
22		(d)	"Corporation" means "corporation" as defined in Section 7701(a)(3) of the
23			Internal Revenue Code; and
24		(e)	"Election period" means the ninety-six (96) month period provided for in
25			subsection (4)(d) of this section.
26	(3)	Ever	ry corporation doing business in this state, except those exempt from taxation

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under KRS 141.040, shall, for each taxable year, file a separate return unless the

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corporation was, for any part of the taxable year, a member of an affiliated group
electing to file a consolidated return in accordance with subsection (4) of this
section.

- (4) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.
 - An affiliated group electing to file a consolidated return under paragraph (a) of (b) this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with Section 59 of this Act[KRS 141.120]. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under the provisions of KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
 - Any election made in accordance with paragraph (a) of this subsection shall be (c) made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return including extensions for the first taxable year for which the election is made.
 - Notwithstanding subsections (9) to (15) of this section, any election to file a (d) consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.

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(7)

(e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

- (5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (6) Every corporation return or report required by this chapter shall be executed by one
 (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The Department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.
 - In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
- 25 (8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or after January 1, 2005, *but prior to January 1, 2019* [unless otherwise provided].
- 27 (9) As used in subsections (9) to (14) of this section:

1	(a)	1.	For taxable years beginning after December 31, 2004, and before
2			January 1, 2007, "affiliated group" means one (1) or more chains of
3			includible corporations connected through stock ownership, membership
4			interest, or partnership interest with a common parent corporation which
5			is an includible corporation if:
6			a. The common parent owns directly an ownership interest meeting
7			the requirements of subparagraph 2. of this paragraph in at least
8			one (1) other includible corporation; and
9			b. An ownership interest meeting the requirements of subparagraph
10			2. of this paragraph in each of the includible corporations,
11			excluding the common parent, is owned directly by one (1) or
12			more of the other corporations.
13		2.	The ownership interest of any corporation meets the requirements of this
14			paragraph if the ownership interest encompasses at least eighty percent
15			(80%) of the voting power of all classes of ownership interests and has a
16			value equal to at least eighty percent (80%) of the total value of all
17			ownership interests;
18	(b)	1.	For taxable years beginning after December 31, 2006, but prior to
19			January 1, 2019, "affiliated group" means one (1) or more chains of
20			includible corporations connected through stock ownership with a
21			common parent corporation which is an includible corporation if:
22			a. The common parent owns directly stock meeting the requirements
23			of subparagraph 2. of this paragraph in at least one (1) other
24			includible corporation; and
25			b. Stock meeting the requirements of subparagraph 2. of this
26			paragraph in each of the includible corporations, excluding the
27			common parent, is owned directly by one (1) or more of the other

1		corporations.
2		2. The stock of any corporation meets the requirements of this paragraph if
3		the stock encompasses at least eighty percent (80%) of the voting power
4		of all classes of stock and has a value equal to at least eighty percent
5		(80%) of the total value of all stock;
6	(c)	"Common parent corporation" means the member of an affiliated group that
7		meets the ownership requirement of paragraph (a)1. or (b)1. of this
8		subsection;
9	(d)	"Foreign corporation" means a corporation that is organized under the laws of
10		a country other than the United States and is related to a member of an
11		affiliated group through stock ownership;
12	(e)	"Includible corporation" means any corporation that is doing business in this
13		state except:
14		1. Corporations exempt from corporation income tax under KRS
15		141.040 [(1)(a) to (i)] ;
16		2. Foreign corporations;
17		3. Corporations with respect to which an election under Section 936 of the
18		Internal Revenue Code is in effect for the taxable year;
19		4. Real estate investment trusts as defined in Section 856 of the Internal
20		Revenue Code;
21		5. Regulated investment companies as defined in Section 851 of the
22		Internal Revenue Code;
23		6. A domestic international sales company as defined in Section 992(a)(1)
24		of the Internal Revenue Code;
25		7. Any corporation that realizes a net operating loss whose <i>apportionment</i>
26		fraction under Section 60 of this Act is [Kentucky property, payroll, and
27		sales factors pursuant to KRS 141.120(8) are de minimis;

1			8. Any corporation for which the <i>apportionment fraction under Section</i>
2			60 of this Act[sum of the property, payroll and sales factors described in
3			KRS 141.120(8)] is zero; and
4			9. For taxable years beginning prior to January 1, 2006, and taxable years
5			beginning on or after January 1, 2007, an S corporation as defined in
6			Section 1361(a) of the Internal Revenue Code;
7		(f)	"Ownership interest" means stock, a membership interest in a limited liability
8			company, or a partnership interest in a limited partnership or limited liability
9			partnership;
10		(g)	"Consolidated return" means a Kentucky corporation income tax return filed
11			by members of an affiliated group in accordance with this section. The
12			determinations and computations required by this chapter shall be made in
13			accordance with the provisions of the Internal Revenue Code and related
14			regulations, except as required by differences between this chapter and the
15			Internal Revenue Code;
16		(h)	"Separate return" means a Kentucky corporation income tax return in which
17			only the transactions and activities of a single corporation are considered in
18			making all determinations and computations necessary to calculate taxable net
19			income, tax due, and credits allowed in accordance with the provisions of this
20			chapter; and
21		(i)	"Stock" means stock in a corporation, or a membership interest in a limited
22			liability company that has elected to be treated as a corporation for federal tax
23			purposes.
24	(10)	Ever	y corporation doing business in this state except those exempt from taxation
25		unde	r KRS 141.040 [(1)(a) to (i)] shall, for each taxable year, file a separate return
26		unles	s the corporation was, for any part of the taxable year:
27		(a)	An includible corporation in an affiliated group;

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1 (b) A	A common	parent cor	poration	doing	business	in this	state:
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- 2 (c) A qualified subchapter S Subsidiary that is included in the return filed by the Subchapter S parent corporation;
- 4 (d) A qualified real estate investment trust subsidiary that is included in the return 5 filed by the real estate investment trust parent; or
- 6 (e) A disregarded entity that is included in the return filed by its parent entity.
- 7 (11) (a) An affiliated group, whether or not filing a federal consolidated return, shall file a consolidated return which includes all includible corporations.
 - (b) An affiliated group required to file a consolidated return under this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income [in accordance with KRS 141.010(13),] and in determining the property, payroll, and sales factors in accordance with Section 59 of this Act or the apportionment fraction in accordance with Section 60 of this Act [KRS 141.120].
 - January 1, 2019, includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this subsection shall be available for carryforward in accordance with KRS 141.011. The department of Revenue shall promulgate administrative regulations to establish the manner and extent to which net operating losses attributable to tax periods ending prior to January 1, 2005, may offset income of affiliated groups.
 - (d) The gross receipts received by a public service company that is a member of

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an affiliated group shall be excluded from the calculation of the alternative minimum calculation under KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.

- (12) Each includible corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any includible corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (13) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers or management of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief accounting officer, manager, member, or partner. The department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.
- (14) In the case of a corporation doing business in this state that carries on transactions with stockholders, members or partners, or with other corporations related by ownership, by interlocking directorates, or by some other method, the department shall require that information necessary to make possible an accurate assessment of the income derived by the corporation from sources within this state be provided. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

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1	(15)[For any taxable year ending on or after December 31, 1995, except as provided
2	under this section and KRS 141.205, nothing in this chapter shall be construed as
3	allowing or requiring the filing of:
4	(a) A combined return under the unitary business concept; or
5	(b) A consolidated return.
6	(16) No assessment of additional tax due for any taxable year ending on or before
7	December 31, 1995, made after December 22, 1994, and based on requiring a
8	change from any initially filed separate return or returns to a combined return under
9	the unitary business concept or to a consolidated return, shall be effective or
10	recognized for any purpose.
11	(17) No claim for refund or credit of a tax overpayment for any taxable year ending on o
12	before December, 31, 1995, made by an amended return or any other method after
13	December 22, 1994, and based on a change from any initially filed separate return
14	or returns to a combined return under the unitary business concept or to
15	consolidated return, shall be effective or recognized for any purpose.
16	(18) No corporation or group of corporations shall be allowed to file a combined return
17	under the unitary business concept or a consolidated return for any taxable year
18	ending before December 31, 1995, unless on or before December 22, 1994, the
19	corporation or group of corporations filed an initial or amended return under the
20	unitary business concept or consolidated return for a taxable year ending before
21	December 22, 1994.
22	(19)] This section shall not be construed to limit or otherwise impair the department's
23	authority under KRS 141.205.
24	→ Section 80. KRS 141.205 is amended to read as follows:
25	(1) As used in this section:
26	(a) "Intangible property" means franchises, patents, patent applications, trade

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names, trademarks, service marks, copyrights, trade secrets, and similar types

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[of intangible as	sets:

(b) "Intangible expenses" includes the following only to the extent that the amounts are allowed as deductions or costs in determining taxable net income before the application of any net operating loss deduction provided under Chapter 1 of the Internal Revenue Code:

- Expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
- 2. Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;
- 3. Royalty, patent, technical, and copyright fees;
- 4. Licensing fees; and
- 5. Other similar expenses and costs;
- (c) "Intangible interest expense" means only those amounts which are directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under that code, to the extent that the amounts are directly or indirectly for, related to, or connected to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
- (d) "Management fees" includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before application of the net operating loss deduction for the taxable year provided under Chapter 1 of the Internal

1		Revenue Code;
2	(e)	"Affiliated group" has the same meaning as provided in KRS 141.200;
3	(f)	"Foreign corporation" means a corporation that is organized under the laws of
4		a country other than the United States and that would be a related member if it
5		were a domestic corporation;
6	(g)	"Related member" means a person that, with respect to the entity during all or
7		any portion of the taxable year, is:
8		1. A person or entity that has, directly or indirectly, at least fifty percent
9		(50%) of the equity ownership interest in the taxpayer, as determined
10		under Section 318 of the Internal Revenue Code;
11		2. A component member as defined in Section 1563(b) of the Internal
12		Revenue Code;
13		3. A person to or from whom there is attribution of stock ownership in
14		accordance with Section 1563(e) of the Internal Revenue Code; or
15		4. A person that, notwithstanding its form of organization, bears the same
16		relationship to the taxpayer as a person described in subparagraphs 1. to
17		3. of this paragraph;
18	(h)	"Recipient" means a related member or foreign corporation to whom the item
19		of income that corresponds to the intangible interest expense, the intangible
20		expense, or the management fees, is paid;
21	(i)	"Unrelated party" means a person that has no direct, indirect, beneficial or
22		constructive ownership interest in the recipient; and in which the recipient has
23		no direct, indirect, beneficial or constructive ownership interest;
24	(j)	"Disclosure" means that the entity shall provide the following information to
25		the Department of Revenue with its tax return regarding a related party
26		transaction:
27		1. The name of the recipient;

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1			2.	The state or country of domicile of the recipient;
2			3.	The amount paid to the recipient; and
3			4.	A description of the nature of the payment made to the recipient;
4		(k)	"Otł	ner related party transaction" means a transaction which:
5			1.	Is undertaken by an entity which was not required to file a consolidated
6				return under KRS 141.200;
7			2.	Is undertaken by an entity, directly or indirectly, with one (1) or more of
8				its stockholders, members, partners, or affiliated entities; and
9			3.	Is not within the scope of subsections (2) and (3) of this section;
10		(1)	"Rel	lated party costs" means intangible expense, intangible interest expense,
11			man	agement fees and any costs or expenses associated with other related party
12			trans	sactions; and
13		(m)	"Ent	tity" means any taxpayer other than a natural person.
14	(2)	An e	entity	subject to the tax imposed by this chapter shall not be allowed to deduct
15		an ir	ntangi	ble expense, an intangible interest expense, or a management fee directly
16		or in	direc	tly paid, accrued or incurred to, or in connection directly or indirectly with
17		one	(1) or	more direct or indirect transactions with one (1) or more related members
18		or w	ith a	foreign corporation as defined in subsection (1) of this section, or with an
19		entit	y that	t would be included in the affiliated group based upon ownership interest
20		if it	were (organized as a corporation.
21	(3)	The	disall	owance of deductions provided by subsection (2) of this section shall not
22		appl	y if:	
23		(a)	The	entity and the recipient are both included in the same consolidated
24			Ken	tucky corporation income tax return for the relevant taxable year; or
25		(b)	The	entity makes a disclosure, and establishes by a preponderance of the
26			evid	ence that:

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The payment made to the recipient was subject to, in its state or country

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1		of commercial domicile, a net income tax, or a franchise tax measured
2		by, in whole or in part, net income. If the recipient is a foreign
3		corporation, the foreign nation shall have in force a comprehensive
4		income tax treaty with the United States; and
5		2. The recipient is engaged in substantial business activities separate and
6		apart from the acquisition, use, licensing, management, ownership, sale,
7		exchange, or any other disposition of intangible property, or in the
8		financing of related members, as evidenced by the maintenance of
9		permanent office space and full-time employees dedicated to the
10		maintenance and protection of intangible property; and
11		3. The transaction giving rise to the intangible interest expense, intangible
12		expense, or management fees between the entity and the recipient was
13		made at a commercially reasonable rate and at terms comparable to an
14		arm's-length transaction; or
15	(c)	The entity makes a disclosure, and establishes by preponderance of the
16		evidence that the recipient regularly engages in transactions with one (1) or
17		more unrelated parties on terms identical to that of the subject transaction; or

(d) The entity and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under KRS 141.120[(9)].

(4) An entity subject to the tax imposed by this chapter may deduct expenses or costs associated with an other related party transaction only in an amount equal to the amount which would have resulted if the other related party transaction had been carried out at arm's length. In any dispute between the department and the entity with respect to the amount which would have resulted if the transaction had been carried out at arm's length, the entity shall bear the burden of establishing the amount by a preponderance of the evidence.

(5) Nothing in this section shall be deemed to prohibit an entity from deducting a

1		related party cost in an amount permitted by this section, provided that the entity
2		has incurred related party costs equal to or greater than the amounts permitted by
3		this section.
4	(6)	If it is determined by the department that the amount of a deduction claimed by an
5		entity with respect to a related party cost is greater than the amount permitted by
6		this section, the net income of the entity shall be adjusted to reflect the amount of
7		the related party cost permitted by this section.
8	(7)	For tax periods ending before January 1, 2005, in the case of entities not required to
9		file a consolidated or combined return under subsection (1) of this section that
10		carried on transactions with stockholders or affiliated entities directly or indirectly,
11		the department shall adjust the net income of such entities to an amount that would
12		result if such transactions were carried on at arm's length.
13		→ Section 81. KRS 141.206 is amended to read as follows:
14	(1) [As used in this section unless the context requires otherwise:
15		(a) For taxable years beginning after December 31, 2004, and before January 1,
16		2007, "pass-through entity" means a general partnership not subject to the tax
17		imposed by KRS 141.040, including any publicly traded partnership as

(a) For taxable years beginning after December 31, 2004, and before January 1, 2007, "pass through entity" means a general partnership not subject to the tax imposed by KRS 141.040, including any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code and its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership; and

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- 25 (b) For all other taxable years, "pass-through entity" means pass-through entity as
 26 defined in KRS 141.010.
- 27 (2)] Every pass-through entity doing business in this state shall, on or before the

1	fifteenth day of the fourth month following the close of its annual accounting			
2	period, file a copy of its federal tax return with the form prescribed and furnished by			
3	the c	the department.		
4	<u>(2)[(3)]</u>	Pass-through entities shall determine net income in the same manner as in the		
5	case	of an individual under KRS 141.010[(9) to (11)] and the adjustment required		
6	under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of			
7	net income under this section and the computation of the partner's, member's, or			
8	shar	eholder's distributive share shall be computed as nearly as practicable identical		
9	with those required for federal income tax purposes except to the extent required by			
10	diffe	rences between this chapter and the federal income tax law and regulations.		
11	<u>(3)</u> [(4)]	Individuals, estates, trusts, or corporations doing business in this state as a		
12	parti	ner, member, or shareholder in a pass-through entity shall be liable for income		
13	tax only in their individual, fiduciary, or corporate capacities, and no income tax			
14	shall	be assessed against the net income of any pass-through entity, except as		
15	requ	ired for S corporations by KRS 141.040 [(14)] .		
16	<u>(4)[(5)]</u>	(a) Every pass-through entity required to file a return under subsection		
17		(1) of this section, except publicly traded partnerships as defined in KRS		
18		141.0401(6)(r), shall withhold Kentucky income tax on the distributive share,		
19		whether distributed or undistributed, of each:		
20		1. Nonresident individual partner, member, or shareholder; and		
21		2. Corporate partner or member that is doing business in Kentucky only		
22		through its ownership interest in a pass-through entity.		
23	(b)	Withholding shall be at the maximum rate provided in KRS 141.020 or		
24		141.040.		
25	<u>(5)[(6)]</u>	(a) Effective for taxable years beginning after December 31, 2011, every		
26		pass-through entity required to withhold Kentucky income tax as provided by		
27		subsection $(4)[(5)]$ of this section shall make a declaration and payment of		

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1		estimated tax for the taxable year if:
2		1. For a nonresident individual partner, member, or shareholder, the
3		estimated tax liability can reasonably be expected to exceed five
4		hundred dollars (\$500); or
5		2. For a corporate partner or member that is doing business in Kentucky
6		only through its ownership interest in a pass-through entity, the
7		estimated tax liability can reasonably be expected to exceed five
8		thousand dollars (\$5,000).
9	(b)	The declaration and payment of estimated tax shall contain the information
10		and shall be filed as provided in KRS 141.207.
11	<u>(6)</u> [(7)]	(a) If a pass-through entity demonstrates to the department that a partner,
12		member, or shareholder has filed an appropriate tax return for the prior year
13		with the department, then the pass-through entity shall not be required to
14		withhold on that partner, member, or shareholder for the current year unless
15		the exemption from withholding has been revoked pursuant to paragraph (b)
16		of this subsection.
17	(b)	An exemption from withholding shall be considered revoked if the partner,
18		member, or shareholder does not file and pay all taxes due in a timely manner.
19		An exemption so revoked shall be reinstated only with permission of the
20		department. If a partner, member, or shareholder who has been exempted from
21		withholding does not file a return or pay the tax due, the department may
22		require the pass-through entity to pay to the department the amount that
23		should have been withheld, up to the amount of the partner's, member's, or

(7)[(8)] In determining the tax under this chapter, a resident individual, estate, or trust

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shareholder's ownership interest in the entity. The pass-through entity shall be

entitled to recover a payment made pursuant to this paragraph from the

partner, member, or shareholder on whose behalf the payment was made.

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1	that	is a partner, member, or shareholder in a pass-through entity shall take into	
2	account the partner's, member's, or shareholder's total distributive share of the pass-		
3	thro	igh entity's items of income, loss, deduction, and credit.	
4	<u>(8)</u> [(9)]	In determining the tax under this chapter, a nonresident individual, estate, or	
5	trust	that is a partner, member, or shareholder in a pass-through entity required to	
6	file a	a return under subsection $(1)(2)$ of this section shall take into account:	
7	(a)	1. If the pass-through entity is doing business only in this state, the	
8		partner's, member's, or shareholder's total distributive share of the pass-	
9		through entity's items of income, loss, and deduction; or	
10		2. If the pass-through entity is doing business both within and without this	
11		state, the partner's, member's, or shareholder's distributive share of the	
12		pass-through entity's items of income, loss, and deduction multiplied by	
13		the apportionment fraction of the pass-through entity as prescribed in	
14		subsection $(11)(12)$ of this section; and	
15	(b)	The partner's, member's, or shareholder's total distributive share of credits of	
16		the pass-through entity.	
17	<u>(9)</u> [(10)]	A corporation that is subject to tax under KRS 141.040 and is a partner or	
18	men	aber in a pass-through entity shall take into account the corporation's	
19	distr	ibutive share of the pass-through entity's items of income, loss, and deduction	
20	and:		
21	(a)	1. For taxable years beginning on or after January 1, 2007, but prior to	
22		January 1, 2018, [2007, the items of income, loss, and deduction, when	
23		applicable, shall be multiplied by the apportionment fraction of the pass-	
24		through entity as prescribed in subsection (12) of this section; or	
25		(b) For taxable years beginning on or after January 1, 2007:	
26		1. A corporation that owns an interest in a limited liability pass-through	
27		entity or that owns an interest in a general partnership organized or	

1		formed as a general partnership after January	$\frac{1, 2006, 1}{1}$ shall include the
2		proportionate share of the sales, property,	and payroll of the limited
3		liability pass-through entity or general partner	ership in computing its own
4		apportionment factor; and	
5		For taxable years beginning on or after Jan	uary 1, 2018, shall include
6		the proportionate share of the sales of	the limited liability pass-
7		through entity or general partnership	in computing its own
8		apportionment factor; [A corporation that ov	wns an interest in a general
9		partnership organized or formed on or bef	ore January 1, 2006, shall
10		follow the provisions of paragraph (a) of this	subsection;] and
11	<u>(b)</u> [(Credits from the partnership.	
12	<u>(10)</u> [(11)]	a) If a pass-through entity is doing business bo	oth within and without this
13		ate, the pass-through entity shall compute and	d furnish to each partner,
14		nember, or shareholder the numerator and denom	inator of each factor of the
15		pportionment fraction determined in accordance	with subsection $(11)[(12)]$
16		f this section.	
17	(b)	or purposes of determining an apportionment frac	etion under paragraph (a) of
18		is subsection, if the pass-through entity is:	
19		Doing business both within and without this s	state; and
20		A partner or member in another pass-through	entity;
21		nen the pass-through entity shall be deemed to ov	vn the pro rata share of the
22		roperty owned or leased by the other pass-thro	ough entity, and shall also
23		aclude its pro rata share of the other pass-through	entity's payroll and sales.
24	(c)	he phrases "a partner or member in another pass	-through entity" and "doing
25		usiness both within and without this state" sha	all extend to each level of
26		nultiple-tiered pass-through entities.	
27	(d)	he attribution to the pass-through entity of the	pro rata share of property,

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1		payroll and sales from its role as a partner or member in another pass-through
2		entity will also apply when determining the pass-through entity's ultimate
3		apportionment factor for property, payroll and sales as required under
4		subsection $(11)[(12)]$ of this section.
5	<u>(11)</u> [(12)]	(a) For taxable years beginning prior to January 1, 2018, a pass-through
6		entity doing business within and without the state shall compute an
7		apportionment fraction, the numerator of which is the property factor,
8		representing twenty-five percent (25%) of the fraction, plus the payroll factor,
9		representing twenty-five percent (25%) of the fraction, plus the sales factor,
10		representing fifty percent (50%) of the fraction, with each factor determined in
11		the same manner as provided in <u>Section 59 of this Act[KRS 141.120(8)]</u> , and
12		the denominator of which is four (4), reduced by the number of factors, if any,
13		having no denominator, provided that if the sales factor has no denominator,
14		then the denominator shall be reduced by two (2).
15	<u>(b)</u>	For taxable years beginning on or after January 1, 2018, a pass-through
16		entity doing business within and without the state shall compute an
17		apportionment fraction as provided in Section 60 of this Act.
18	<u>(12)</u> [(13)]	Resident individuals, estates, or trusts that are partners in a partnership,
19	mem	bers of a limited liability company electing partnership tax treatment for
20	feder	ral income tax purposes, owners of single member limited liability companies,
21	or sh	nareholders in an S corporation which does not do business in this state are
22	subje	ect to tax under KRS 141.020 on federal net income, gain, deduction, or loss
23	passe	ed through the partnership, limited liability company, or S corporation.
24	<u>(13)</u> [(14)]	An S corporation election made in accordance with Section 1362 of the
25	Intern	nal Revenue Code for federal tax purposes is a binding election for Kentucky
26	tax p	urposes.
27	<u>(14)</u> [(15)]	(a) Nonresident individuals shall not be taxable on investment income

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1 distributed by a qualified investment partnership. For purposes of this 2 subsection, a "qualified investment partnership" means a pass-through entity 3 that, during the taxable year, holds only investments that produce income that 4 would not be taxable to a nonresident individual if held or owned individually. A qualified investment partnership shall be subject to all other provisions 5 6 relating to a pass-through entity under this section and shall not be subject to 7 the tax imposed under KRS 141.040 or 141.0401. 8 A pass-through entity may file a composite income tax return on (15)[(16)] (a) 1. 9 behalf of electing nonresident individual partners, members, or shareholders. 10 11 2. The pass-through entity shall report and pay on the composite income 12 tax return income tax at the highest marginal rate provided in this 13 chapter on any portion of the partners', members', or shareholders' pro 14 rata or distributive shares of income of the pass-through entity from

be credited against any tax due.

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3. The pass-through entity filing a composite return shall still make estimated tax payments if required to do so by subsection (5)[(6)] of this section, and shall remain subject to any penalty provided by KRS 131.180 or 141.990 for any declaration underpayment or any installment not paid on time.

doing business in this state or deriving income from sources within this

state. Payments made pursuant to subsection (5) (6) of this section shall

4. The partners', members', or shareholders' pro rata or distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member, or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains and losses, guaranteed

1		payments, and rents.
2	(b)	A nonresident individual partner, member, or shareholder whose only source
3		of income within this state is distributive share income from one (1) or more
4		pass-through entities may elect to be included in a composite return filed

pursuant to this section.

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A nonresident individual partner, member, or shareholder that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the partner's behalf by the pass-through entity.

- A pass-through entity shall deliver to the department a return upon a form (d) prescribed by the department showing the total amounts paid or credited to its electing nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require. A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.
- → Section 82. KRS 141.207 is amended to read as follows:
- The declaration and payment of estimated tax required by KRS 141.206[(6)] shall 20 (1) 21 contain the following information:
- 22 For a nonresident individual partner, member, or shareholder, the amount of (a) 23 estimated tax calculated under KRS 141.020 for the taxable year; and
- 24 For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the amount of 25 26 estimated tax calculated under KRS 141.040 for the taxable year.
- 27 The declaration of estimated tax required under this section shall be filed with the (2)

1		department by the pass-through entity in the same manner and at the same times as		
2		provided by:		
3		(a) KRS	S 141.300, for a nonresident individual partner, member, or shareholder;	
4		and		
5		(b) KRS	S 141.042, for a corporate partner or member.	
6	(3)	The paym	nent of estimated tax shall be made in installments by the pass-through	
7		entity in th	he same manner and at the same times as provided by:	
8		(a) KRS	S 141.305, for a nonresident individual partner, member, or shareholder;	
9		and		
10		(b) KRS	S 141.044, for a corporate partner or member.	
11	(4)	A pass-thi	rough entity required to make a declaration and payment of estimated tax	
12		shall be s	subject to the penalty provisions of KRS 131.180 and 141.990 for any	
13		declaration	n underpayment or any installment not paid on time.	
14		→ Section	83. KRS 141.325 is amended to read as follows:	
15	(1)	An emplo	oyee receiving wages shall on any day be entitled to the following	
16		withholdin	ng exemptions:	
17		(a) <u>For</u>	taxable years beginning prior to January 1, 2018:	
18		<u>1.</u>	One (1) exemption for himself;	
19		<u>2.[(t</u>	One (1) exemption for each dependent for whom he would be	
20			entitled to a tax credit under the provisions of KRS 141.020[(3)(a)3. or	
21			(b)1.c.];	
22		<u>3.</u> [(e	If the employee is married, the exemption to which his spouse is	
23			entitled, or would be entitled if such spouse were an employee, under	
24			subparagraph $\underline{I.[(a)]}$ of this $\underline{paragraph}[subsection]$, but only if such	
25			spouse does not have in effect a withholding exemption certificate	
26			claiming such exemption; and	
27		<u>(b)[(d)]</u>	Such other withholding exemptions as the department may prescribe by	

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l regul	ation.
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2) Every employee shall, [on or before July 1, 1954, or] before the date of commencement of employment, [whichever is later,] furnish his or her employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he or she claims, which in no event shall exceed the number to which he is entitled.

- (3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished:

 provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.
- (4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.
- (5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the department may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in

- 1 the calendar year in which the certificate is furnished.
- 2 If, on any day during the calendar year, the number of withholding exemptions to 3 which the employee is entitled is less than the number of withholding exemptions 4 claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the 5 6 employer with a new withholding exemption certificate relating to the number of 7 withholding exemptions which the employee then claims, which shall in no event 8 exceed the number to which he is entitled on such day. If, on any day during the 9 calendar year, the number of withholding exemptions to which the employee is 10 entitled is greater than the number of withholding exemptions claimed, the 11 employee may furnish the employer with a new withholding exemption certificate 12 relating to the number of withholding exemptions which the employee then claims, 13 which shall in no event exceed the number to which he is entitled on such day.
- 14 (7) Withholding exemption certificates shall be in <u>the[such]</u> form and contain <u>the[such]</u>
 15 information <u>required by[as]</u> the department[<u>may by regulations prescribe</u>].
- Section 84. KRS 141.347 is amended to read as follows:
- 17 (1) As used in this section, unless the context requires otherwise:
- 18 (a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;
- 20 (b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;
- 22 (c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-23 070;
- 24 (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
- 26 (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

1 ((2)	An approved comp	any shall	determine the	e tax credit as	provided in this	section.
	,	I III approved comp	oury siruir	actermine the	c tax create as	provided in this	section.

- 2 An approved company which is an individual sole proprietorship subject to tax 3 under KRS 141.020 or a corporation or pass-through entity treated as a corporation 4 for federal income tax purposes subject to tax under KRS 141.040[(1)] shall:
 - 1. Compute the tax due at the applicable tax rates as provided by KRS (a) 141.020 or 141.040 on net income [as defined by KRS 141.010(11)] or taxable net income as defined by KRS 141.010(14), including income from the economic development project;
 - 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to the economic development project;
 - 2. Using the method chosen under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

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1	(c)	The tax credit shall be the amount by which the net tax computed under
2		paragraph (a)3. of this subsection exceeds the tax computed under paragraph
3		(b)3. of this subsection; however, the credit shall not exceed the limits set
4		forth in KRS 154.22-050.

- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to tax under KRS 141.040 or a trust not subject to tax under KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020[(2)].
 - (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.
 - (d) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 or 141.0401 for filing the returns.
- (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,

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the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a passthrough entity or trust.

5 (6) If the economic development project is a totally separate facility:

- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- 15 (7) If the economic development project is an expansion to a previously existing 16 facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly

attributable to the facility, and Kentucky gross receipts or Kentucky gross
profits attributable to the economic development project for the purposes of
subsection (3) of this section shall be determined by apportioning the separate
accounting Kentucky gross receipts or Kentucky gross profits of the entire
facility to the economic development project by a formula approved by the
Department of Revenue.

- 7 If an approved company can show to the satisfaction of the Department of Revenue (8) 8 that the nature of the operations and activities of the approved company are such 9 that it is not practical to use the separate accounting method to determine the net 10 income, Kentucky gross receipts, or Kentucky gross profits from the facility at 11 which the economic development project is located, the approved company shall 12 determine net income, Kentucky gross receipts, or Kentucky gross profits from the 13 economic development project using an alternative method approved by the 14 Department of Revenue.
- 15 (9) The Department of Revenue may issue administrative regulations and require the 16 filing of forms designed by the Department of Revenue to reflect the intent of KRS 17 154.22-020 to 154.22-070 and the allowable income tax credit which an approved 18 company may retain under KRS 154.22-020 to 154.22-070.
- → Section 85. KRS 141.383 is amended to read as follows:
- 20 (1) As used in this section:

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- 21 (a) "Above-the-line production crew" means the same as defined in KRS 148.542;
- 23 (b) "Approved company" means the same as defined in KRS 148.542;
- 24 (c) "Below-the-line production crew" means the same as defined in KRS 148.542;
- 25 (d) "Cabinet" means the same as defined in KRS 148.542;
- 26 (e) "Office" means the same as defined in KRS 148.542;
- 27 (f) "Qualifying expenditure" means the same as defined in KRS 148.542;

1		(g)	"Qualifying payroll expenditure" means the same as defined in KRS 148.542;
2		(h)	"Secretary" means the same as defined in KRS 148.542; and
3		(i)	"Tax incentive agreement" means the same as defined in KRS 148.542.
4	(2)	<u>(a)</u>	There is hereby created a [refundable] tax credit against the tax imposed under
5			KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as
6			provided in KRS 141.0205.
7		<u>(b)</u>	The incentive available under paragraph (a) of this section is:
8			1. A refundable credit for applications approved prior to the effective
9			date of this Act; and
10			2. A nonrefundable and nontransferable credit for applications approved
11			on or after the effective date of this Act.
12		<u>(c)</u>	1. Beginning on the effective date of this Act, the total tax incentive
13			approved under Section 62 of this Act shall be limited to one hundred
14			million dollars (\$100,000,000) for calendar year 2018 and each
15			<u>calendar year thereafter.</u>
16			2. On the effective date of this Act, if applications have been approved
17			during the 2018 calendar year which exceed the amount in paragraph
18			(a) of this subsection, the Kentucky Film Office shall immediately
19			cease in approving any further applications for tax incentives.
20	(3)	An	approved company may receive a refundable tax credit on and after July 1,
21		2010), but only for applications approved prior to the effective date of this Act, if:
22		(a)	The cabinet has received notification from the office that the approved
23			company has satisfied all requirements of KRS 148.542 to 148.546; and
24		(b)	The approved company has provided a detailed cost report and sufficient
25			documentation to the office, which has been forwarded by the office to the
26			cabinet, that:
27			1. The purchases of qualifying expenditures were made after the execution

1			of the tax incentive agreement; and
2			2. The approved company has withheld income tax as required by KRS
3			141.310 on all qualified payroll expenditures.
4	(4) [The	refundable tax credit shall not apply until the taxable year in which the
5		secre	etary notifies the approved company of the amount of refundable credit that is
6		avail	able. If the notification of approval is provided prior to July 1, 2010, the
7		com	pany shall not claim the credit and the department shall not issue any refunds
8		until	on or after July 1, 2010.
9	(5)]	Inter	est shall not be allowed or paid on any refundable credits provided under this
10		secti	on.
11	<u>(5)</u> [((6)]	The cabinet shall promulgate administrative regulations in accordance with
12		KRS	Chapter 13A to administer this section.
13	<u>(6)</u> [(7)]	On or before September 1, 2010, and on or before each September 1
14		there	eafter, for the immediately preceding fiscal year, the cabinet shall report to the
15		offic	e the names of the approved companies and the amounts of refundable income
16		tax c	redit claimed.
17		→ Se	ection 86. KRS 141.390 is amended to read as follows:
18	(1)	As u	sed in this section:
19		(a)	"Postconsumer waste" means any product generated by a business or
20			consumer which has served its intended end use, and which has been
21			separated from solid waste for the purposes of collection, recycling,
22			composting, and disposition and which does not include secondary waste
23			material or demolition waste;
24		(b)	"Recycling equipment" means any machinery or apparatus used exclusively to
25			process postconsumer waste material and manufacturing machinery used
26			exclusively to produce finished products composed of substantial
27			postconsumer waste materials;

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1		(c)	"Composting equipment" means equipment used in a process by which
2			biological decomposition of organic solid waste is carried out under controlled
3			aerobic conditions, and which stabilizes the organic fraction into a material
4			which can easily and safely be stored, handled, and used in a environmentally
5			acceptable manner;
6		(d)	"Recapture period" means:
7			1. For qualified equipment with a useful life of five (5) or more years, the
8			period from the date the equipment is purchased to five (5) full years
9			from that date; or
10			2. For qualified equipment with a useful life of less than five (5) years, the
11			period from the date the equipment is purchased to three (3) full years
12			from that date;
13		(e)	"Useful life" means the period determined under Section 168 of the Internal
14			Revenue Code;
15		(f)	"Baseline tax liability" means the tax liability of the taxpayer for the most
16			recent tax year ending prior to January 1, 2005; and
17		(g)	"Major recycling project" means a project where the taxpayer:
18			1. Invests more than ten million dollars (\$10,000,000) in recycling or
19			composting equipment to be used exclusively in this state;
20			2. Has more than seven hundred fifty (750) full-time employees with an
21			average hourly wage of more than three hundred percent (300%) of the
22			federal minimum wage; and
23			3. Has plant and equipment with a total cost of more than five hundred
24			million dollars (\$500,000,000).
25	(2)	(a)	A taxpayer that purchases recycling or composting equipment to be used
26			exclusively within this state for recycling or composting postconsumer waste

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materials shall be entitled to a credit against the income taxes imposed

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> pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

- (b) For taxable years beginning after December 31, 2004, a taxpayer that has a major recycling project containing recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste material shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205. The credit described in this paragraph shall be limited to a period of ten (10) years commencing with the approval of the recycling credit application. In each taxable year, the amount of credits claimed for all major recycling projects shall be limited to:
 - 1. Fifty percent (50%) of the excess of the total of each tax liability over the baseline tax liability of the taxpayer; or
 - Two million five hundred thousand dollars (\$2,500,000), whichever is 2. less.

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(c) A taxpayer with one (1) or more major recycling projects shall be entitled to a total credit including the amount computed in paragraph (a) of this subsection plus the amount of credit computed in paragraph (b) of this subsection.

- (d) A taxpayer shall not be permitted to utilize a credit computed under paragraph(a) of this subsection and a credit computed under paragraph (b) of this subsection on the same recycling or composting equipment.
- Application for a tax credit shall be made to the Department of Revenue on or before the first day of the seventh month following the close of the taxable year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Department of Revenue may require. The Department of Revenue shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section. [Any corporation as defined in KRS 141.010(24)(b)2. to 8. may elect to claim the balance of a recycling credit approved prior to March 18, 2005, against its tax liability imposed under KRS 141.040 and 141.0401. The election shall be binding on the taxpayer and the Department of Revenue until the balance of the recycling credit is used.]
- (4) Except as provided in subsection (6) of this section, if a taxpayer that receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section. If the total credit taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs. If the redetermined credit exceeds the total

1		credit	alre	ady taken in prior taxable years, the taxpayer shall be entitled to use the
2		differe	ence	to reduce the taxpayer's tax liability under this chapter for the taxable
3		year in	n wh	ich the sale, transfer, or disposition occurs.
4	(5)	The to	tal t	ax credit allowable under subsection (2) of this section for equipment that
5		is sold	l, tra	insferred, or otherwise disposed of before the end of the recapture period
6		shall b	e ad	ljusted as follows:
7		(a) I	For	equipment with a useful life of five (5) or more years that is sold,
8		t	rans	eferred, or otherwise disposed of:
9		1	l.	One (1) year or less after the purchase, no credit shall be allowed.
10		2	2.	Between one (1) year and two (2) years after the purchase, twenty
11				percent (20%) of the total allowable credit shall be allowed.
12		3	3.	Between two (2) and three (3) years after the purchase, forty percent
13				(40%) of the total allowable credit shall be allowed.
14		4	1.	Between three (3) and four (4) years after the purchase, sixty percent
15				(60%) of the total allowable credit shall be allowed.
16		5	5.	Between four (4) and five (5) years after the purchase, eighty percent
17				(80%) of the total allowable credit shall be allowed.
18		(b) I	For	equipment with a useful life of less than five (5) years that is sold,
19		t	rans	eferred, or otherwise disposed of:
20		1	1.	One (1) year or less after the purchase, no credit shall be allowed.
21		2	2.	Between one (1) year and two (2) years after the purchase, thirty-three
22				percent (33%) of the total allowable credit shall be allowed.
23		3	3.	Between two (2) and three (3) years after the purchase, sixty-seven
24				percent (67%) of the total allowable credit shall be allowed.
25	(6)	Subsec	ction	ns (4) and (5) of this section shall not apply to transfers due to death, or

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transfers due merely to a change in business ownership or organization as long as

the equipment continues to be used exclusively in recycling or composting, or

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1	transactions	to which	Section	381(a)	of the	Internal 1	Revenue	Code applies.

- 2 (7) The Department of Revenue may promulgate administrative regulations to carry out
- 3 the provisions of this section.
- 4 → Section 87. KRS 141.400 is amended to read as follows:
- 5 (1) As used in this section, unless the context requires otherwise:
- 6 (a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;
- 8 (b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010;
- 10 (c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090;
- 11 (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
- 13 (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- 15 (2) An approved company shall determine the income tax credit as provided in this section.
- 17 (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040[(1)] shall:
- 20 (a) 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 by KRS 141.010(11)] or
 22 taxable net income[as defined by KRS 141.010(14)], including income
 23 from the economic development project;
- 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development 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 for
3				purposes of this paragraph.
4		(b)	1.	Compute the tax due at the applicable tax rates as provided by KRS
5				141.020 or 141.040 on net income[as defined by KRS 141.010(11)] or
6				taxable net income[as defined by KRS 141.010(14)], excluding net
7				income attributable to the economic development project;
8			2.	Using the same method used under subparagraph 2. of paragraph (a) of
9				this subsection, compute the limited liability entity tax imposed under
10				KRS 141.0401, excluding Kentucky gross receipts or Kentucky gross
11				profits from the economic development project; and
12			3.	Add the amounts computed under subparagraphs 1. and 2. of this
13				paragraph and, if applicable, subtract the credit permitted by KRS
14				141.0401(3) from that sum. The resulting amount shall be the net tax for
15				purposes of this paragraph.
16		(c)	The	tax credit shall be the amount by which the net tax computed under
17			para	graph (a)3. of this subsection exceeds the tax computed under paragraph
18			(b)3	. of this subsection; however, the credit shall not exceed the limits set
19			forth	n in KRS 154.28-090.
20	(4)	(a) I	Notwi	thstanding any other provisions of this chapter, an approved company
21			whic	ch is a pass-through entity not subject to tax under KRS 141.040, or a trust
22			not s	subject to tax under KRS 141.040 shall be subject to income tax on the net
23			inco	me attributable to an economic development project at the rates provided
24			in K	RS 141.020 [(2)] .
25		(b)	The	amount of the tax credit shall be determined as provided in subsection (3)
26			of th	nis section. Upon the annual election of the approved company, in lieu of
27			the t	ax credit, an amount shall be applied as an estimated tax payment equal to

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1			the tax computed in this section. Any estimated tax payment made pursuant to
2			this paragraph shall be in satisfaction of the tax liability of the partners,
3			members, shareholders, or beneficiaries of the pass-through entity or trust, and
4			shall be paid on behalf of the partners, members, shareholders, or
5			beneficiaries.
6		(c)	The tax credit or estimated payment shall not exceed the limits set forth in
7			KRS 154.28-090.
8		(d)	If the tax computed in this section exceeds the credit, the excess shall be paid
9			by the pass-through entity or trust at the times provided by KRS 141.0401 or
10			141.160 for filing the returns.
11		(e)	Any estimated tax payment made by the pass-through entity or trust in
12			satisfaction of the tax liability of partners, members, shareholders, or
13			beneficiaries shall not be treated as taxable income subject to Kentucky
14			income tax by the partner, member, shareholder, or beneficiary.
15	(5)	Noty	withstanding any other provisions of this chapter, the net income subject to tax,
16		the t	tax credit, and the estimated tax payment determined under subsection (4) of
17		this	section shall be excluded in determining each partner's, member's,
18		share	eholder's, or beneficiary's distributive share of net income or credit of a pass-
19		thro	ugh entity or trust.
20	(6)	If the	e economic development project is a totally separate facility:
21		(a)	Net income attributable to the project for the purposes of subsections (3), (4),

and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and

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(b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the

1	separate accounting method reflecting only the Kentucky gross receipts or
2	Kentucky gross profits directly attributable to the facility.

3 (7) If the economic development project is an expansion to a previously existing 4 facility:

- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall

1		determine net income, Kentucky gross receipts, or Kentucky gross profits from the
2		economic development project using an alternative method approved by the
3		Department of Revenue.
4	(9)	The Department of Revenue may issue administrative regulations and require the
5	(-)	filing of forms designed by the Department of Revenue to reflect the intent of KRS
6		154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and
7		the allowable tax credit which an approved company may retain under KRS 154.22-
8		020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.
9		→ Section 88. KRS 141.401 is amended to read as follows:
10	(1)	As used in this section, unless the context requires otherwise:
11		(a) "Approved company" shall have the same meaning as set forth in KRS
12		154.23-010;
13		(b) "Economic development project" shall have the same meaning as set forth in
14		KRS 154.23-010;
15		(c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-
16		079;
17		(d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
18		141.0401; and
19		(e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
20		141.0401.
21	(2)	An approved company shall determine the tax credit as provided in this section.
22	(3)	An approved company that is an individual sole proprietorship subject to tax under
23		KRS 141.020 or a corporation or pass-through entity treated as a corporation for
24		federal income tax purposes subject to tax under KRS 141.040 [(1)] shall:
25		(a) 1. Compute the tax due at the applicable tax rates as provided by KRS
26		141.020 or 141.040 on net income[as defined by KRS 141.010(11)] or

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taxable net income[as defined by KRS 141.010(14)], including income

1				from the economic development project;
2			2.	Compute the limited liability entity tax imposed under KRS 141.0401,
3				including Kentucky gross profits or Kentucky gross receipts from the
4				economic development project; and
5			3.	Add the amounts computed under subparagraphs 1. and 2. of this
6				paragraph and, if applicable, subtract the credit permitted by KRS
7				141.0401(3) from that sum. The resulting amount shall be the net tax for
8				purposes of this paragraph.
9		(b)	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 by KRS 141.010(11)] or
11				taxable net income[as defined by KRS 141.010(14)], excluding net
12				income attributable to the economic development project;
13			2.	Using the same method used under paragraph (a)2. of this subsection,
14				compute the limited liability entity tax imposed under KRS 141.0401,
15				excluding Kentucky gross profits or Kentucky gross receipts from the
16				economic development project; and
17			3.	Add the amounts computed under subparagraphs 1. and 2. of this
18				paragraph and, if applicable, subtract the credit permitted by KRS
19				141.0401(3) from that sum. The resulting amount shall be the net tax for
20				purposes of this paragraph.
21		(c)	The	tax credit shall be the amount by which the tax computed under paragraph
22			(a)3.	of this subsection exceeds the tax computed under paragraph (b)3. of this
23			subs	ection; however, the credit shall not exceed the limits set forth in KRS
24			154.	23-005 to 154.23-079.
25	(4)	Noty	withst	anding any other provisions of this chapter, an approved company that is a
26		pass	-throu	igh entity not subject to the tax imposed by KRS 141.040 or trust not
27		subj	ect to	the tax imposed by KRS 141.040 shall be subject to income tax on the net

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income attributable to an economic development project at the rates provided in KRS 141.020[(2)], as follows:

- (a) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
- (b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.
 - (c) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (d) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- 24 (6) If the economic development project is a totally separate facility:
- 25 (a) Net income attributable to the project for the purposes of subsections (3), (4), 26 and (5) of this section shall be determined under the separate accounting 27 method reflecting only the gross income, deductions, expenses, gains, and

1	losses	allowed	under	this	chapter	directly	attributable	to	the	facility	and
2	overhe	ad expens	ses app	ortio	ned to th	e facility:	and				

- (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- 7 (7) If the economic development project is an expansion to a previously existing 8 facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
 - (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such

1		that it is not practical to use the separate accounting method to determine the net
2		income, Kentucky gross receipts, or Kentucky gross profits from the facility at
3		which the economic development project is located, the approved company shall
4		determine net income, Kentucky gross receipts, or Kentucky gross profits from the
5		economic development project using an alternative method approved by the
6		Department of Revenue.
7	(9)	The Department of Revenue may issue administrative regulations and require the

- 7 (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.
- → Section 89. KRS 141.403 is amended to read as follows:
- 12 (1) As used in this section, unless the context requires otherwise:
- 13 (a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;
- 15 (b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;
- 17 (c) "Tax credit" means the tax credit allowed in KRS 154.26-090;
- 18 (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
 19 141.0401; and
- 20 (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- 22 (2) An approved company shall determine the income tax credit as provided in this section.
- 24 (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040[(1)] shall:
- 27 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS

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

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which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed KRS 141.040 shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020[(2)].

- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.
 - (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic revitalization project is a totally separate facility:

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

- Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- 10 If the economic revitalization project is an expansion to a previously existing facility:
 - Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic revitalization project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic revitalization project by a formula approved by the Department of Revenue; and
 - Kentucky gross receipts or Kentucky gross profits attributable to the entire (b) facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility. Kentucky gross receipts or Kentucky gross profits attributable to the economic revitalization project for purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the

1		economic revitalization project pursuant to a formula approved by the
2		Department of Revenue.
3	(8)	If an approved company can show to the satisfaction of the Department of Revenue
4		that the nature of the operations and activities of the approved company are such
5		that it is not practical to use the separate accounting method to determine the net
6		income, Kentucky gross receipts, or Kentucky gross profits from the facility at
7		which the economic revitalization project is located, the approved company shall
8		determine net income, Kentucky gross receipts, or Kentucky gross profits from the
9		economic revitalization project using an alternative method approved by the
10		Department of Revenue.
11	(9)	The Department of Revenue may issue administrative regulations and require the
12		filing of forms designed by the Department of Revenue to reflect the intent of KRS
13		154.26-010 to 154.26-100 and the allowable income tax credit which an approved
14		company may retain under KRS 154.26-010 to 154.26-100.
15		→ Section 90. KRS 141.405 is amended to read as follows:
16	(1)	As used in this section, unless the context requires otherwise:
17		(a) "Approved company" has the same meaning as set forth in KRS 154.12-2084;
18		(b) "Skills training investment credit" has the same meaning as set forth in KRS
19		154.12-2084;
20		(c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
21		141.0401; and
22		(d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
23		141.0401.
24	(2)	An approved company shall determine the tax credit as provided in this section.
25	(3)	(a) An approved company which is an individual sole proprietorship subject to
26		tax under KRS 141.020 or a corporation or pass-through entity treated as a
27		corporation for federal income tax purposes subject to tax under KRS

1			141.040 [(1)] shall:
2			1. Compute the tax due at the applicable tax rates as provided by KRS
3			141.020 or 141.040 on net income[as defined by KRS 141.010(11)] or
4			taxable net income[as defined by KRS 141.010(14)];
5			2. Compute the limited liability entity tax imposed under KRS 141.0401 on
6			Kentucky gross profits or Kentucky gross receipts; and
7			3. Add the amounts computed under subparagraphs 1. and 2. of this
8			paragraph and, if applicable, subtract the credit permitted by KRS
9			141.0401(3) from that sum. The resulting amount shall be the net tax for
10			purposes of this subsection;
11		(b)	The amount of the skills training investment credit that the Bluegrass State
12			Skills Corporation has given final approval for under KRS 154.12-2088(6)
13			shall be applied against the net tax computed under paragraph (a)3. of this
14			subsection; and
15		(c)	The skills training investment credit payment shall not exceed the amount of
16			the final approval awarded by the Bluegrass State Skills Corporation under
17			KRS 154.12-2088(6).
18	(4)	(a)	In the case of an approved company which is a pass-through entity not subject

In the case of an approved company which is a pass-through entity not subject 19 to the tax imposed by KRS 141.040, the amount of the tax credit awarded by 20 the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be taken 21 against the tax imposed by KRS 141.0401 by the approved company, and shall 22 also be apportioned among the partners, members, or shareholders thereof at 23 the same ratio as the partners', members', or shareholders' distributive shares 24 of income are determined for the tax year during which the final authorization 25 resolution is adopted by the Bluegrass State Skills Corporation in KRS 26 154.12-2088(6).

The amount of the tax credit apportioned to each partner, member, or (b)

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1			shareholder that may be claimed in any tax year of the partner, member, or
2			shareholder shall be determined in accordance with the provisions of KRS
3			154.12-2086.
4	(5)	(a)	In the case of an approved company that is a trust not subject to the tax
5			imposed by KRS 141.040, the amount of the tax credit awarded by the
6			Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be
7			apportioned to the trust and the beneficiaries on the basis of the income of the
8			trust allocable to each for the tax year during which the final authorizing
9			resolution is adopted by the Bluegrass State Skills Corporation in KRS
10			154.12-2088(6).
11		(b)	The amount of tax credit apportioned to each trust or beneficiary that may be
12			claimed in any tax year of the trust or beneficiary shall be determined in
13			accordance with the provisions of KRS 154.12-2086.
14	(6)	The	Department of Revenue may promulgate administrative regulations in
15		acco	rdance with KRS Chapter 13A adopting forms and procedures for the reporting
16		of th	ne credit allowed in KRS 154.12-2084 to 154.12-2089.
17		→ Se	ection 91. KRS 141.407 is amended to read as follows:
18	(1)	As u	sed in this section, unless the context requires otherwise:
19		(a)	"Approved company" shall have the same meaning as set forth in KRS
20			154.24-010;
21		(b)	"Economic development project" shall have the same meaning as economic
22			development project as set forth in KRS 154.24-010;
23		(c)	"Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150;
24		(d)	"Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
25			141.0401; and
26		(e)	"Kentucky gross profits" means Kentucky gross profits as defined in KRS

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141.0401.

1 ((2)	An approved comp	any shall	determine th	ne tax credit a	s provided in	this section.
	~,	I III approved comp	oury sirair	actermine th	ic tax cicuit t	is provided in	uns section.

- 2 (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040[(1)] shall:
 - (a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income[as defined by KRS 141.010(11)] or taxable net income[as defined by KRS 141.010(14)], including income from the economic development project;
 - Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income[as defined by KRS 141.010(11)] or taxable net income[as defined by KRS 141.010(14)], excluding net income attributable to the economic development project;
 - 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

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1		(c)	The tax credit shall be the amount by which the net tax computed under
2			paragraph (a)3. of this subsection exceeds the tax computed under paragraph
3			(b)3. of this subsection; however, the credit shall not exceed the limits set
4			forth in KRS 154.24-020 to 154.24-150.
5	(4)	(a)	Notwithstanding any other provisions of this chapter, an approved company
6			which is a pass-through entity not subject to the tax imposed by KRS 141.040
7			or a trust not subject to the tax imposed by KRS 141.040 shall be subject to
8			income tax on the net income attributable to an economic development project
9			at the rates provided in KRS 141.020 [(2)] .
10		(b)	The amount of the tax credit shall be determined as provided in subsection (3)
11			of this section. Upon the annual election of the approved company, in lieu of
12			the tax credit, an amount shall be applied as an estimated tax payment equal to
13			the tax computed in this section. Any estimated tax payment made pursuant to
14			this paragraph shall be in satisfaction of the tax liability of the partners or
15			beneficiaries of the pass-through entity or trust, and shall be paid on behalf of
16			the partners, members, shareholders, or beneficiaries.

- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.
- (d) If the tax computed herein exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.

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

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

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- Net income attributable to the project for the purposes of subsections (3), (4), 6 and (5) of this section shall be determined under the separate accounting 7 method reflecting only the gross income, deductions, expenses, gains, and 8 losses allowed under KRS Chapter 141 directly attributable to the facility and 9 overhead expenses apportioned to the facility; and
 - Kentucky gross receipts or Kentucky gross profits attributable to the project (b) for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
 - If the economic development project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - Kentucky gross receipts or Kentucky gross profits attributable to the entire (b) facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly

> attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.

- If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.
 - → Section 92. KRS 141.414 is amended to read as follows:
- 20 A qualified farming operation which is an individual sole proprietorship subject to (1) 21 tax under KRS 141.020 or a corporation or pass-through entity treated as a 22 corporation for federal income tax purposes subject to tax under KRS 141.040 shall:
 - 1. (a) Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from the qualified farming operation's participation in a networking project.

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1			2.	Compute the limited liability entity tax imposed under KRS 141.0401,
2				including Kentucky gross profits or Kentucky gross receipts from the
3				qualified farming operation's participation in a networking project; and
4			3.	Add the amounts computed under subparagraphs 1. and 2. of this
5				paragraph and, if applicable, subtract the credit permitted by KRS
6				141.0401(3) from that sum. The resulting amount shall be the net tax for
7				purposes of this paragraph;
8		(b)	1.	Compute the tax due at the applicable tax rates as provided by KRS
9				141.020 or 141.040 applies on net income[as defined by KRS
10				141.010(11)] or taxable net income[as defined by KRS 141.010(14)],
11				excluding net income attributable to the qualified farming operation's
12				participation in a networking project;
13			2.	Using the same method used under paragraph (a)2. of this subsection,
14				compute the limited liability entity tax imposed under KRS 141.0401,
15				excluding Kentucky gross profits or Kentucky gross receipts from the
16				qualified farming operation's participation in a networking project; and
17			3.	Add the amounts computed under subparagraphs 1. and 2. of this
18				paragraph and, if applicable, subtract the credit permitted by KRS
19				141.0401(3) from that sum. The resulting amount shall be the net tax for
20				purposes of this paragraph; and
21		(c)	Be e	entitled to a tax credit in the amount by which the tax computed under
22			para	graph (a)3. of this subsection exceeds the tax computed under paragraph
23			(b)3	of this subsection. The credit shall not exceed the farming operation's
24			appr	oved costs, as defined in KRS 141.410.
25	(2)	Noty	withst	anding any other provisions of this chapter, a qualified farming operation
26		whic	ch is a	a pass-through entity not subject to the tax imposed by KRS 141.040 or
27		trust	not s	ubject to the tax imposed by KRS 141.040 shall be subject to income tax

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on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020 $\frac{(2)}{1}$, and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the passthrough entity or trust at the times provided by KRS 141.160 for filing the returns.

- Notwithstanding any other provisions of this chapter, the net income subject to tax (3) and the tax credit determined under subsection (2) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- 11 (4) If the networking entity is a separate facility:

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- Net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the facility; and
- Kentucky gross receipts or Kentucky gross profits attributable to the project (b) for the purposes of subsection (1) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- If the networking project is an expansion to a previously existing farming operation:
 - Net income attributable to the entire operation shall be determined under the (a) separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2),

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and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the Department of Revenue; and

- (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (1) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (6) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the networking project, the approved farming operation shall determine net income, Kentucky gross receipts, or Kentucky gross profits from its participation in the networking project using an alternative method approved by the Department of Revenue.
- (7) The Department of Revenue may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the Department of Revenue necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.
- **→** Section 93. KRS 141.415 is amended to read as follows:
- 26 (1) As used in this section, unless the context requires otherwise:
- 27 (a) "Approved company" means the same as defined in KRS 154.32-010 or

1			154	.34-010;
2		(b)	"Ec	onomic development project" means the same as defined in KRS 154.32-
3			010	•
4		(c)	"Re	investment project" means the same as defined in KRS 154.34-010;
5		(d)	"Ta	x credit" means the tax credit allowed in KRS 154.34-120 or the credit
6			allo	wed in KRS 154.32-070, as the case may be;
7		(e)	"Ke	ntucky gross receipts" means the same as defined in KRS 141.0401; and
8		(f)	"Ke	ntucky gross profits" means the same as defined in KRS 141.0401.
9	(2)	An	appro	eved company shall determine the income tax credit as provided in this
10		secti	ion.	
11	(3)	An	appro	oved company which is an individual sole proprietorship subject to tax
12		unde	er KR	S 141.020 or a corporation or pass-through entity treated as a corporation
13		for f	edera	l income tax purposes subject to tax under KRS 141.040 [(1)] shall:
14		(a)	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)], including income
17				from a reinvestment project or economic development project;
18			2.	Compute the limited liability entity tax imposed under KRS 141.0401
19				including Kentucky gross profits or Kentucky gross receipts from the
20				reinvestment project or economic development project; and
21			3.	Add the amounts computed under subparagraphs 1. and 2. of this
22				paragraph and, if applicable, subtract the credit permitted by KRS
23				141.0401(3) from that sum. The resulting amount shall be the net tax for
24				purposes of this paragraph.
25		(b)	1.	Compute the tax due at the applicable tax rates as provided by KRS
26				141.020 or 141.040 on net income[as defined by KRS 141.010(11)] or

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taxable net income[as defined by KRS 141.010(14)], excluding net

1			income attributable to a reinvestment project or economic development
2			project;
3			2. Using the same method used under paragraph (a)2. of this subsection,
4			compute the limited liability entity tax imposed under KRS 141.0401,
5			including Kentucky gross profits or Kentucky gross receipts from the
6			reinvestment project or economic development project; and
7			3. Add the amounts computed under subparagraphs 1. and 2. of this
8			paragraph and, if applicable, subtract the credit permitted by KRS
9			141.0401(3) from that sum. The resulting amount shall be the net tax for
10			purposes of this paragraph.
11		(c)	The tax credit shall be the amount by which the tax computed under paragraph
12			(a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this
13			subsection; however, the credit shall not exceed the limits set forth in KRS
14			154.32-070 or 154.34-120, as the case may be.
15	(4)	(a)	Notwithstanding any other provisions of this chapter, an approved company
16			which is a pass-through entity not subject to the tax imposed by KRS 141.040
17			or trust not subject to the tax imposed by KRS 141.040 shall be subject to
18			income tax on the net income attributable to a reinvestment project or
19			economic development project at the rates provided in KRS 141.020 [(2)] .
20		(b)	The amount of the tax credit shall be determined as provided in subsection (3)
21			of this section. Upon the annual election of the approved company, in lieu of
22			the tax credit, an amount shall be applied as an estimated tax payment equal to
23			the tax computed in this section. Any estimated tax payment made pursuant to
24			this paragraph shall be in satisfaction of the tax liability of the partners,
25			members, shareholders, or beneficiaries of the pass-through entity or trust, and
26			shall be paid on behalf of the partners, members, shareholders, or

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beneficiaries.

1		(c)	The tax credit or estimated payment shall not exceed the limits set forth in
2			KRS 154.32-070 or 154.34-120, as the case may be.
3		(d)	If the tax computed in this section exceeds the tax credit, the difference shall
4			be paid by the pass-through entity or trust at the times provided by KRS
5			141.160 for filing the returns.
6		(e)	Any estimated tax payment made by the pass-through entity or trust in
7			satisfaction of the tax liability of partners, members, shareholders, or
8			beneficiaries shall not be treated as taxable income subject to Kentucky
9			income tax by the partner, member, shareholder, or beneficiary.
10	(5)	Noty	withstanding any other provisions of this chapter, the net income subject to tax,
11		the t	tax credit, and the estimated tax payment determined under subsection (4) of
12		this	section shall be excluded in determining each partner's, member's,
13		shar	eholder's, or beneficiary's distributive share of net income or credit of a pass-
14		thro	ugh entity or trust.
15	(6)	If th	e reinvestment project or economic development project is a totally separate
16		facil	ity:
17		(a)	Net income attributable to the project for the purposes of subsections (3), (4),
18			and (5) of this section shall be determined under the separate accounting
19			method reflecting only the gross income, deductions, expenses, gains, and
20			losses allowed under KRS Chapter 141 directly attributable to the facility and
21			overhead expenses apportioned to the facility; and
22		(b)	Kentucky gross receipts or Kentucky gross profits attributable to the project
23			for the purposes of subsection (3) of this section shall be determined under the
24			separate accounting method reflecting only the Kentucky gross receipts or

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

Kentucky gross profits directly attributable to the facility.

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

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

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

(9) The department may promulgate administrative regulations and require the filing of

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1		forn	as designed by the department to reflect the intent of KRS 154.34-010 to
2		154.	34-100 and Subchapter 32 of KRS Chapter 154, and the allowable income tax
3		cred	it which an approved company may retain under KRS 154.34-010 to 154.34-
4		100	or Subchapter 32 of KRS Chapter 154.
5		→S	ection 94. KRS 161.540 is amended to read as follows:
6	(1)	(a)	Effective July 1, 1988, each individual who first becomes a member before
7			July 1, 2008, shall contribute to the retirement system nine and eight hundred
8			fifty-five thousandths percent (9.855%) of annual compensation, except that
9			university employees who participate in the Kentucky Teachers' Retirement
10			System shall contribute eight and three hundred seventy-five thousandths
11			percent (8.375%) of annual compensation.
12		(b)	Each individual who first becomes a member on or after July 1, 2008, shall
13			contribute to the retirement system ten and eight hundred fifty-five
14			thousandths percent (10.855%) of annual compensation, except that university
15			employees who participate in the Kentucky Teachers' Retirement System shall
16			contribute nine and three hundred seventy-five thousandths percent (9.375%)
17			of annual compensation.
18		(c)	1. Effective July 1, 2010, members shall, in addition to those contributions
19			required under paragraphs (a) and (b) of this subsection, make a
20			contribution to the medical insurance fund established under KRS
21			161.420(5) according to the following schedule:
22			a. For each individual who first became a member of the retirement
23			system before July 1, 2008, a total amount of annual compensation
24			equal to and effective on:
25			July 1, 2010Twenty-five hundredths percent (.25%)
26			July 1, 2011One-half percent (0.50%)
27			July 1, 2012One percent (1.0%)

1	July 1, 2013	One and one-half percent (1.5%)
2	July 1, 2014Two and t	twenty-five hundredths percent (2.25%)
3	July 1, 2015,	
4	and thereafterThree	e percent (3.0%) for a total of three and
5	se	eventy-five hundredths percent (3.75%)
6	wh	nen added to the contributions required
7		under KRS 161.420(5)(a); or
8	b. For each individual who fir	est becomes a member of the retirement
9	system on or after July	1, 2008, a total amount of annual
10	compensation equal to and e	effective on:
11	July 1, 2013	One-half percent (0.50%)
12	July 1, 2014One and to	wenty-five hundredths percent (1.25%)
13	July 1, 2015,	
14	and thereafterTwo	percent (2.0%) for a total of three and
15	se	eventy-five hundredths percent (3.75%)
16	W	hen added to the contributions required
17		under KRS 161.420(5)(a)
18	2. Notwithstanding subparagraph 1.	of this paragraph, members employed
19	by any employer identified in KR	S 161.220(4)(b) or (n) shall contribute,
20	as a percentage of their total	annual compensation, the actuarial
21	equivalent of the percentage	e contributed by members under
22	subparagraph 1. of this paragr	raph, not to exceed the percentages
23	established under the schedules	set forth in subparagraph 1. of this
24	paragraph. The actuarial equiv	valent to be contributed under this
25	subsection shall be determined by	y the retirement system's actuary. These
26	contributions shall be in lieu of	of those contributions required under
27	subparagraph 1. of this paragraph	

3. When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the retirement system's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under subparagraphs 1. and 2. of this paragraph shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.

(d) Payments authorized by statute that are made to retiring members, who became members of the system before July 1, 2008, for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010[(10)]. The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to

1	August 1, 1982, by the member contribution, and the picked-up member
2	contribution shall be in lieu of a member contribution. Each employer shall pay
3	these picked-up member contributions from the same source of funds which is used
4	to pay earnings to the member. The member shall have no option to receive the
5	contributed amounts directly instead of having them paid by the employer to the
6	system. Member contributions picked-up after August 1, 1982, shall be treated for
7	all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent
8	as member contributions made prior to August 1, 1982.
9	→SECTION 95. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER
10	154 IS CREATED TO READ AS FOLLOWS:
11	By July 1, 2019, and by each July 1 thereafter, the authority and the Department of
12	Revenue shall jointly provide a report to the Interim Joint Committee on
13	Appropriations and Revenue for each project approved under this subchapter. The
14	report shall contain the following information:
	(1) The name of each approved company and the location of each economic
15	
15 16	revitalization project;
	revitalization project; (2) The amount of approved costs for each economic revitalization project;
16	
16 17	(2) The amount of approved costs for each economic revitalization project;
16 17 18	(2) The amount of approved costs for each economic revitalization project; (3) The date the agreement was approved, the type of approval issued at that point in
16 17 18 19	 (2) The amount of approved costs for each economic revitalization project; (3) The date the agreement was approved, the type of approval issued at that point in time, and whether the project is active or inactive;
16 17 18 19 20	 (2) The amount of approved costs for each economic revitalization project; (3) The date the agreement was approved, the type of approval issued at that point in time, and whether the project is active or inactive; (4) Whether an assessment fee authorized by KRS 154.26-100 was a part of the
16 17 18 19 20 21	 (2) The amount of approved costs for each economic revitalization project; (3) The date the agreement was approved, the type of approval issued at that point in time, and whether the project is active or inactive; (4) Whether an assessment fee authorized by KRS 154.26-100 was a part of the agreement;
16 17 18 19 20 21 22	 (2) The amount of approved costs for each economic revitalization project; (3) The date the agreement was approved, the type of approval issued at that point in time, and whether the project is active or inactive; (4) Whether an assessment fee authorized by KRS 154.26-100 was a part of the agreement; (5) The number of employees employed in manufacturing, the number of employees
16 17 18 19 20 21 22 23	 (2) The amount of approved costs for each economic revitalization project; (3) The date the agreement was approved, the type of approval issued at that point in time, and whether the project is active or inactive; (4) Whether an assessment fee authorized by KRS 154.26-100 was a part of the agreement; (5) The number of employees employed in manufacturing, the number of employees employed in coal mining and processing, or the number of employees employed

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amount denied by the department, and the amount of any tax credit remaining to

1 <u>be carried forward.</u>

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- 2 Section 96. KRS 141.068 is amended to read as follows:
- 3 (1) As used in this section, unless the context requires otherwise:
- 4 (a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;
- 6 (b) "Investor" has the same meaning as set forth in KRS 154.20-254;
- 7 (c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;
- 8 (d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-9 254; and
- 10 (e) "Tax credit" means the credits provided for in KRS 154.20-258.
- 11 (2) (a) An investor which is an individual or a corporation shall be entitled to the
 12 credit certified by the authority under KRS 154.20-258 against the tax due
 13 computed as provided by KRS 141.020 or 141.040, respectively, and against
 14 the tax imposed by KRS 141.0401, with the ordering of credits as provided in
 15 KRS 141.0205.
 - (b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.
- 19 (3) (a) In the case of an investor that is a pass-through entity not subject to the tax 20 imposed by KRS 141.040, the amount of the tax credit certified by the 21 authority under KRS 154.20-258 shall be taken by the pass-through entity 22 against the limited liability entity tax imposed by KRS 141.0401, and shall 23 also be apportioned among the partners, members, or shareholders at the same 24 ratio as the partners', members', or shareholders' distributive shares of income 25 are determined for the tax year during which the amount of the credit is 26 certified by the authority.
- 27 (b) The amount of the tax credit apportioned to each partner, member, or

1		shareholder that may be claimed in any tax year of the partner, member, or
2		shareholder shall be determined in accordance with the provisions of KRS
3		154.20-258.
4	(4)	(a) In the case of an investor that is a trust not subject to the tax imposed by KRS
5		141.040, the amount of the tax credit certified by the authority under KRS
6		154.20-258 shall be apportioned to the trust and the beneficiaries on the basis
7		of the income of the trust allocable to each for the tax year during which the
8		tax credit is certified by the authority.
9		(b) The amount of tax credit apportioned to each trust or beneficiary that may be
10		claimed in any tax year of the trust or beneficiary shall be determined in
11		accordance with the provisions of KRS 154.20-258.
12	(5)	The Department of Revenue shall promulgate administrative regulations under KRS
13		Chapter 13A to adopt procedures for the administration of the credits authorized by
14		KRS 154.20-258.
15	<u>(6)</u>	In order for the General Assembly to evaluate the fulfillment of the purposes
16		stated in KRS 154.20-250, the department shall work jointly with the Cabinet for
17		Economic Development to provide a report detailing each investment fund
18		agreement entered into by the cabinet. The report shall be submitted to the
19		Interim Joint Committee on Appropriations and Revenue on or before May 1,
20		2019, and contain the following information:
21		(a) The date the agreement was entered into by the cabinet with the investment
22		fund manager;
23		(b) The name of the investment fund manager and the name of the investment
24		<u>fund;</u>
25		(c) The primary business location of the investment fund;
26		(d) The total number of investment funds, the number of investors for each
27		fund, the amount of committed cash contributions to each investment fund,

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1		and the total qualified investments made by each investment fund, including
2		initial and subsequent investments, for each small business;
3		(e) A list detailing each investor within each investment fund, the amount of
4		investment made by each investor, and the amount of tax credit awarded
5		each investor;
6		(f) Whether the authority has suspended the availability of any credits,
7		terminated any agreements, or pursued any other remedy because the
8		investment fund manager failed to comply with the agreement;
9		(g) By taxable year, the amount of tax credit claimed by each investor by type of
10		tax, including income tax, any taxes imposed on financial institutions, or
11		insurance taxes;
12		(h) The number of small businesses that are active, inactive, or closed that have
13		received investments from an investment fund;
14		(i) The number and location of each new small business established or
15		expanded;
16		(j) The number and location of each new job created;
17		(k) The number of new products and technologies created; and
18		(l) The total amount of tax credit awarded for each fiscal year.
19	<u>(7)</u>	If either the department or the Cabinet for Economic Development does not
20		currently have the data to fulfill the reporting requirement of subsection (6) of
21		this section, the department and the cabinet shall work jointly to obtain the data
22		in an expedient manner to provide the report on or before the May 1, 2019, report
23		<u>date.</u>
24		→ Section 97. KRS 141.396 is amended to read as follows:
25	(1)	As used in this section:
26		(a) "Authority" has the same meaning as in KRS 154.20-230;
27		(b) "Qualified investor" has the same meaning as in KRS 154.20-230;

1		(c) "Qualified small business" has the same meaning as in KRS 154.20-230; and
2		(d) "Taxpayer" means an individual subject to the tax imposed by KRS 141.020,
3		who has either:
4		1. Received a credit from the authority pursuant to KRS 154.20-236; or
5		2. Received a credit through a valid transfer allowed under this section
6		from a qualified investor that was originally awarded the credit.
7	(2)	For taxable years beginning on or after January 1, 2015, there is hereby created the
8		angel investor tax credit. The credit shall be nonrefundable, and shall apply against
9		the tax imposed by KRS 141.020. The ordering of the credit shall be as provided in
10		KRS 141.0205.
11	(3)	A qualified investor may seek a credit by applying to the authority pursuant to KRS
12		154.20-236.
13	(4)	The maximum amount of credit that may be claimed by a taxpayer in any taxable
14		year shall not exceed fifty percent (50%) of the total amount of credit awarded or
15		transferred to the taxpayer.
16	(5)	Any amount of credit that a taxpayer is unable to utilize during a taxable year may
17		be carried forward for use in a succeeding taxable year for a period not to exceed
18		fifteen (15) years. Any amount of credit not used within fifteen (15) years shall be
19		lost. No amount of credit may be carried back by any taxpayer.
20	(6)	The credit shall not apply to any liability a taxpayer may have for interest, penalties,
21		past due taxes, or any other additions to the taxpayer's tax liability. The holder of
22		the credit shall assume any and all liabilities and responsibilities of the credit.
23	(7)	A credit may be transferred by a qualified investor to any individual taxpayer. A
24		qualified investor making a transfer shall give written notice to the department and
25		shall provide any other information required by the department, in the manner
26		prescribed by the department. Any transferred credit shall be subject to the original

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timeframes and requirements established by this section and KRS 154.20-230 to

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1		154.20-240 as if held by the qualified investor.
2	(8)	To receive the credit, a taxpayer shall claim the credit on his or her return in the
3		manner prescribed by the department.
4	(9)	The department shall recapture any portion, or the full amount, of a credit upon
5		notification from the authority that a recapture is required pursuant to KRS 154.20-
6		240.
7	<u>(10)</u>	In order for the General Assembly to evaluate the fulfillment of the purposes
8		stated in KRS 154.20-232, the department and the Cabinet for Economic
9		Development shall work jointly to submit the following information to the
10		Interim Joint Committee on Appropriations and Revenue on or before May 1,
11		2019, related to each taxable year that an angel investor credit is claimed on a
12		<u>return:</u>
13		(a) The number of qualified small businesses certified by the authority;
14		(b) The demographics of each qualified small business, including:
15		1. The net worth of the qualified small business;
16		2. The qualified activity the qualified small business is actively and
17		principally engaged in within the Commonwealth;
18		3. The number of employees of the qualified small business;
19		4. The location of the assets, operations, and employees of the qualified
20		small business; and
21		5. The aggregate amount of qualified investments received by the
22		qualified small business;
23		(c) A list detailing each qualified investor certified by the authority, the amount
24		of investment made by each qualified investor, the date each qualified
25		investment is made by the qualified investor, and the amount of tax credit
26		awarded each investor;
27		(d) By taxable year, the amount of tax credit claimed by each investor and the

1			<u>amount o</u> j	f credit available to be claimed in future taxable years;
2		<u>(e)</u>	The numb	per of qualified small businesses that are active, inactive, or closed
3			that have	received qualified investments;
4		<u>(f)</u>	The numb	ber of qualified small businesses that have established a location
5			in the Con	mmonwealth and the number that have expanded operations, the
6			number d	and location of each new job created, a description of each
7			developme	ent of new products and technologies in the Commonwealth, and
8			the field	of operation for that growth, including knowledge-based, high-
9			tech, or re	rsearch and development; and
10		<u>(g)</u>	The total o	amount of tax credit awarded for each fiscal year.
11	<u>(11)</u>	If e	ither the d	epartment or the Cabinet for Economic Development does not
12		<u>curr</u>	ently have	the data to fulfill the reporting requirement of subsection (10) of
13		<u>this</u>	section, the	e department and the cabinet shall work jointly to obtain the data
14		<u>in al</u>	n expedient	manner to provide the report on or before the May 1, 2019, report
15		<u>date</u>	<u>•</u>	
16		→ S	ection 98.	KRS 154.20-236 is amended to read as follows:
17	(1)	The	total amou	int of [tax] credit that may be awarded by the authority in each
18		cale	ndar year, p	ursuant to KRS 154.20-230 to 154.20-240, to:
19		(a)	All quali	fied investors shall be no more than three million dollars
20			(\$3,000,00	00); and
21		(b)	Any indiv	idual qualified investor shall be no more than two hundred thousand
22			dollars (\$2	200,000).
23	(2)	<u>(a)</u>	The total a	amount of [tax] credit that may be awarded by the authority to:
24			<u>1.[(a)]</u>	All qualified investors pursuant to KRS 154.20-230 to 154.20-240;
25			and	
26			<u>2.[(b)]</u>	All investors in all investment funds pursuant to KRS 154.20-250
27			to 15	54.20-284;

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

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businesses and investors, and the procedures for recertification thereof.

2	(5)	The	amount of credit awarded shall be equal to:
3		(a)	Forty percent (40%) of the amount of the qualified investment, if the principal
4			place of business of the qualified small business is outside an enhanced
5			incentive county; or
6		(b)	Fifty percent (50%) of the amount of the qualified investment, if the principal
7			place of business of the qualified small business is in an enhanced incentive
8			county.
9	(6)	Upo	n approval of a credit, the authority shall reduce the amount of available credit
10		by th	ne amount of credit approved to the qualified investor.
11	(7)	The	authority may, in effectuating this section, contract with a science and
12		tech	nology organization as defined in KRS 164.6011 to administer and manage the
13		certi	fication and application procedure established by the authority. However, the
14		final	approval of all credits shall be made solely by the authority.
15		→ S	ection 99. KRS 154.20-255 is amended to read as follows:
16	(1)	(a)	The total amount of [tax] credits available to any single investment fund
17			awarded[tax] credits under KRS 154.20-250 to 154.20-284 shall not exceed,
18			in aggregate, eight million dollars (\$8,000,000) for all investors and all
19			taxable years.
20		(b)	The total tax credits available for all investors in all investment funds awarded
21			under KRS 154.20-250 to 154.20-284, and all qualified investors awarded
22			under KRS 154.20-230 to 154.20-240, shall not exceed a total of forty million
23			dollars (\$40,000,000) <i>for all years prior to December 31, 2020</i> .
24		<u>(c)</u>	The total credit available for all investors in all investment funds awarded
25			under KRS 154.20-250 to 154.20-284 shall not exceed a total of three
26			million dollars (\$3,000,000) in any calendar year beginning on or after
27			January 1, 2021.

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1		(d) The authority shall not grant preliminary or final approval for applications
2		received for the Kentucky Investment Fund Act on or after January 1, 2019,
3		but may resume approving applications received on or after January 1,
4		<u>2021.</u>
5	(2)	A person or entity seeking to be approved as an investment fund manager for the
6		operation of one (1) or more investment funds shall make written application to the
7		authority pursuant to KRS 154.20-256, in addition to complying with applicable
8		state and federal securities laws and regulations.
9	(3)	Prior to the granting of any tax credits to investors of an investment fund, the
10		committed cash contributions to an investment fund shall be not less than five
11		hundred thousand dollars (\$500,000).
12	(4)	An investment fund shall have no less than four (4) investors, and no investor or
13		investment fund manager, including their immediate family members, as defined in
14		KRS 164.6011(6), and affiliates may own or have a capital interest in more than
15		forty percent (40%) of the investment fund's capitalization.
16	(5)	Subsequent to approval of the investment fund and the investment fund manager,
17		the authority and the investment fund manager, on behalf of itself and any investors
18		in the investment fund, shall enter into an agreement with respect to the investment
19		fund. The terms and provisions of each agreement shall be determined by
20		negotiations between the authority and the investment fund manager. The effective
21		date of the agreement shall be the date of approval of the investment fund and the
22		investment fund manager by the authority. If an investment fund manager fails to
23		comply with any of the obligations of the agreement, the authority may, at its
24		option, do any one (1) or more of the following:
25		(a) Suspend the availability of the credits;
26		(b) Pursue any remedy provided under the agreement, including termination of
27		the agreement; or

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- 1 (c) Pursue any other remedy at law to which it may be entitled.
- 2 (6) Any investor shall be entitled to a tax credit as a result of its investment in an
- 3 investment fund as provided in KRS 154.20-258.
- 4 (7) Total qualified investments made by an investment fund, including initial and
- 5 subsequent investments made by an investment fund, in any single small business
- 6 using approved qualified investments, shall not exceed thirty percent (30%) of the
- 7 committed cash contributions to the investment fund. This restriction shall not
- 8 apply to investments of money by the investment fund that are not qualified
- 9 investments.
- 10 (8) The provisions of this section shall not prohibit an investment fund from investing
- in a business that is not a small business, including a business that is located outside
- of the Commonwealth; however, such investments shall not be eligible for the tax
- 13 credit set forth in KRS 154.20-258.
- → Section 100. KRS 131.081 is amended to read as follows:
- 15 The following rules, principles, or requirements shall apply in the administration of all
- taxes subject to the jurisdiction of the Department of Revenue.
- 17 (1) The department shall develop and implement a Kentucky tax education and
- information program directed at new taxpayers, taxpayer and industry groups, and
- department employees to enhance the understanding of and compliance with
- 20 Kentucky tax laws, including the application of new tax legislation to taxpayer
- 21 activities and areas of recurrent taxpayer noncompliance or inconsistency of
- administration.
- 23 (2) The department shall publish brief statements in simple and nontechnical language
- 24 which explain procedures, remedies, and the rights and obligations of taxpayers and
- 25 the department. These statements shall be provided to taxpayers with the initial
- 26 notice of audit; each original notice of tax due; each denial or reduction of a refund
- or credit claimed by a taxpayer; each denial, cancellation, or revocation of any

1	license,	permit,	or	other	required	authorization	applied	for	or	held	by	a	taxpayer;
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- and, if practical and appropriate, in informational publications by the department
- 3 distributed to the public.
- 4 (3) Taxpayers shall have the right to be assisted or represented by an attorney,
- 5 accountant, or other person in any conference, hearing, or other matter before the
- 6 department. The taxpayer shall be informed of this right prior to conduct of any
- 7 conference or hearing.
- 8 (4) The department shall perform audits and conduct conferences and hearings only at
- 9 reasonable times and places.
- 10 (5) Taxpayers shall have the right to make audio recordings of any conference with or
- hearing by the department. The department may make similar audio recordings if
- prior written notice is given to the taxpayer or if the taxpayer records the conference
- or hearing. The taxpayer shall be entitled to a copy of this department recording or a
- transcript as provided in KRS 61.874.
- 15 (6) If any taxpayer's failure to submit a timely return or payment to the department is
- due to the taxpayer's reasonable reliance on written advice from the department, the
- taxpayer shall be relieved of any penalty or interest with respect thereto, provided
- 18 the taxpayer requested the advice in writing from the department and the specific
- 19 facts and circumstances of the activity or transaction were fully described in the
- 20 taxpayer's request, the department did not subsequently rescind or modify the advice
- in writing, and there were no subsequent changes in applicable laws or regulations
- or a final decision of a court which rendered the department's earlier written advice
- 23 no longer valid.
- 24 (7) Taxpayers shall have the right to receive a copy of any audit of the department by
- 25 the Auditor of Public Accounts relating to the department's compliance with the
- 26 provisions of KRS 131.041 to 131.081.
- 27 (8) The department shall include with each notice of tax due a clear and concise

1		desc	ription of the basis and amount of any tax, penalty, and interest assessed against							
2		the	he taxpayer, and copies of the agent's audit workpapers and the agent's written							
3		narra	narrative setting forth the grounds upon which the assessment is made. Taxpayers							
4		shal	be similarly notified regarding the denial or reduction of any refund or credit							
5		clair	n filed by a taxpayer.							
6	(9)	(a)	Taxpayers shall have the right to an installment payment agreement for the							
7			payment of delinquent taxes, penalties, and interest owed, provided the							
8			taxpayer requests the agreement in writing clearly demonstrating:							
9			1. His or her inability to pay in full; and							
10			2. That the agreement will facilitate collection by the department of the							
11			amounts owed.							
12		(b)	The department may modify or terminate an installment payment agreement							
13			and may pursue statutory remedies against the taxpayer if it determines that:							
14			1. The taxpayer has not complied with the terms of the agreement,							
15			including minimum payment requirements established by the agreement;							
16			2. The taxpayers' financial condition has sufficiently changed;							
17			3. The taxpayer fails to provide any requested financial condition update							
18			information;							
19			4. The taxpayer gave false or misleading information in securing the							
20			agreement; or							
21			5. The taxpayer fails to timely report and pay any other tax due the							
22			Commonwealth.							
23		(c)	The department shall give written notice to the taxpayer at least thirty (30)							
24			days prior to modifying or terminating an installment payment agreement							
25			unless the department has reason to believe that collection of the amounts							
26			owed will be jeopardized in whole or in part by delay.							

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(10) The department shall not knowingly authorize, require, or conduct any investigation

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1		or surveillance of any person for nontax administration related purposes, except
2		internal security related investigations involving Department of Revenue personnel.
3	(11)	In addition to the circumstances under which an extension of time for filing reports
4		or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to
5		the same extension of the due date of any comparable Kentucky tax report or return
6		for which the taxpayer has secured a written extension from the Internal Revenue
7		Service provided the taxpayer notifies the department in writing and provides a
8		copy of the extension at the time and in the manner which the department may
9		require.
10	(12)	The department shall bear the cost or, if paid by the taxpayer, reimburse the
11		taxpayer for recording or bank charges as the direct result of any erroneous lien or
12		levy by the department, provided the erroneous lien or levy was caused by
13		department error and, prior to issuance of the erroneous lien or levy, the taxpayer
14		timely responded to all contacts by the department and provided information or
15		documentation sufficient to establish his or her position. When the department
16		releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer
17		and, if requested by the taxpayer, a copy of the release, together with an
18		explanation, shall be mailed to the major credit reporting companies located in the
19		county where it was filed.
20	(13)	(a) The department shall not evaluate individual officers or employees on the
21		basis of taxes assessed or collected or impose or suggest tax assessment or
22		collection quotas or goals.
23		(b) No arrangement or contract shall be entered into for the service to:
24		1. Examine a taxpayer's books and records;
25		2. Collect a tax from a taxpayer; or
26		3. Provide legal representation of the department;
27		if any part of the compensation or other benefits paid or payable for the

1	service is contingent upon or otherwise related to the amount of tax,
2	interest, fee, or penalty assessed against or collected from the taxpayer. Any
3	such arrangement or contract shall be void and unenforceable.

- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Kentucky Claims Commission for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, <u>or</u> [and] intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to this subsection, the commission shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the commission, the department shall be reimbursed by the taxpayer for its costs in defending the action. Any claims brought pursuant to this subsection shall be in accordance with KRS 49.040 to 49.180.
- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.
- → Section 101. KRS 49.250 is amended to read as follows:
- 24 (1) Any party aggrieved by any final order of the commission, except on appeals from a 25 county board of assessment appeals, may appeal to the Franklin Circuit Court or to 26 the Circuit Court of the county in which the party aggrieved resides or conducts his 27 place of business in accordance with KRS Chapter 13B. Any final orders entered on

1		the r	ulings of a county board of assessment appeals may be appealed in like manner
2		to th	e Circuit Court of the county in which the appeal originated.
3	(2)	If th	e appeal is from an order sustaining a tax assessment, collection of the tax
4		<u>shal</u>	[may] be stayed by the filing of a petition or an appeal to any court. Full
5		<u>payn</u>	nent of the tax or a supersedeas bond is not required to appeal an order
6		susta	uining a tax assessment[supersedeas bond in the manner directed by the Rules
7		of C	ivil Procedure, or by payment of the tax as provided in KRS 134.580].
8		→ S	ection 102. KRS 131.190 is amended to read as follows:
9	(1) [(a)]	No present or former commissioner or employee of the department[of
10		Reve	enue], present or former member of a county board of assessment appeals,
11		pres	ent or former property valuation administrator or employee, present or former
12		secre	etary or employee of the Finance and Administration Cabinet, former secretary
13		or e	mployee of the Revenue Cabinet, or any other person, shall intentionally and
14		with	out authorization inspect or divulge any information acquired by him of the
15		affai	rs of any person, or information regarding the tax schedules, returns, or reports
16		requ	ired to be filed with the department or other proper officer, or any information
17		prod	uced by a hearing or investigation, insofar as the information may have to do
18		with	the affairs of the person's business.
19	<u>(2)</u> [((b)]	The prohibition established by $\underline{subsection\ (1)}[paragraph\ (a)]$ of this $\underline{section}$
20		<u>shal</u>	[subsection does] not extend to:
21		<u>(a)</u> [∃	Information required in prosecutions for making false reports or returns
22			of property for taxation, or any other infraction of the tax laws;
23		<u>(b)</u> [2	Any matter properly entered upon any assessment record, or in any way
24			made a matter of public record;
25		<u>(c)</u> [3	Furnishing any taxpayer or his properly authorized agent with
26			information respecting his own return;
27		(d)[-	Testimony provided by the commissioner or any employee of the

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1	department[of Revenue] in any court, or the introduction as evidence of
2	returns or reports filed with the department, in an action for violation of state
3	or federal tax laws or in any action challenging state or federal tax laws;
4	(e)[5.] Providing an owner of unmined coal, oil or gas reserves, and other
5	mineral or energy resources assessed under KRS 132.820[(1)], or owners of
6	surface land under which the unmined minerals lie, factual information about
7	the owner's property derived from third-party returns filed for that owner's
8	property, under the provisions of KRS 132.820[(2)], that is used to determine
9	the owner's assessment. This information shall be provided to the owner on a
10	confidential basis, and the owner shall be subject to the penalties provided in
11	KRS 131.990(2)[(21)]. The third-party filer shall be given prior notice of any
12	disclosure of information to the owner that was provided by the third-party
13	filer;
14	(f)[6.] Providing to a third-party purchaser pursuant to an order entered in a
15	foreclosure action filed in a court of competent jurisdiction, factual
16	information related to the owner or lessee of coal, oil, gas reserves, or any
17	other mineral resources assessed under KRS 132.820[(1)]. The department
18	may promulgate an administrative regulation establishing a fee schedule for
19	the provision of the information described in this <u>paragraph</u> [subparagraph].
20	Any fee imposed shall not exceed the greater of the actual cost of providing
21	the information or ten dollars (\$10); [or]
22	(g)[7.] Providing information to a licensing agency, the Transportation Cabinet,
23	or the Kentucky Supreme Court under KRS 131.1817;
24	(h) Statistics of gasoline and special fuels gallonage reported to the department
25	under KRS 138.210 to 138.448;
26	(i) Providing any utility gross receipts license tax return information that is
27	necessary to administer the provisions of KRS 160.613 to 160.617 to

1	applicable school districts on a confidential basis; or
2	(j) Providing information to the Legislative Research Commission under:
3	1. KRS 139.519 for purposes of the sales and use tax refund on building
4	materials used for disaster recovery;
5	2. KRS 141.436 for purposes of the energy efficiency products credits;
6	3. KRS 141.437 for purposes of the ENERGY STAR home and the
7	ENERGY STAR manufactured home credits;
8	4. Section 62 of this Act for purposes of the film industry incentives;
9	5. Section 95 of this Act for purposes of the Kentucky industrial
10	revitalization tax credits and the job assessment fees;
11	6. Section 96 of this Act for purposes of the Kentucky investment fund;
12	7. Section 97 of this Act for purposes of the angel investor tax credit;
13	8. Section 103 of this Act for purposes of the distilled spirits credit; and
14	9. Section 115 of this Act for purposes of the inventory credit.
15	(3) 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	(5)	Statistics of crude oil as reported to the Department of Revenue under the crude oil
4		excise tax requirements of KRS Chapter 137 and statistics of natural gas production
5		as reported to the Department of Revenue under the natural resources severance tax
6		requirements of KRS Chapter 143A may be made public by the department by
7		release to the Energy and Environment Cabinet, Department for Natural Resources.
8	(6)	Notwithstanding any provision of law to the contrary, beginning with mine-map
9		submissions for the 1989 tax year, the department may make public or divulge only
10		those portions of mine maps submitted by taxpayers to the department pursuant to
11		KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
12		out parcel areas. These electronic maps shall not be relied upon to determine actual
13		boundaries of mined-out parcel areas. Property boundaries contained in mine maps
14		required under KRS Chapters 350 and 352 shall not be construed to constitute land
15		surveying or boundary surveys as defined by KRS 322.010 and any administrative
16		regulations promulgated thereto.
17	[(7)	Notwithstanding any other provision of the Kentucky Revised Statutes, The
18		department may divulge to the applicable school districts on a confidential basis any
19		utility gross receipts license tax return information that is necessary to administer
20		the provisions of KRS 160.613 to 160.617.]
21		→ Section 103. KRS 141.389 is amended to read as follows:
22	(1)	(a) There shall be allowed a nonrefundable and nontransferable credit to each
23		taxpayer paying the distilled spirits ad valorem tax as follows:
24		1. For taxable years beginning on or after January 1, 2015, and before
25		December 31, 2015, the credit shall be equal to twenty percent (20%) of
26		the tax assessed under KRS 132.160 and paid under KRS 132.180 on a

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timely basis;

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1			2.	For taxable years beginning on or after January 1, 2016, and before
2				December 31, 2016, the credit shall be equal to forty percent (40%) of
3				the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
4				timely basis;
5			3.	For taxable years beginning on or after January 1, 2017, and before
6				December 31, 2017, the credit shall be equal to sixty percent (60%) of
7				the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
8				timely basis;
9			4.	For taxable years beginning on or after January 1, 2018, and before
10				December 31, 2018, the credit shall be equal to eighty percent (80%) of
11				the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
12				timely basis; and
13			5.	For taxable years beginning on or after January 1, 2019, the credit shall
14				be equal to one hundred percent (100%) of the tax assessed under KRS
15				132.160 and paid under KRS 132.180 on a timely basis.
16		(b)	The	credit shall be applied both to the income tax imposed under KRS
17			141.	.020 or 141.040 and to the limited liability entity tax imposed under KRS
18			141.	.0401, with the ordering of the credits as provided in KRS 141.0205.
19	(2)	The	amou	ant of distilled spirits credit allowed under subsection (1) of this section
20		shal	l be u	sed only for capital improvements at the premises of the distiller licensed
21		purs	uant	to KRS Chapter 243. As used in this subsection, "capital improvement"
22		mea	ns any	y costs associated with:
23		(a)	Con	struction, replacement, or remodeling of warehouses or facilities;
24		(b)	Purc	chases of barrels and pallets used for the storage and aging of distilled
25			spiri	its in maturing warehouses;

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manufacture, bottling, or shipment of distilled spirits;

26

27

(c)

Acquisition, construction, or installation of equipment for the use in the

1		(d)	Addition or replacement of access roads or parking facilities; and
2		(e)	Construction, replacement, or remodeling of facilities to market or promote
3			tourism, including but not limited to a visitor's center.
4	(3)	The	distilled spirits credit allowed under subsection (1) of this section:
5		(a)	May be accumulated for multiple taxable years;
6		(b)	Shall be claimed on the return of the taxpayer filed for the taxable year during
7			which the credits were used pursuant to subsection (2) of this section; and
8		(c)	Shall not include:
9			1. Any delinquent tax paid to the Commonwealth; or
10			2. Any interest, fees, or penalty paid to the Commonwealth.
11	(4)	(a)	Before the distilled spirits credit shall be allowed on any return, the capital
12			improvements required by subsection (2) of this section shall be completed
13			and specifically associated with the credit allowed on the return.
14		(b)	The amount of distilled spirits credit allowed shall be recaptured if the capital
15			improvement associated with the credit is sold or otherwise disposed of prior
16			to the exhaustion of the useful life of the asset for Kentucky depreciation
17			purposes.
18		(c)	If the allowed credit is associated with multiple capital improvements, and not
19			all capital improvements are sold or otherwise disposed of, the distilled spirits
20			credit shall be prorated based on the cost of the capital improvement sold over
21			the total cost of all improvements associated with the credit.
22	(5)	If th	e taxpayer is a pass-through entity, the taxpayer may apply the credit against the
23		limi	ted liability entity tax imposed by KRS 141.0401, and shall pass the credit
24		thro	ugh to its members, partners, or shareholders in the same proportion as the
25		distr	ributive share of income or loss is passed through.
26	(6)	The	department may promulgate an administrative regulation pursuant to KRS

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Chapter 13A to implement the allowable credit under this section, require the filing

1		of f	orms	designed by the department, and require specific information for the
2				n of the credit taken by any taxpayer.
3	(7)			tanding KRS 131.190,]No later than September 1, 2016, and annually
	(1)			
4				, the department shall report to the Interim Joint Committee on
5		App	ropria	ations and Revenue:
6		(a)	The	name of each taxpayer taking the credit permitted by subsection (1) of
7			this	section;
8		(b)	The	amount of credit taken by that taxpayer; and
9		(c)	The	type of capital improvement made for which the credit is claimed.
10		→ S	ectior	104. KRS 131.020 is amended to read as follows:
11	(1)	The	Depa	rtment of Revenue, headed by a commissioner appointed by the secretary
12		with	the a	approval of the Governor, shall be organized into the following functional
13		unit	s:	
14		(a)	Offi	ce of the Commissioner, which shall consist of:
15			1.	The Division of Protest Resolution, headed by a division director who
16				shall report directly to the commissioner. The division shall administer
17				the protest functions for the department from office resolution through
18				court action; and
19			2.	The Division of Taxpayer Ombudsman, headed by a division director
20				who shall report to the commissioner. The division shall perform those
21				duties set out in KRS 131.083;
22		(b)	Offi	ce of Tax Policy and Regulation, headed by an executive director who
23			shal	l report directly to the commissioner. The office shall be responsible for:
24			1.	Providing oral and written technical advice on Kentucky tax law;
25			2.	Drafting proposed tax legislation and regulations;
26			3.	Testifying before legislative committees on tax matters:

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Analyzing tax publications;

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4.

1		5. Providing expert witness testimony in tax litigation cases;
2		6. Providing consultation and assistance in protested tax cases; and
3		7. Conducting training and education programs;
4	(c)	Office of Processing and Enforcement, headed by an executive director who
5		shall report directly to the commissioner. The office shall be responsible for
6		processing documents, depositing funds, collecting debt payments, and
7		coordinating, planning, and implementing a data integrity strategy. The office
8		shall consist of the:
9		1. Division of Operations, which shall be responsible for opening all tax
10		returns, preparing the returns for data capture, coordinating the data
11		capture process, depositing receipts, maintaining tax data, and assisting
12		other state agencies with similar operational aspects as negotiated
13		between the department and the other agency;
14		2. Division of Collections, which shall be responsible for initiating all
15		collection enforcement activity related to due and owing tax
16		assessments, including protest resolution, and for assisting other state
17		agencies with similar collection aspects as negotiated between the
18		department and the other state agency; and
19		3. Division of Registration and Data Integrity, which shall be responsible
20		for registering businesses for tax purposes, ensuring that the data entered
21		into the department's tax systems is accurate and complete, and assisting
22		the taxing areas in proper procedures to ensure the accuracy of the data
23		over time;
24	(d)	Office of Property Valuation, headed by an executive director who shall report
25		directly to the commissioner. The office shall consist of the:
26		1. Division of Local Support, which shall be responsible for providing

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supervision, assistance, and training to the property valuation

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1		administrators and sheriffs within the Commonwealth;
2		2. Division of State Valuation, which shall be responsible for providing
3		assessments of public service companies and motor vehicles, and
4		providing assistance to property valuation administrators and sheriffs
5		with the administration of tangible and omitted property taxes within the
6		Commonwealth; and
7		3. Division of Minerals Taxation and Geographical Information System
8		Services, which shall be responsible for providing geographical
9		information system mapping support, ensuring proper filing of severance
10		tax returns, ensuring consistency of unmined coal assessments, and
11		gathering and providing data to properly assess minerals to the property
12		valuation administrators within the Commonwealth;
13	(e)	Office of Sales and Excise Taxes, headed by an executive director who shall
14		report directly to the commissioner. The office shall administer all matters
15		relating to sales and use taxes and miscellaneous excise taxes, including but
16		not limited to technical tax research, compliance, taxpayer assistance, tax-
17		specific training, and publications. The office shall consist of the:
18		1. Division of Sales and Use Tax, which shall administer the sales and use
19		tax; and
20		2. Division of Miscellaneous Taxes, which shall administer various other
21		taxes, including but not limited to alcoholic beverage taxes; cigarette
22		enforcement fees, stamps, meters, and taxes; gasoline tax; bank
23		franchise tax; inheritance and estate tax; insurance premiums and
24		insurance surcharge taxes; motor vehicle tire fees and usage taxes; and
25		special fuels taxes;
26	(f)	Office of Income Taxation, headed by an executive director who shall report

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directly to the commissioner. The office shall administer all matters related to

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1		income and corporation license taxes, including technical tax research,
2		compliance, taxpayer assistance, tax-specific training, and publications. The
3		office shall consist of the:
4		1. Division of Individual Income Tax, which shall administer the following
5		taxes or returns: individual income, fiduciary, and employer
6		withholding; and
7		2. Division of Corporation Tax, which shall administer the corporation
8		income tax, corporation license tax, pass-through entity withholding,
9		and pass-through entity reporting requirements; and
10		(g) Office of Field Operations, headed by an executive director who shall report
11		directly to the commissioner. The office shall manage the regional taxpayer
12		service centers and the field audit program.
13	(2)	The functions and duties of the department shall include conducting conferences,
14		administering taxpayer protests, and settling tax controversies on a fair and
15		equitable basis, taking into consideration the hazards of litigation to the
16		Commonwealth of Kentucky and the taxpayer. The mission of the department shall
17		be to afford an opportunity for taxpayers to have an independent informal review of
18		the determinations of the audit functions of the department, and to attempt to fairly
19		and equitably resolve tax controversies at the administrative level.
20	(3)	The department shall maintain an accounting structure for the one hundred twenty
21		(120) property valuation administrators' offices across the Commonwealth in order
22		to facilitate use of the state payroll system and the budgeting process.
23	(4)	Except as provided in KRS 131.190(4), the department shall fully cooperate with
24		and make tax information available as prescribed under KRS 131.190(3)[(2)] to the
25		Governor's Office for Economic Analysis as necessary for the office to perform the
26		tax administration function established in KRS 42.410.

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(5)

Executive directors and division directors established under this section shall be

- appointed by the secretary with the approval of the Governor.
- Section 105. KRS 141.0205 is amended to read as follows:
- 3 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
- 4 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
- 5 the credits shall be determined as follows:
- 6 (1) The nonrefundable business incentive credits against the tax imposed by KRS
- 7 141.020 shall be taken in the following order:
- 8 (a) [1. For taxable years beginning after December 31, 2004, and before
- 9 January 1, 2007, the corporation income tax credit permitted by KRS
- 10 141.420(3)(a);
- 2. For taxable years beginning after December 31, 2006, The limited liability
- entity tax credit permitted by KRS 141.0401;
- 13 (b) The economic development credits computed under KRS 141.347, 141.381,
- 14 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-
- 15 2088, and 154.27-080;
- 16 (c) The qualified farming operation credit permitted by KRS 141.412;
- 17 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 18 (e) The health insurance credit permitted by KRS 141.062;
- 19 (f) The tax paid to other states credit permitted by KRS 141.070;
- 20 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 21 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 22 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 23 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 24 154.20-258;
- 25 (j) The coal incentive credit permitted under KRS 141.0405;
- 26 (k) The research facilities credit permitted by [under] KRS 141.395;
- 27 (k)[(1)] The employer High School Equivalency Diploma program incentive

1		cred	lit permitted <u>by</u> [under] KRS 164.0062;
2		<u>(l)</u> [(m)]	The voluntary environmental remediation credit permitted by KRS
3		141	.418;
4		<u>(m)</u> [(n)]	The biodiesel and renewable diesel credit permitted by KRS 141.423;
5		<u>(n)</u> [(0)	The environmental stewardship credit permitted by KRS 154.48-025;
6		(p)] The	clean coal incentive credit permitted by KRS 141.428;
7		<u>(o)</u> [(q)]	The ethanol credit permitted by KRS 141.4242;
8		<u>(p)</u> [(r)]	The cellulosic ethanol credit permitted by KRS 141.4244;
9		<u>(q)[(s)]</u>	The energy efficiency credits permitted by KRS 141.436;
10		<u>(r)</u> [(t)]	The railroad maintenance and improvement credit permitted by KRS
11		141	.385;
12		<u>(s)[(u)]</u>	The Endow Kentucky credit permitted by KRS 141.438;
13		<u>(t)</u> [(v)]	The New Markets Development Program credit permitted by KRS
14		141	.434;
15		<u>(u)</u> [(w)	The food donation credit permitted by KRS 141.392;
16		(x)] The	distilled spirits credit permitted by KRS 141.389;[and]
17		<u>(v)</u> [(y)]	The angel investor credit permitted by KRS 141.396:
18		(w) The	film industry credit permitted by Section 85 of this Act for applications
19		appi	roved on or after the effective date of this Act; and
20		(x) The	inventory credit permitted by Section 115 of this Act.
21	(2)	After the	application of the nonrefundable credits in subsection (1) of this section,
22		the nonre	fundable personal tax credits against the tax imposed by KRS 141.020
23		shall be ta	aken in the following order:
24		(a) The	individual credits permitted by KRS 141.020 [(3)] ;
25		(b) The	credit permitted by KRS 141.066;
26		(c) The	tuition credit permitted by KRS 141.069; and
27		(d) The	household and dependent care credit permitted by KRS 141.067 [; and

1		(e) '	The new home credit permitted by KRS 141.388].	
2	(3)	After	the application of the nonrefundable credits provided for in subsection (2) of	
3		this se	ection, the refundable credits against the tax imposed by KRS 141.020 shall be	
4		taken	in the following order:	
5		(a) '	The individual withholding tax credit permitted by KRS 141.350;	
6		(b) '	The individual estimated tax payment credit permitted by KRS 141.305;	
7		(c) [For taxable years beginning after December 31, 2004, and before January 1,	
8		, 1	2007, the corporation income tax credit permitted by KRS 141.420(3)(c);	
9		(d)] '	The certified rehabilitation credit permitted by KRS 171.3961 and	
10			171.397(1)(b); and	
11		(<u>d)</u> [(e)	The film industry tax credit <u>permitted</u> [allowed] by KRS 141.383 <u>for</u>	
12		9	applications approved prior to the effective date of this Act.	
13	(4)	The n	onrefundable credit permitted by KRS 141.0401 shall be applied against the	
14		tax im	posed by KRS 141.040.	
15	(5)	The f	following nonrefundable credits shall be applied against the sum of the tax	
16		imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)		
17		of this	s section, and the tax imposed by KRS 141.0401 in the following order:	
18		(a) '	The economic development credits computed under KRS 141.347, 141.381,	
19			141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-	
20		,	2088, and 154.27-080;	
21		(b) '	The qualified farming operation credit permitted by KRS 141.412;	
22		(c)	The certified rehabilitation credit permitted by KRS 171.397(1)(a);	
23		(d) '	The health insurance credit permitted by KRS 141.062;	
24		(e) '	The unemployment credit permitted by KRS 141.065;	
25		(f) '	The recycling or composting equipment credit permitted by KRS 141.390;	
26		(g) '	The coal conversion credit permitted by KRS 141.041;	
27		(h) '	The enterprise zone credit permitted by KRS 154.45-090, for taxable periods	

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1	ending prior to January 1, 2008;
2	(i) The tax credit for cash contributions to investment funds permitted by KRS
3	154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
4	154.20-258;
5	(j){ The coal incentive credit permitted under KRS 141.0405;
6	(k)] The research facilities credit permitted <u>by</u> [under] KRS 141.395;
7	(k){(l)} The employer High School Equivalency Diploma program incentive
8	credit permitted <u>by</u> {under} KRS 164.0062;
9	(1)[(m)] The voluntary environmental remediation credit permitted by KRS
10	141.418;
11	(m)[(n)] The biodiesel and renewable diesel credit permitted by KRS 141.423;
12	(n) [(o) The environmental stewardship credit permitted by KRS 154.48 025;
13	(p)] The clean coal incentive credit permitted by KRS 141.428;
14	(o) {(q)} The ethanol credit permitted by KRS 141.4242;
15	(p) {(r)} The cellulosic ethanol credit permitted by KRS 141.4244;
16	(\underline{a}) {(s)} The energy efficiency credits permitted by KRS 141.436;
17	(r)[(t)] The ENERGY STAR home or ENERGY STAR manufactured home
18	credit permitted by KRS 141.437;
19	(s)[(u)] The railroad maintenance and improvement credit permitted by KRS
20	141.385;
21	(t)[(v)] The railroad expansion credit permitted by KRS 141.386;
22	(\underline{u}) The Endow Kentucky credit permitted by KRS 141.438;
23	$\underline{(v)}[(x)]$ The New Markets Development Program credit permitted by KRS
24	141.434;
25	(w) [(y) The food donation credit permitted by KRS 141.392; and
26	(z)] The distilled spirits credit permitted by KRS 141.389;
27	(x) The film industry credit permitted by Section 85 of this Act for applications

approved on or after the effective date of this Act; and

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2		<u>(y)</u>	The inventory credit permitted by Section 115 of this Act.
3	(6)	After	the application of the nonrefundable credits in subsection (5) of this section,
4		the re	efundable credits shall be taken in the following order:
5		(a)	The corporation estimated tax payment credit permitted by KRS 141.044;
6		(b)	The certified rehabilitation credit permitted by KRS 171.3961 and
7			171.397(1)(b); and
8		(c)	The film industry tax credit <u>permitted by[allowed in]</u> KRS 141.383 <u>for</u>
9			applications approved prior to the effective date of this Act.
10		→ Se	ection 106. KRS 131.110 is amended to read as follows:
11	(1)	<u>(a)</u>	The Department of Revenue shall mail to the taxpayer a notice of any tax
12			assessed by it. The assessment shall be due and payable if not protested in
13			writing to the department within:
14			1. Forty-five (45) days from the date of notice, for assessments issued
15			prior to July 1, 2018; and
16			2. Sixty (60) days from the date of notice, for assessments issued on or
17			<u>after July 1, 2018</u> .
18		<u>(b)</u>	Claims for refund of paid assessments may be made under KRS 134.580 and
19			denials appealed under KRS 49.220.
20		<u>(c)</u>	1. The protest shall be accompanied by a supporting statement setting forth
21			the grounds upon which the protest is made.
22			2. Upon written request, the department may extend the time for filing the
23			supporting statement if it appears the delay is necessary and
24			unavoidable.
25			<u>3.</u> The refusal of the extension may be reviewed in the same manner as a
26			protested assessment.
27	(2)	After	a timely protest has been filed, the taxpayer may request a conference with the

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1	department. The request shall be granted in writing stating the date and time set for
2	the conference. The taxpayer may appear in person or by representative. Further
3	conferences may be held by mutual agreement.

- 4 (3) After considering the taxpayer's protest, including any matters presented at the final 5 conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a 6 7 final ruling of the department, generally state the issues in controversy, the 8 department's position thereon and set forth the procedure for prosecuting an appeal 9 to the Kentucky Claims Commission.
- 10 The taxpayer may request in writing a final ruling at any time after filing a timely (4) 11 protest and supporting statement. When a final ruling is requested, the department 12 shall issue such ruling within thirty (30) days from the date the request is received 13 by the department.
- 14 After a final ruling has been issued, the taxpayer may appeal to the Kentucky 15 Claims Commission pursuant to the provisions of KRS 49.220.
- → Section 107. KRS 131.180 is amended to read as follows: 16
- 17 The provisions of this section shall be known as the "Uniform Civil Penalty Act."
- Penalties to be assessed in accordance with this section shall apply as follows unless 18
- 19 otherwise provided by law:

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- 20 Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the 22 satisfaction of the department that the failure is due to reasonable cause, pay a 23 penalty equal to two percent (2%) of the total tax due for each thirty (30) days or 24 fraction thereof that the report or return is late. The total penalty levied pursuant to 25 this subsection shall not exceed twenty percent (20%) of the total tax due; however, 26 the penalty shall not be less than ten dollars (\$10).
- 27 (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to

pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).

- (3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the department that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars (\$25).
- (4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars (\$100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This

penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.

- 3 (5) If any taxpayer fails or refuses to pay within <u>sixty (60)</u>[forty five (45)] days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.
- Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars (\$50).
- 14 (7) If any tax assessed by the department is the result of negligence by a taxpayer or 15 other person, a penalty equal to ten percent (10%) of the tax so assessed shall be 16 paid by the taxpayer or other person who was negligent.
- 17 (8) If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.

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(9) If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who tendered the check shows to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.

1	(10) Any person who fails to make any tax report or return or pay any tax within the
2	time, or in the manner required by law, for which a specific civil penalty is not
3	provided by law, shall pay a penalty as provided in this section, with interest from
4	the date due at the tax interest rate as defined in KRS 131.010(6).

- (11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax 6 assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Claims Commission or, if 8 appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.
- 10 (12) Nothing in this section shall be construed to prevent the assessment or collection of 11 more than one (1) of the penalties levied under this section or any other civil or 12 criminal penalty provided for violation of the law for which penalties are imposed.
- 13 (13) All penalties levied pursuant to this section shall be assessed, collected, and paid in 14 the same manner as taxes. Any corporate officer or other person who becomes liable 15 for payment of any tax assessed by the department shall likewise be liable for all 16 penalties and interest applicable thereto.
- 17 → Section 108. KRS 131.650 is amended to read as follows:

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- 18 Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to (1) 19 the contrary, the department may publish a list or lists of taxpayers that owe 20 delinquent taxes or fees administered by the Department of Revenue, and that meet 21 the requirements of KRS 131.652.
- 22 For purposes of this section, a taxpayer may be included on a list if:
- 23 The taxes or fees owed remain unpaid at least sixty (60)[forty-five (45)] days (a) 24 after the dates they became due and payable; and
- 25 A tax lien or judgment lien has been filed of public record against the taxpayer 26 before notice is given under KRS 131.654.
- 27 In the case of listed taxpayers that are business entities, the Department of Revenue (3)

1		may also list the names of responsible persons assessed pursuant to KRS 136.565,
2		138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected
3		from publication by subsection (2) of this section, and for whom the requirements
4		of KRS 131.652 are satisfied with regard to the personal assessment.
5	(4)	Before any list is published under this section, the department shall document that
6		each of the conditions for publication as provided in this section has been satisfied,
7		and that procedures were followed to ensure the accuracy of the list and notice was
8		given to the affected taxpayers.
9		→ Section 109. KRS 132.485 is amended to read as follows:
10	(1)	(a) Except as otherwise provided in paragraph (b) of this subsection, the
11		registration of a motor vehicle with a county clerk in order to operate it or
12		permit it to be operated upon the highways of the state shall be deemed
13		consent by the registrant for the motor vehicle to be assessed by the property
14		valuation administrator from a standard manual prescribed by the department
15		for valuing motor vehicles for assessment unless:
16		1. The registrant appears before the property valuation administrator to
17		assess the vehicle; or
18		2. The motor vehicle is twenty (20) years old or older, in which case
19		paragraph (b) of this subsection applies regarding its valuation.
20		The standard value of motor vehicles shall be the average trade-in value
21		prescribed by the valuation manual unless information is available that
22		warrants any deviation from the standard value.
23		(b) In the case of motor vehicles that are twenty (20) years old or older:
24		1. It shall not be presumed that a vehicle has been maintained in, or
25		restored to, the original factory or otherwise classic condition or that its

27 2. In assessing motor vehicles under this paragraph and calculating the

value has increased over the previous year;

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1			taxes	due thereon, through the AVIS or otherwise, if the registrant does
2			not a	appear before the property valuation administrator to assess the
3			vehic	le, the standard value shall be as follows:
4			a.	The actual valuation of the vehicle as was assessed in the vehicle's
5				nineteenth year, if the vehicle was assessed for taxation in the
6				Commonwealth in that year; or
7			b.	The average trade-in value prescribed by the applicable edition of
8				the valuation manual for the vehicle in its nineteenth year, if the
9				vehicle was not assessed for taxation in the Commonwealth in that
10				year;
11			reduc	ed by ten percent (10%) annually for each year beyond nineteen
12			(19)	years; and
13		3.	In th	e case of any motor vehicle for which the assessment procedure
14			provi	ded in subparagraph 2.b. of this paragraph would apply but cannot
15			be ca	rried out because the applicable edition of the valuation manual is
16			unava	ailable, the property valuation administrator shall conduct an
17			asses	sment of the vehicle to determine the value thereof for the given
18			taxab	le year. The assessment under this subparagraph may be done in
19			perso	n if the vehicle's owner presents the vehicle at the property
20			valua	tion administrator's office, or the assessment may be done through
21			a rev	iew of photographs and other documentary evidence. In subsequent
22			years	, that valuation shall be reduced by ten percent (10%) annually.
23	(2)	The regist	ration	of a recreational vehicle with the county clerk in order to operate it
24		or permit	it to	be operated upon the highways shall be deemed consent by the
25		registrant	thereo	of for the recreational vehicle to be assessed by the property
26		valuation	admii	nistrator at a valuation determined from a standard manual
27		prescribed	l by the	e department for valuing recreational vehicles for assessment unless

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the registrant appears in person before the property valuation administrator to assess the vehicle.

- 3 (3) The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.
- 5 (4) When a motor vehicle is purchased in one (1) year, but registration takes place after 6 January 1 of the following year through no fault of the owner, the department shall 7 assess the motor vehicle and shall send notice of the assessment to the January 1 8 owner in accordance with KRS 186A.035. If the month of registration has passed 9 for the current year, the assessment shall be due and payable if not protested to the 10 department within sixty (60)[forty five (45)] days from the date of the notice. 11 Payments made after the due date shall carry the normal penalty and interest for 12 motor vehicles.
- 13 (5) This section does not apply to motor vehicles or recreational vehicles owned and 14 operated by public service companies, common carriers, or agencies of the state and 15 federal governments.
 - → Section 110. KRS 136.180 is amended to read as follows:

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- 17 The Department of Revenue shall, immediately after fixing the assessed value of the (1) 18 operating property and other property of a public service corporation for taxation, 19 notify the corporation of the valuation and the amount of assessment for state and 20 local purposes. When the valuation has been finally determined, the department 21 shall immediately certify, unless otherwise specified, to the county clerk of each 22 county in which any of the operating property or nonoperating tangible property 23 assessment of the corporation is liable to local taxation, the amount of property 24 liable for county, city, or district tax.
- 25 (2) No appeal shall delay the collection or payment of taxes based upon the assessment 26 in controversy. The taxpayer shall pay all state, county, and district taxes due on the 27 valuation which the taxpayer claims as the true value as stated in the protest filed

under KRS 131.110. When the valuation is finally determined upon appeal, the

taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

- The Department of Revenue shall compute annually a multiplier for use in (3) establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.
- (4) The Department of Revenue shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due sixty (60)[forty-five (45)] days from the date of notice and shall be collected directly by the Department of Revenue. The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of subsection (5) of this section shall be deducted.
- The certification of valuation shall be filed by each county clerk in his office, and (5)shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by

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1	the department shall pay an annual fee to the department which represents an
2	allocation of department operating and overhead expenses incurred in generating
3	the valuations. This fee shall be determined by the department and shall apply to
4	valuations for tax periods beginning on or after December 31, 1981.

5 → Section 111. KRS 136.1804 is amended to read as follows:

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- The department shall notify the corporation of the assessed value of its watercraft each year, as soon as possible after rates set by local authorities are provided to the department. The corporation shall have *sixty* (60)[forty five (45)] days from the date of the department's notice of assessment to protest as provided by KRS 131.110.
 - (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The corporation shall pay to the department all state and local taxing district taxes due on the undisputed value of its watercraft as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the corporation shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date the tax would have become due if the assessment had not been appealed. The provisions of KRS 134.015(6) shall apply to the tax bill.
- 18 (3) The state and local taxing district taxes on the watercraft are due <u>sixty (60)</u>[forty19 five (45)] days from the date of notice of assessment. The tangible property taxes on
 20 watercraft shall be collected in accordance with the provisions of KRS Chapter 134.
- 21 (4) The state rate of taxation on watercraft shall be forty-five cents (\$0.45) upon each one hundred dollars (\$100) of assessed value of the watercraft.
- 23 (5) The department shall annually calculate an aggregate local rate, which shall be 24 imposed upon each one hundred dollars (\$100) of assessed value of the watercraft.
 - (a) The aggregate local rate shall be the sum of each local personal property tax rate for each local taxing district multiplied by a fraction, the numerator of which shall be the length of the navigable waterways in the local taxing

district and the denominator of which shall be the total of the length of all navigable waterways in this state. Both the numerator and the denominator shall be adjusted, if necessary, by paragraph (b) of this subsection.

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- (b) For purposes of computing the local property tax rate in paragraph (a) of this section, the length of the navigable waterways of the Green River shall be reduced by fifty percent (50%) and the length of the navigable waterways of the Kentucky River shall be reduced by seventy-five percent (75%).
- 8 (6) The watercraft taxes collected for local taxing districts by the department shall be
 9 distributed to each local taxing district based upon the local taxing district's
 10 fractional portion of the amount calculated in subsection (5) of this section.
 - (7) Prior to distribution of taxes to local taxing districts, the department shall retain an administrative fee of one percent (1%) of the amount due each district. The fee imposed by this subsection shall have no effect upon the discount provided to taxpayers pursuant to KRS 134.015.
 - → Section 112. KRS 136.1877 is amended to read as follows:
- 16 The provisions of this section shall apply to assessments made prior to January 1, 2007.
- 17 (1) The Department of Revenue shall immediately, after fixing the assessed value of the
 18 trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation
 19 determined. Any taxpayer who has been assessed by the department in the manner
 20 outlined in KRS 136.1873 shall have <u>sixty (60)</u>[forty-five (45)] days from the date
 21 of the department's notice of the tentative assessment to protest as provided by KRS
 22 131.110.
 - (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as

defined in KRS 131.010(6), from the date the tax would have become due if no

- 2 appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
- 3 (3) The state and local taxes on the property are due <u>sixty (60)</u>[forty five (45)] days
- from the date of notice and shall be collected directly by the Department of
- 5 Revenue.
- 6 (4) The Department of Revenue shall annually calculate an aggregate local rate to be
- 7 used in determining the local taxes to be collected. The rate shall be the statewide
- 8 average motor vehicle tax rate for each type of local taxing district multiplied by a
- 9 fraction, the numerator of which is the commercial and industrial tangible personal
- property assessment subject to full local rates and the denominator of which is the
- total commercial and industrial tangible personal property assessment.
- 12 (5) The local taxes collected by the Department of Revenue shall be distributed to each
- local taxing district levying a tax on motor vehicles based on the statewide average
- rate for each type of local taxing district. However, prior to distribution any fees
- owed to the Department of Revenue by any local taxing district under the provisions
- of KRS 136.180(5) shall be deducted.
- → Section 113. KRS 136.188 is amended to read as follows:
- 18 (1) Notwithstanding KRS 132.487, any truck, tractor, or bus which is operated on a
- route or as part of a system that is partly within and partly outside Kentucky shall be
- subject to an annual fee at the time the vehicle is registered with and the registration
- 21 fee is paid to the Transportation Cabinet pursuant to KRS 186.020 and 186.050(3)
- and (13). The fee shall be imposed on the vehicle's owner or the owner's legal
- designee as of January 1 of each year. Such payment shall be made to the
- Transportation Cabinet either directly, in the case of a vehicle based in Kentucky, or
- indirectly, through the International Registration Plan, in the case of a vehicle based
- outside of Kentucky.
- 27 (2) The fee imposed by subsection (1) of this section replaces the state and local ad

valorem property tax the Department of Revenue previously imposed and centrally collected against trucks, tractors, and buses operated on a route or as part of a system that is partly within and partly outside Kentucky. The fee imposed by subsection (1) of this section shall not be construed as a fee imposed upon the registration, operation, or use of the vehicles on public highways. The Department of Revenue shall use the following method for determining the rate for fixing the assessed value of the property and for determining the annual fee amount:

- (a) The Department of Revenue shall determine the assessed value on an annual basis by multiplying the purchase price of the truck, tractor, or bus by a depreciation value expressed as a percentage of the original cost from an authoritative source that the Department of Revenue prescribes by promulgation of an administrative regulation;
- (b) The Department of Revenue shall determine an aggregate state and local rate on an annual basis. The state rate shall be the weighted average commercial and industrial tangible personal property tax rate, and the local rate shall be determined using the method set forth in KRS 136.180(3) and (4);
- (c) The Department of Revenue shall determine the amount subject to the annual fee by multiplying the total assessed value of all vehicles by an apportionment factor. The apportionment factor shall be determined as provided in KRS 186.050(13)(a); and
- (d) The annual fee shall be determined by multiplying the amount subject to the annual fee by the rate determined in paragraph (b) of this subsection.
- The Department of Revenue shall provide the Transportation Cabinet with the information needed to collect the fee.
- 25 (3) The Transportation Cabinet shall forward the money it collects from the fee 26 imposed by subsection (1) of this section to the Department of Revenue on a 27 monthly basis. The Department of Revenue shall divide and distribute the money

1		among the state, counties, cities, urban-counties, charter counties, consolidated local
2		governments, school districts, and special taxing districts in the same manner as the
3		Department of Revenue divided and distributed the state and local ad valorem
4		property tax previously imposed and centrally collected.
5	(4)	Pick-up and delivery vehicles operating from a terminal within this state and
6		vehicles that do not leave the state in the normal course of business shall not be
7		required to pay the fee imposed by subsection (1) of this section, but shall instead
8		be subject to the ad valorem tax under KRS 132.487.
9	(5)	Any person paying the fee imposed by subsection (1) of this section shall have <u>sixty</u>
10		(60)[forty five (45)] days from the date the person is notified of the fee amount to
11		protest. The protest shall be filed with the Commonwealth of Kentucky, Department
12		of Revenue, in accordance with the provisions of KRS 131.110. Notification by any
13		state's or Canadian province's or territory's registration authority of the amount due
14		shall satisfy the notification requirement of KRS 131.110(1).
15	(6)	No protest or appeal shall delay the collection or payment of the fee imposed by
16		subsection (1) of this section. The fee amount due as determined in subsection (2)
17		of this section shall be paid at the time of registration. If the fee is not paid, the
18		Commonwealth of Kentucky, Transportation Cabinet, shall not register the vehicle
19		for which registration is sought. Persons registering vehicles in other states or
20		Canada shall be subject to requirements of those registration authorities.
21		→ Section 114. KRS 141.210 is amended to read as follows:
22	(1)	As used in this section and KRS 141.235, unless the context requires otherwise:
23		(a) "Conclusion of the federal audit" means the date that the adjustments made by
24		the Internal Revenue Service to net income as reported on the taxpayer's
25		federal income tax return become final and unappealable; and

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(b) "Final determination of the federal audit" means the revenue agent's report or

other documents reflecting the final and unappealable adjustments made by

the Internal Revenue Service.

(2) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the department within four (4) years from the date the return was filed, except as otherwise provided in this subsection.

- (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.
- (b) In the case of a return where a taxpayer other than a corporation understates his net income or omits an amount properly includable in net income or both which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net income stated in the return the additional tax may be assessed at any time within six (6) years after the return was filed.
- (c) In the case of a return where a corporation understates its taxable net income or omits an amount properly includable in taxable net income or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of taxable net income stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.
- (d) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the department receives the final determination of the federal audit from the taxpayer, whichever is later.
- (e) In the case of the assessment of additional tax resulting from a decrease of a net operating loss deduction or a capital loss deduction, resulting from the carryback of a loss which occurs in a taxable year beginning after December 31, 1993, the additional tax may be assessed at any time before the expiration

1		of the times provided for in this subsection for assessing additional tax for the
2		taxable year which resulted in the net operating loss or capital loss carryback.
3		The times provided in this subsection may be extended by agreement between the
4		taxpayer and the department. For the purposes of this subsection, a return filed
5		before the last day prescribed by law for filing the return shall be considered as filed
6		on the last day. For taxable years beginning after December 31, 1993, any extension
7		granted for filing the return shall also be considered as extending the last day
8		prescribed by law for filing the return.
9	(3)	If any additional tax is assessed on account of any income which has been returned
10		for taxation by any other taxpayer, the department, with the consent of the other
11		taxpayer, his personal representatives, or heirs, shall reduce the amount of the
12		additional tax assessed for each year by the amount of the income tax paid for that
13		year by the other taxpayer on account of the income in question.
14	(4)	Every taxpayer shall:
15		(a) Notify the department in writing of every audit of the taxpayer's federal
16		income tax return within thirty (30) days after the taxpayer has or should have
17		had knowledge of the beginning of the audit by the Internal Revenue Service,
18		and
19		(b) Submit a copy of the final determination of the federal audit within one
20		hundred eighty (180)[thirty (30)] days of the conclusion of the federal audit.
21		→ SECTION 115. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
22	REA	AD AS FOLLOWS:
23	<u>(1)</u>	There shall be allowed a nonrefundable and nontransferable credit against the
24		tax imposed by Sections 57 or 58 and 77 of this Act, with the ordering of the
25		credits as provided in Section 105 of this Act, for any taxpayer that, on or after
26		January 1, 2018, timely pays an ad valorem tax to the Commonwealth or any
27		political subdivision thereof for property described in KRS 132.020(1)(n) or

1		<u>132.099.</u>
2	<u>(2)</u>	The credit allowed under subsection (1) of this section shall be in an amount
3		equal to:
4		(a) Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable
5		years beginning on or after January 1, 2018, and before January 1, 2019;
6		(b) Fifty percent (50%) of the ad valorem taxes timely paid for taxable years
7		beginning on or after January 1, 2019, and before January 1, 2020;
8		(c) Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable
9		years beginning on or after January 1, 2020, and before January 1, 2021;
10		<u>and</u>
11		(d) One hundred percent (100%) of the ad valorem taxes timely paid, for
12		taxable years beginning on or after January 1, 2021.
13	<u>(3)</u>	If the taxpayer is a pass-through entity, the taxpayer may apply the credit against
14		the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
15		through to its members, partners, or shareholders in the same proportion as the
16		distributive share of income or loss is passed through.
17	<u>(4)</u>	No later than October 1, 2019, and annually thereafter, the department shall
18		report to the Interim Joint Committee on Appropriations and Revenue:
19		(a) The name of each taxpayer taking the credit permitted by subsection (1) of
20		this section;
21		(b) The location of the property upon which the credit was allowed; and
22		(c) The amount of credit taken by that taxpayer.
23		→ Section 116. KRS 131.010 is amended to read as follows:
24	As u	ised in this chapter, unless the context requires otherwise:
25	(1)	"Commissioner" means the commissioner of revenue;
26	(2)	"Department" means the Department of Revenue;
27	(3)	"Fiduciary" means a guardian, trustee, executor, administrator, receiver,

1	conservator, or any individual or corporation acting in a fiduciary capacity for any
2	other person;

- 3 "Taxpayer" means any person required or permitted by law or administrative (4) 4 regulation to perform any act subject to the administrative jurisdiction of the 5 department including the following:
- 6 File a report, return, statement, certification, claim, estimate, declaration, (a) 7 form, or other document;
- 8 Furnish any information; (b)
- 9 (c) Withhold, collect, or pay any tax, installment, estimate, or other funds;
- 10 Secure any license, permit, or other authorization to conduct a business or (d) 11 exercise any privilege, right, or responsibility;
- 12 (5) "Adjusted prime rate charged by banks" means the average predominant prime rate 13 quoted by commercial banks to large businesses, as determined by the board of 14 governors of the Federal Reserve System;
- 15 "Tax interest rate" means the interest rate determined under KRS 131.183; (6)
- 16 (7) "Tax" includes any assessment or license fee administered by the department; 17 however, it shall not include moneys withheld or collected by the department 18 pursuant to KRS 131.560 or 160.627;
- 19 (8) "Return" or "report" means any properly completed and, if required, signed form, 20 statement, certification, claim estimate, declaration, or other document permitted or 21 required to be submitted or filed with the department, including returns and reports 22 or composites thereof which are permitted or required to be electronically 23 transmitted;
- 24 (9)"Reasonable cause" means an event, happening, or circumstance entirely beyond the 25 knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of moneys due the department pursuant to 26 27 law or administrative regulation;

1 (10)	"Fraud"	means
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- 2 (a) Intentional or reckless disregard for the law, administrative regulations, or the
 3 department's established policies to evade the filing of any return, report, or
 4 the payment of any moneys due to the department pursuant to law or
 5 administrative regulation; or
- 6 (b) The deliberate false reporting of returns or reports with the intent to gain a monetary advantage;
- 8 (11) "Hard copy" means any document, record, report, or other data printed on paper or 9 stored by an imaging system that does not permit additions, deletions, or other 10 changes to the original documents;
- 11 (12) "Electronic record" means a collection of related information stored as bits of data 12 in a medium that supports electronic extraction of the data at the field level, but 13 does not include electronic imaging systems;
- 14 (13) "Electronic imaging systems" means a computer-based system used to store
 15 reproductions of documents and records through the use of electronic data
 16 processing, or computerized, digital, or optical scanning which records and indexes
 17 the document, but does not support electronic extraction of the data at the field
 18 level;
- 19 (14) "Electronic fund transfer" means an electronic data processing medium that takes
 20 the place of a paper check for debiting or crediting an account and of which a
 21 permanent record is made; [-and]
- 22 (15) "Specified tax return preparer" <u>has the same meaning[means the same]</u> as in 26 U.S.C. sec. 6011(e)(3); <u>and</u>
- 24 (16) "Tax return preparer" has the same meaning as in 26 U.S.C. sec. 25 7701(a)(36)(A).
- Section 117. KRS 131.250 is amended to read as follows:
- 27 (1) For the purpose of facilitating the administration of the taxes it administers, the

1		depa	artment may require any tax return, report, or statement to be electronically		
2		filed	filed.		
3	(2)	The	following reports, returns, or statements shall be electronically filed:		
4		(a)	The return required by KRS 136.620;		
5		(b)	For tax periods beginning on or after January 1, 2007, the report required by		
6			KRS 138.240;		
7		(c)	For tax periods beginning on or after August 1, 2010, the report required by		
8			KRS 138.260;		
9		(d)	For taxable years beginning on or after January 1, 2010, the return filed by a		
10			specified tax return preparer reporting the annual tax imposed by KRS		
11			141.020, if the specified tax return preparer is required to electronically file		
12			the return for federal income tax purposes;		
13		(e)	The annual withholding statement required by KRS 141.335, if the employer		
14			issues more than twenty-five (25)[one hundred (100) or more] statements		
15			annually; [and]		
16		(f)	For tax periods beginning on or after July 1, 2005, the return required by KRS		
17			160.615 <u>; and</u>		
18		<u>(g)</u>	1. For taxable years beginning on or after January 1, 2019, the returns		
19			required by subsection (3) of Section 79 of this Act or subsection (1) of		
20			Section 81 of this Act, provided that the corporation or pass-through		
21			entity has gross receipts of one million dollars (\$1,000,000) or more.		
22			2. "Gross receipts" as used in this paragraph means gross receipts		
23			reported by the corporation or pass-through entity on their federal		
24			income tax return filed for the same taxable year as the return due		
25			under KRS Chapter 141.		
26	(3)	(a)	A person required to electronically file a return, report, or statement may		
27			apply for a waiver from the requirement by submitting the request on a form		

1 prescribed by the department

- 2 (b) The request shall indicate the lack of one (1) or more of the following:
- 3 1. Compatible computer hardware;
- 4 2. Internet access; or

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- 5 3. Other technological capabilities determined relevant by the department.
- Section 118. KRS 141.070 is amended to read as follows:
- 7 Whenever an individual who is a resident of this state has become liable for income (1) 8 tax to another state upon all or any part of his net income for the taxable year, 9 derived from sources without this state and subject to taxation under this chapter, 10 the amount of income tax payable by him under this chapter shall be credited on his 11 return with the income tax so paid by him to the other state, upon his producing to 12 the proper assessing officer satisfactory evidence of the fact of such payment, 13 except that application of such credits shall not operate to reduce the tax payable 14 under this chapter to an amount less than would have been payable were the income 15 from the other state ignored.
 - (2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, if the state of residence of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the Department of Revenue from requiring any information reports pursuant to KRS 141.150(2).
- 24 (3) As used in this section, "state" means a state of the United States, the District of
 25 Columbia, the commonwealth of Puerto Rico, or any territory or possession of
 26 the United States.
- → SECTION 119. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO

1	READ AS FOLLOWS:
2	(1) This section shall apply to taxable years beginning on or after January 1, 2019.
3	(2) As used in this section:
4	(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of
5	the Internal Revenue Code and related regulations;
6	(b) "Consolidated return" means a Kentucky corporation income tax return
7	filed by members of an affiliated group in accordance with this section. The
8	determinations and computations required by this chapter shall be made in
9	accordance with Section 1502 of the Internal Revenue Code and related
10	regulations, except as required by differences between this chapter and the
11	Internal Revenue Code. Corporations exempt from taxation under KRS
12	141.040 shall not be included in the return;
13	(c) "Separate return" means a Kentucky corporation income tax return in
14	which only the transactions and activities of a single corporation are
15	considered in making all determinations and computations necessary to
16	calculate taxable net income, tax due, and credits allowed in accordance
17	with this chapter;
18	(d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the
19	Internal Revenue Code; and
20	(e) "Election period" means the ninety-six (96) month period provided for in
21	subsection (4)(d) of this section.
22	(3) Every corporation doing business in this state, except those exempt from taxation
23	under KRS 141.040, shall, for each taxable year:
24	(a) 1. File a combined report, if the corporation is a member of unitary
25	business group as provided in Section 120 of this Act; or
26	2. Make an election to file a consolidated return with all members of the
27	affiliated group as provided in this section; or

1	<u>(b)</u>	File a separate return, if paragraph (a) of this subsection does not apply.
2	(4) (a)	An affiliated group, whether or not filing a federal consolidated return, may
3		elect to file a consolidated return which includes all members of the
4		affiliated group.
5	<u>(b)</u>	An affiliated group electing to file a consolidated return under paragraph
6		(a) of this subsection shall be treated for all purposes as a single
7		corporation under this chapter. All transactions between corporations
8		included in the consolidated return shall be eliminated in computing net
9		income as provided in subsection (2) of Section 56 of this Act, and
10		determining the apportionment fraction in accordance with Section 60 of
11		this Act.
12	<u>(c)</u>	Any election made in accordance with paragraph (a) of this subsection shall
13		be made on a form prescribed by the department and shall be submitted to
14		the department on or before the due date of the return, including
15		extensions, for the first taxable year for which the election is made.
16	<u>(d)</u>	Any election to file a consolidated return pursuant to paragraph (a) of this
17		subsection shall be binding on both the department and the affiliated group
18		for a period beginning with the first month of the first taxable year for
19		which the election is made and ending with the conclusion of the taxable
20		year in which the ninety-sixth consecutive calendar month expires.
21	<u>(e)</u>	For each taxable year for which an affiliated group has made an election
22		provided in paragraph (a) of this subsection, the consolidated return shall
23		include all corporations which are members of the affiliated group.
24	(5) Eac	ch corporation included as part of an affiliated group filing a consolidated
25	<u>reti</u>	arn shall be jointly and severally liable for the income tax liability computed
26	<u>on</u>	the consolidated return, except that any corporation which was not a member
27	of i	the affiliated group for the entire taxable year shall be jointly and severally

1	liable only for that portion of the Kentucky consolidated income tax liability
2	attributable to that portion of the year that the corporation was a member of the
3	affiliated group.
4	(6) Every corporation return or report required by this chapter shall be executed by
5	one (1) of the following officers of the corporation: the president, vice president,
6	secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting
7	officer. The department may require a further or supplemental report of further
8	information and data necessary for computation of the tax.
9	(7) In the case of a corporation doing business in this state that carries on
10	transactions with stockholders or with other corporations related by stock
11	ownership, by interlocking directorates, or by some other method, the department
12	shall require information necessary to make possible accurate assessment of the
13	income derived by the corporation from sources within this state. To make
14	possible this assessment, the department may require the corporation to file
15	supplementary returns showing information respecting the business of any or all
16	individuals and corporations related by one (1) or more of these methods to the
17	corporation. The department may require the return to show in detail the record
18	of transactions between the corporation and any or all other related corporations
19	or individuals.
20	→SECTION 120. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
21	READ AS FOLLOWS:
22	(1) This section shall apply to taxable years beginning on or after January 1, 2019.
23	(2) As used in this section:
24	(a) "Combined group" means the group of all corporations whose income and
25	apportionment factors are required to be taken into account as provided in
26	subsection (3) of this section in determining the taxpayer's share of the net
27	income or loss apportionable to this state;

1	<u>(b)</u>	"Corporation" has the same meaning as in KRS 141.010, including an
2		organization of any kind treated as a corporation for tax purposes under
3		KRS 141.040, wherever located, which if it were doing business in this state
4		would be a taxpayer, and the business conducted by a pass-through entity
5		which is directly or indirectly held by a corporation shall be considered the
6		business of the corporation to the extent of the corporation's distributive
7		share of the pass-through entity income, inclusive of guaranteed payments;
8	<u>(c)</u>	"Doing business in a tax haven" means being engaged in activity sufficient
9		for that tax haven jurisdiction to impose a tax under United States
10		constitutional standards;
11	<u>(d)</u>	"Tax haven" means a jurisdiction that, during the taxable year has no or
12		nominal effective tax on the relevant income and:
13		1. Has laws or practices that prevent effective exchange of information
14		for tax purposes with other governments on taxpayers benefitting from
15		the tax regime;
16		2. Has a tax regime which lacks transparency. A tax regime lacks
17		transparency if the details of legislative, legal, or administrative
18		provisions are not open and apparent or are not consistently applied
19		among similarly situated taxpayers, or if the information needed by
20		tax authorities to determine a taxpayer's correct tax liability, such as
21		accounting records and underlying documentation, is not adequately
22		<u>available;</u>
23		3. Facilitates the establishment of foreign-owned entities without the
24		need for a local substantive presence or prohibits these entities from
25		having any commercial impact on the local economy;
26		4. Explicitly or implicitly excludes the jurisdiction's resident taxpayers
27		from taking advantage of the tax regime's benefits or prohibits

1		enterprises that benefit from the regime from operating in the
2		jurisdiction's domestic market; or
3		5. Has created a tax regime which is favorable for tax avoidance, based
4		upon an overall assessment of relevant factors, including whether the
5		jurisdiction has a significant untaxed offshore financial or other
6		services sector relative to its overall economy;
7	<u>(e)</u>	"Taxpayer" means any corporation subject to the tax imposed under this
8		<u>chapter;</u>
9	<u>(f)</u>	"Unitary business" means a single economic enterprise that is made up
10		either of separate parts of a single corporation or of a commonly controlled
11		group of corporations that are sufficiently interdependent, integrated, and
12		interrelated through their activities so as to provide a synergy and mutual
13		benefit that produces a sharing or exchange of value among them and a
14		significant flow of value to the separate parts. For purposes of this section,
15		the term "unitary business" shall be broadly construed, to the extent
16		permitted by the United States Constitution; and
17	<u>(g)</u>	"United States" means the fifty (50) states of the United States, the District
18		of Columbia, and United States' territories and possessions.
19	(3) (a)	Except as provided in Section 119 of this Act, a taxpayer engaged in a
20		unitary business with one (1) or more other corporations shall file a
21		combined report which includes the income, determined under subsection
22		(5) of this section, and the apportionment fraction, determined under
23		Section 60 of this Act and paragraph (d) of this subsection, of all
24		corporations that are members of the unitary business, and any other
25		information as required by the department.
26	<u>(b)</u>	The department may, by administrative regulation, require that the
27		combined report include the income and associated apportionment factors

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1		of any corporations that are not included as provided by paragraph (a) of
2		this subsection, but that are members of a unitary business, in order to
3		reflect proper apportionment of income of the entire unitary businesses.
4		Authority to require combination by administrative regulation under this
5		paragraph includes authority to require combination of corporations that
6		are not, or would not be combined, if the corporation were doing business
7		in this state.
8	<u>(c)</u>	In addition, if the department determines that the reported income or loss of
9		a taxpayer engaged in a unitary business with any corporation not included
10		as provided by paragraph (a) of this subsection represents an avoidance or
11		evasion of tax by the taxpayer, the department may, on a case-by-case basis,
12		require all or any part of the income and associated apportionment factors
13		of the corporation be included in the taxpayer's combined report.
14	<u>(d)</u>	With respect to the inclusion of associated apportionment factors as
15		provided in paragraph (a) of this subsection, the department may require
16		the inclusion of any one (1) or more additional factors which will fairly
17		represent the taxpayer's business activity in this state, or the employment of
18		any other method to effectuate a proper reflection of the total amount of
19		income subject to apportionment and an equitable allocation and
20		apportionment of the taxpayer's income.
21	<u>(e)</u>	Notwithstanding paragraphs (a) to (d) of this subsection, a consolidated
22		return may be filed as provided in Section 119 of this Act if the taxpayer
23		makes an election according to Section 119 of this Act.
24	(4) The	use of a combined report does not disregard the separate identities of the
25	taxp	ayer members of the combined group. Each taxpayer member is responsible
26	for i	tax based on its taxable income or loss apportioned or allocated to this state,
27	whic	ch shall include, in addition to the other types of income, the taxpayer

1		member's share of apportionable income of the combined group, where
2		apportionable income of the combined group is calculated as a summation of the
3		individual net incomes of all members of the combined group. A member's net
4		income is determined by removing all but apportionable income, expense, and
5		loss from that member's total income as provided in subsection (5) of this section.
6	<u>(5)</u>	(a) Each taxpayer member is responsible for tax based on its taxable income or
7		loss apportioned or allocated to this state, which shall include:
8		1. Its share of any income apportionable to this state of each of the
9		combined groups of which it is a member, determined under
10		subsection (6) of this section;
11		2. Its share of any income apportionable to this state of a distinct
12		business activity conducted within and without the state wholly by the
13		taxpayer member, determined under Section 60 of this Act;
14		3. Its income from a business conducted wholly by the taxpayer member
15		entirely within the state;
16		4. Its income sourced to this state from the sale or exchange of capital or
17		assets, and from involuntary conversions, as determined under
18		subsection $(8)(k)$ of this section;
19		5. Its nonapportionable income or loss allocable to this state, determined
20		under Section 60 of this Act;
21		6. Its income or loss allocated or apportioned in an earlier year, required
22		to be taken into account as state source income during the income
23		year, other than a net operating loss; and
24		7. Its net operating loss carryover. If the taxable income computed
25		pursuant to this subsection results in a loss for a taxpayer member of
26		the combined group, that taxpayer member has a Kentucky net
27		operating loss, subject to the net operating loss limitations and carry

1	forward provisions of Section 123 of this Act. The net operating loss is
2	applied as a deduction in a subsequent year only if that taxpayer has
3	Kentucky source positive net income, whether or not the taxpayer is or
4	was a member of a combined reporting group in the subsequent year.
5	(b) No tax credit or post-apportionment deduction earned by one (1) member of
6	the group, but not fully used by or allowed to that member, may be used in
7	whole or in part by another member of the group or applied in whole or in
8	part against the total income of the combined group.
9	(c) A post-apportionment deduction carried over into a subsequent year as to
10	the member that incurred it, and available as a deduction to that member in
11	a subsequent year, will be considered in the computation of the income of
12	that member in the subsequent year, regardless of the composition of that
13	income as apportioned, allocated, or wholly within this state.
14	(6) The taxpayer's share of the business income apportionable to this state of each
15	combined group of which it is a member shall be the product of:
16	(a) The apportionable income of the combined group, determined under
17	subsection (7) of this section; and
18	(b) The taxpayer member's apportionment fraction, determined under Section
19	60 of this Act, including in the sales factor numerator the taxpayer's sales
20	associated with the combined group's unitary business in this state, and
21	including in the denominator the sales of all members of the combined
22	group, including the taxpayer, which sales are associated with the combined
23	group's unitary business wherever located. The sales of a pass-through
24	entity shall be included in the determination of the partner's apportionment
25	percentage in proportion to a ratio, the numerator of which is the amount
26	of the partner's distributive share of the pass-through entity's unitary
27	income included in the income of the combined group as provided in

1		subsection (8) of this section and the denominator of which is the amount of
2		pass-through entity's total unitary income.
3	<u>(7)</u>	The apportionable income of a combined group is determined as follows:
4		(a) The total income of the combined group is the sum of the income of each
5		member of the combined group determined under federal income tax laws,
6		as adjusted for state purposes, as if the member were not consolidated for
7		federal purposes; and
8		(b) From the total income of the combined group determined under subsection
9		(8) of this section, subtract any income and add any expense or loss, other
10		than the apportionable income, expense, or loss of the combined group.
11	<u>(8)</u>	To determine the total income of the combined group, taxpayer members shall
12		take into account all or a portion of the income and apportionment factor of only
13		the following members otherwise included in the combined group as provided in
14		subsection (3) of this section:
15		(a) The entire income and apportionment percentage of any member
16		incorporated in the United States or formed under the laws of any state, the
17		District of Columbia, or any territory or possession of the United States;
18		(b) Any member that earns more than twenty percent (20%) of its income,
19		directly or indirectly, from intangible property or service related activities
20		that are deductible against the apportionable income of other members of
21		the combined group, to the extent of that income and the apportionment
22		factor related to that income;
23		(c) The entire income and apportionment factor of any member that is doing
24		business in a tax haven. If the member's business activity within a tax
25		haven is entirely outside the scope of the laws, provisions, and practices that
26		cause the jurisdiction to meet the definition established in subsection (2)(d)
27		of this section, the activity of the member shall be treated as not having

1	been conauctea in a tax naven;
2	(d) If a unitary business includes income from a pass-through entity, the
3	income to be included in the total income of the combined group shall be
4	the member of the combined group's direct and indirect distributive share of
5	the pass-through entity's unitary income;
6	(e) Income from an intercompany transaction between members of the same
7	combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-
8	13. Upon the occurrence of any of the following events, deferred income
9	resulting from an intercompany transaction between members of a
10	combined group shall be restored to the income of the seller, and shall be
11	apportionable income earned immediately before the event:
12	1. The object of a deferred intercompany transaction is:
13	a. Resold by the buyer to an entity that is not a member of the
14	combined group;
15	b. Resold by the buyer to an entity that is a member of the
16	combined group for use outside the unitary business in which
17	the buyer and seller are engaged; or
18	c. Converted by the buyer to a use outside the unitary business in
19	which the buyer and seller are engaged; or
20	2. The buyer and seller are no longer members of the same combined
21	group, regardless of whether the members remain unitary;
22	(f) A charitable expense incurred by a member of a combined group shall, to
23	the extent allowable as a deduction provided by Section 170 of the Internal
24	Revenue Code, be subtracted first from the apportionable income of the
25	combined group, subject to the income limitations of that section applied to
26	the entire apportionable income of the group, and any remaining amount
27	shall then he treated as a nonannortionable expense allocable to the

1		member that incurred the expense, subject to the income limitations of that
2		section applied to the nonapportionable income of that specific member.
3		Any charitable deduction disallowed under this paragraph, but allowed as a
4		carryover deduction in a subsequent year, shall be treated as originally
5		incurred in the subsequent year by the same member, and this paragraph
6		shall apply in the subsequent year in determining the allowable deduction
7		in that year;
8	<u>(g)</u>	Gain or loss from the sale or exchange of capital assets, property described
9		by Section 1231(a)(3) of the Internal Revenue Code, and property subject to
10		an involuntary conversion shall be removed from the total separate net
11		income of each member of a combined group and shall be apportioned and
12		allocated as follows:
13		1. For each class of gain or loss, including short-term capital, long-term
14		capital, Internal Revenue Code Section 1231, and involuntary
15		conversions, all members' gain and loss for the class shall be
16		combined, without netting between the classes, and each class of net
17		gain or loss separately apportioned to each member using the
18		member's apportionment percentage determined under subsection (6)
19		of this section;
20		2. Each taxpayer member shall then net its apportioned business gain or
21		loss for all classes, including any apportioned gain and loss from
22		other combined groups, against the taxpayer member's
23		nonapportionable gain and loss for all classes allocated to this state,
24		using the rules of Sections 1231 and 1222 of the Internal Revenue
25		Code, without regard to any of the taxpayer member's gains or losses
26		from the sale or exchange of capital assets, Internal Revenue Code
27		Section 1231 property, and involuntary conversions which are

1		nonapportionable items allocated to another state;
2		3. Any resulting state source income or loss, if the loss is not subject to
3		the limitations of Section 1211 of the Internal Revenue Code, of a
4		taxpayer member produced by the application of subparagraphs 1. and
5		2. of this paragraph shall then be applied to all other state source
6		income or loss of that member; and
7		4. Any resulting state source loss of a member that is subject to the
8		limitations of Section 1211 of the Internal Revenue Code shall be
9		carried forward by that member, and shall be treated as state source
10		short-term capital loss incurred by that member for the year for which
11		the carryover applies; and
12	<u>(h)</u>	Any expense of one (1) member of the unitary group which is directly or
13		indirectly attributable to the nonapportionable or exempt income of another
14		member of the unitary group shall be allocated to that other member as
15		corresponding nonapportionable or exempt expense, as appropriate.
16	(9) (a)	As a filing convenience, and without changing the respective liability of the
17		group members, members of a combined reporting group shall annually
18		designate one (1) taxpayer member of the combined group to file a single
19		return in the form and manner prescribed by the department, in lieu of
20		filing their own respective returns.
21	<u>(b)</u>	The taxpayer member designated to file the single return shall consent to
22		act as surety with respect to the tax liability of all other taxpayers properly
23		included in the combined report, and shall agree to act as agent on behalf
24		of those taxpayers for the taxable year for matters relating to the combined
25		report. If for any reason the surety is unwilling or unable to perform its
26		responsibilities, tax liability may be assessed against the taxpayer members.
27	→ S	ection 121. KRS 139.470 is amended to read as follows:

1	Ther	e are excluded from the computation of the amount of taxes imposed by this chapter:
2	(1)	Gross receipts from the sale of, and the storage, use, or other consumption in this
3		state of, tangible personal property or digital property which this state is prohibited
4		from taxing under the Constitution or laws of the United States, or under the
5		Constitution of this state;
6	(2)	Gross receipts from sales of, and the storage, use, or other consumption in this state
7		of:
8		(a) Nonreturnable and returnable containers when sold without the contents to
9		persons who place the contents in the container and sell the contents together
10		with the container; and
11		(b) Returnable containers when sold with the contents in connection with a retail
12		sale of the contents or when resold for refilling;
13		As used in this section the term "returnable containers" means containers of a kind
14		customarily returned by the buyer of the contents for reuse. All other containers are
15		"nonreturnable containers";
16	(3)	[Gross receipts from the sale of, and the storage, use, or other consumption in this
17		state of, tangible personal property used for the performance of a lump-sum, fixed-
18		fee contract of public works executed prior to February 5, 1960;
19	(4)]	Gross receipts from occasional sales of tangible personal property or digital
20		property and the storage, use, or other consumption in this state of tangible personal
21		property or digital property, the transfer of which to the purchaser is an occasional
22		sale;
23	<u>(4)</u> [(5)] Gross receipts from sales of tangible personal property to a common carrier,
24		shipped by the retailer via the purchasing carrier under a bill of lading, whether the
25		freight is paid in advance or the shipment is made freight charges collect, to a point
26		outside this state and the property is actually transported to the out-of-state
27		destination for use by the carrier in the conduct of its business as a common carrier;

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

Gross receipts from sales to any cabinet, department, bureau, commission, (6)[(7)]board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

- Gross receipts from the sale of sewer services, water, and fuel to (7)[(8)](a) Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the department of Revenue;
 - (b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:
 - 1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
 - Classified as "residential" by a municipally owned electric distributor 2. which purchases its power at wholesale from the Tennessee Valley Authority;

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1		3. Classified as "residential" by the governing body of a municipally owned
2		electric distributor which does not purchase its power from the
3		Tennessee Valley Authority, if the "residential" classification is
4		reasonably consistent with the definitions of "residential" contained in
5		tariff filings accepted and approved by the Public Service Commission
6		with respect to utilities which are subject to Public Service Commission
7		regulation.
8		If the service is classified as residential, use other than for "residential"
9		purposes by the customer shall not negate the exemption;
10	(c)	The exemption shall not apply if charges for sewer service, water, and fuel are
11		billed to an owner or operator of a multi-unit residential rental facility or
12		mobile home and recreational vehicle park other than residential
13		classification; and
14	(d)	The exemption shall apply also to residential property which may be held by
15		legal or equitable title, by the entireties, jointly, in common, as a
16		condominium, or indirectly by the stock ownership or membership
17		representing the owner's or member's proprietary interest in a corporation
18		owning a fee or a leasehold initially in excess of ninety-eight (98) years;
19	<u>(8)[(9)]</u>	Gross receipts from sales to an out-of-state agency, organization, or institution
20	exer	mpt from sales and use tax in its state of residence when that agency,
21	orga	nization, or institution gives proof of its tax-exempt status to the retailer and the
22	retai	ler maintains a file of the proof;
23	<u>(9)[(10)]</u>	(a) Gross receipts derived from the sale of, the following and the storage,
24		use, or other consumption in this state of,] tangible personal property to <u>a</u>
25		manufacturer or industrial processor if the property is to be directly used in

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the manufacturing or industrial processing process of tangible personal

property at a plant facility and which will be for sale[. The property shall be

1	regarded as having been purchased for resale. "Plant facility" shall have the
2	same meaning as defined in KRS 139.010. For purposes of this subsection, a
3	manufacturer or industrial processor includes an individual or business entity
4	that performs only part of the manufacturing or industrial processing activity
5	and the person or business entity need not take title to tangible personal
6	property that is incorporated into, or becomes the product of, the activity.
7	(a) Industrial processing includes refining, extraction of petroleum and natural
8	gas, mining, quarrying, fabricating, and industrial assembling. As defined
9	herein, tangible personal property to be used in the manufacturing or industrial
10	processing of tangible personal property which will be for sale shall mean]:
11	1. Materials which enter into and become an ingredient or component part
12	of the manufactured product;
13	2. Other tangible personal property which is directly used in the
14	manufacturing or industrial processing process, if the property has a
15	useful life of less than one (1) year. Specifically these items are
16	categorized as follows:
17	a. Materials. This refers to the raw materials which become an
18	ingredient or component part of supplies or industrial tools exempt
19	under subdivisions b. and c. below: [.]
20	b. Supplies. This category includes supplies such as lubricating and
21	compounding oils, grease, machine waste, abrasives, chemicals,
22	solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
23	dyes, refrigerants, <u>and</u> explosives[, etc]. The supplies indicated
24	above need not come in direct contact with a manufactured product
25	to be exempt. "Supplies" does not include repair, replacement, or
26	spare parts of any kind; and[.]
27	c. Industrial tools. This group is limited to hand tools such as jigs,

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I		dies, drills, cutters, rolls, reamers, chucks, saws, <u>and</u> spray guns [,
2		etc.,] and to tools attached to a machine such as molds, grinding
3		balls, grinding wheels, dies, bits, and cutting blades[, etc].
4		Normally, for industrial tools to be considered directly used in the
5		manufacturing or industrial processing process, they shall come
6		into direct contact with the product being manufactured or
7		processed; and
8		3. Materials and supplies that are not reusable in the same manufacturing
9		or industrial processing process at the completion of a single
10		manufacturing or processing cycle[, excluding repair, replacement, or
11		spare parts of any kind]. A single manufacturing cycle shall be
12		considered to be the period elapsing from the time the raw materials
13		enter into the manufacturing process until the finished product emerges
14		at the end of the manufacturing process.
15	(b)	The property described in paragraph (a) of this subsection shall be regarded
16		as having been purchased for resale.
17	<u>(c)</u>	For purposes of this subsection, a manufacturer or industrial processor
18		includes an individual or business entity that performs only part of the
19		manufacturing or industrial processing activity, and the person or business
20		entity need not take title to tangible personal property that is incorporated
21		into, or becomes the product of, the activity.
22	<u>(d)</u>	The exemption provided in this subsection does not include[It shall be noted
23		that in none of the three (3) categories is any exemption provided for] repair,
24		replacement, or spare parts[. Repair, replacement, or spare parts shall not be
25		considered to be materials, supplies, or industrial tools directly used in
26		manufacturing or industrial processing. "Repair, replacement, or spare parts"

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shall have the same meaning as set forth in KRS 139.010];

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1	(10)[(11)] Any water use fee paid or passed through to the Kentucky River Authority by
2	facilities using water from the Kentucky River basin to the Kentucky River
3	Authority in accordance with KRS 151.700 to 151.730 and administrative
4	regulations promulgated by the authority;
5	(11)[(12)] Gross receipts from the sale of newspaper inserts or catalogs purchased for
6	storage, use, or other consumption outside this state and delivered by the retailer's
7	own vehicle to a location outside this state, or delivered to the United States Postal
8	Service, a common carrier, or a contract carrier for delivery outside this state,
9	regardless of whether the carrier is selected by the purchaser or retailer or an agent
10	or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
11	shipping point or purchaser's destination.
12	(a) As used in this subsection:
13	1. "Catalogs" means tangible personal property that is printed to the special
14	order of the purchaser and composed substantially of information
15	regarding goods and services offered for sale; and
16	2. "Newspaper inserts" means printed materials that are placed in or
17	distributed with a newspaper of general circulation.
18	(b) The retailer shall be responsible for establishing that delivery was made to a
19	non-Kentucky location through shipping documents or other credible evidence
20	as determined by the department;
21	(12)[(13)] Gross receipts from the sale of water used in the raising of equine as a
22	business;
23	(13)[(14)] Gross receipts from the sale of metal retail fixtures manufactured in this state
24	and purchased for storage, use, or other consumption outside this state and delivered
25	by the retailer's own vehicle to a location outside this state, or delivered to the
26	United States Postal Service, a common carrier, or a contract carrier for delivery
27	outside this state, regardless of whether the carrier is selected by the purchaser or

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1	retai	ler or an agent or representative of the purchaser or retailer, or whether the
2	F.O.	B. is the retailer's shipping point or the purchaser's destination.
3	(a)	As used in this subsection, "metal retail fixtures" means check stands and
4		belted and nonbelted checkout counters, whether made in bulk or pursuant to
5		specific purchaser specifications, that are to be used directly by the purchaser
6		or to be distributed by the purchaser.
7	(b)	The retailer shall be responsible for establishing that delivery was made to a
8		non-Kentucky location through shipping documents or other credible evidence
9		as determined by the department;
10	<u>(14)</u> [(15)]	Gross receipts from the sale of unenriched or enriched uranium purchased for
11	ultin	nate storage, use, or other consumption outside this state and delivered to a
12	com	mon carrier in this state for delivery outside this state, regardless of whether the
13	carri	er is selected by the purchaser or retailer, or is an agent or representative of the
14	purc	haser or retailer, or whether the F.O.B. is the retailer's shipping point or
15	purc	haser's destination;
16	<u>(15)</u> [(16)]	Amounts received from a tobacco buydown. As used in this subsection,
17	"buy	down" means an agreement whereby an amount, whether paid in money, credit,
18	or of	cherwise, is received by a retailer from a manufacturer or wholesaler based upon
19	the o	quantity and unit price of tobacco products sold at retail that requires the retailer
20	to re	educe the selling price of the product to the purchaser without the use of a
21	man	ufacturer's or wholesaler's coupon or redemption certificate;
22	<u>(16)</u> [(17)]	Gross receipts from the sale of tangible personal property or digital property
23	retui	rned by a purchaser when the full sales price is refunded either in cash or credit.
24	This	exclusion shall not apply if the purchaser, in order to obtain the refund, is
25	requ	ired to purchase other tangible personal property or digital property at a price
26	grea	ter than the amount charged for the property that is returned;
27	<u>(17)[(18)]</u>	Gross receipts from the sales of gasoline and special fuels subject to tax under

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1	KRS	Chapter 138;
2	<u>(18)[(19)]</u>	The amount of any tax imposed by the United States upon or with respect to
3	retail	sales, whether imposed on the retailer or the consumer, not including any
4	manı	ufacturer's excise or import duty;
5	<u>(19)[(20)]</u>	Gross receipts from the sale of any motor vehicle as defined in KRS 138.450
6	whic	h is:
7	(a)	Sold to a Kentucky resident, registered for use on the public highways, and
8		upon which any applicable tax levied by KRS 138.460 has been paid; or
9	(b)	Sold to a nonresident of Kentucky if the nonresident registers the motor
10		vehicle in a state that:
11		1. Allows residents of Kentucky to purchase motor vehicles without
12		payment of that state's sales tax at the time of sale; or
13		2. Allows residents of Kentucky to remove the vehicle from that state
14		within a specific period for subsequent registration and use in Kentucky
15		without payment of that state's sales tax;
16	<u>(20)</u> [(21)]	Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12)
17	and t	railer as defined in KRS 189.010(17);
18	<u>(21)</u> [(22)]	Gross receipts from the first fifty thousand dollars (\$50,000) in sales of
19	admi	ssions to county fairs held in Kentucky in any calendar year by a nonprofit
20	coun	ty fair board; [and]
21	<u>(22)</u> [(23)]	Gross receipts from the collection of:
22	(a)	Any fee or charge levied by a local government pursuant to KRS 65.760;
23	(b)	The charge imposed by KRS 65.7629(3);
24	(c)	The fee imposed by KRS 65.7634; and
25	(d)	The service charge imposed by KRS 65.7636; and
26	(23) Gros	s receipts derived from charges for labor or services to apply, install, repair,
27	or n	naintain tangible personal property directly used in manufacturing or

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1		industrial processing process, and that is not otherwise exempt under subsection
2		(9) of this section or subsection (10) of Section 44 of this Act, if the charges for
3		labor or services are separately stated on the invoice, bill of sale, or similar
4		document given to purchaser.
5		→ SECTION 122. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO
6	REA	AD AS FOLLOWS:
7	<u>(1)</u>	For assessment dates beginning on or after January 1, 2019, computer software,
8		except prewritten computer software, shall be exempt from state and local ad
9		valorem taxes, including the county, city, school, or other taxing district in which
10		it has a taxable situs.
11	<u>(2)</u>	As used in this section, "prewritten computer software" has the same meaning as
12		in Section 36 of this Act.
13		→ Section 123. KRS 141.011 is amended to read as follows:
14	(1)	Notwithstanding any other provision of this chapter, the net operating loss
15		carryback-carryforward deduction, including casualty loss, allowed under Section
16		172 of the Internal Revenue Code shall apply only to such losses incurred in taxable
17		years beginning after December 31, 1979, and no such loss shall be carried back to
18		taxable years beginning before January 1, 1980. Any casualty loss carryforward
19		authorized by this section as it existed before January 1, 1980, may be carried
20		forward as an itemized deduction until it has been fully deducted.
21	(2)	The net operating loss carryback deduction shall not be allowed for losses incurred
22		for taxable years beginning on or after January 1, 2005.
23	(3)	For taxable years when the tax due under KRS 141.040 is based on the alternative
24		minimum calculation provided in KRS 141.040, any net operating loss carryforward
25		deduction that is utilized for the taxable year shall be the amount of taxable net
26		income before the net operating loss deduction, that exceeds the taxable net income
27		equivalent. For purposes of this subsection, "taxable net income equivalent" means

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1	the amount of taxable net income that would generate an income tax equal to the
2	alternative minimum calculation liability computed under KRS 141.040.
3	(4) For taxable years beginning on or after January 1, 2005, and before December 31
4	2006, the net operating loss carryforward deduction of a corporation shall be
5	reduced by the amount of distributive share income, loss, and deduction distributed
6	to an individual or general partnership as defined in KRS 141.206.
7	(5) For taxable years beginning on or after January 1, 2005, but prior to January 1
8	2019, the portion of a net operating loss that is not used to offset the income of ar
9	affiliate according to the limits in KRS 141.200(11) shall be available for
10	carryforward, subject to the limitations contained in this section.
11	→ Section 124. Kentucky Agricultural Finance Corporation: Notwithstanding
12	KRS 247.978(2), the total amount of principal which a qualified applicant may owe the
13	Kentucky Agricultural Finance Corporation at any one time shall not exceed \$5,000,000.
14	→ Section 125. Administrative Fee on Infrastructure for Economic
15	Development Fund Projects: A one-half of one percent administrative fee is authorized
16	to be paid to the Kentucky Infrastructure Authority for the administration of each projec
17	funded by the Infrastructure for Economic Development Fund for Coal-Producing
18	Counties and the Infrastructure for Economic Development Fund for Tobacco Counties
19	These administrative fees shall be paid, upon inception of the project, out of the fund
20	from which the project was allocated.
21	→ Section 126. Child Victim's Trust Fund License Plate Statutory
22	Suspension: Notwithstanding KRS 186.162(2)(v), any revenue received from the sale of
23	renewal of Child Victims' Trust Fund license plates in excess of actual costs incurred by
24	the Transportation Cabinet related to the distribution of those plates shall be transferred to

→ Section 127. **Settlement Funds:** Notwithstanding KRS 48.005(4), any funds or assets recovered by the Attorney General in connection with a lawsuit in which he or she

the Child Victims' Trust Fund on an annual basis.

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is a party or has entered his or her appearance on behalf of the Commonwealth of

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2 Kentucky, including ex rel. or other types of actions, shall be paid directly to the 3 Commonwealth and deposited in a distinct trust and agency account for each settlement. 4 The Office of Attorney General may recover reasonable costs of litigation as determined 5 by the court and approved by the Secretary of the Finance and Administration Cabinet. 6 The amount of settlement funds used to recover costs of litigation for each settlement 7 shall be reported to the Interim Joint Committee on Appropriations and Revenue. After 8 recovering reasonable costs of litigation, any required consumer restitution or payments 9 shall be made. No other funds or assets shall be disbursed from the trust and agency 10 accounts unless appropriated by the General Assembly. Any disbursements from 11 settlement funds placed within a trust and agency account shall be reported monthly to the 12 Interim Joint Committee on Appropriations and Revenue. 13 → Section 128. Charges for Federal, State, and Local Audits and Reviews: 14 Any additional expenses incurred by the Auditor of Public Accounts for required audits 15 or reviews of Federal Funds shall be charged to the government or agency that is the 16 subject of the audit or review. The Auditor of Public Accounts receives General Fund 17 appropriations for audits of the statewide systems of personnel and payroll, cash and 18 investments, revenue collection, and the state accounting system. Any expenses incurred 19 by the Auditor of Public Accounts for any other audits or reviews shall be charged to the 20 agency that is the subject of such audit or review. The Auditor of Public Accounts shall

Notwithstanding KRS 43.070(3), a county audited under KRS 43.070(1)(a)1. shall bear seventy-five percent (75%) of the actual expense of the audit. A county audited under KRS 43.070(1)(a)2. or (2)(a) shall bear the total actual expense of the audit. No county shall be required to bear the expense for more than one (1) audit of the same fund or office annually pursuant to KRS 43.070(1)(a)1. or 2., except as provided in KRS 64.810(4).

maintain a record of all time and expenses for each audit, review, or investigation.

1	→ Section 129. Personnel Board Operating Assessment: Each agency of the
2	Executive Branch with employees covered by KRS Chapter 18A shall be assessed each
3	fiscal year the amount required for the operation of the Personnel Board. The agency
4	assessment shall be determined by the Secretary of the Finance and Administration
5	Cabinet based on the authorized full-time positions of each agency on July 1 of each year
6	of the biennium. The Secretary of the Finance and Administration Cabinet shall collect
7	the assessment.
8	→ Section 130. Water Withdrawal Fees: The water withdrawal fees imposed by
9	the Kentucky River Authority shall not be subject to state and local taxes.
10	Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support
11	the operations of the Authority and for contractual services for water supply and quality
12	studies.
13	→ Section 131. Urgent Needs School Assistance: If a school district receives an
14	allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A.,
15	28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), and 2016 Ky. Acts ch. 149, part I,
16	A., 28., (4) and (5) and subsequently, as a result of litigation or insurance, receives funds
17	for the original facility, the school district shall reimburse the Commonwealth an amount
18	equal to that received for such purposes. If the litigation or insurance receipts are less than
19	the amount received, the district shall reimburse the Commonwealth an amount equal to
20	that received as a result of litigation or insurance less the district's costs and legal fees in
21	securing the judgment or payment. Any funds received in this manner shall be deposited
22	in the Budget Reserve Trust Fund Account (KRS 48.705).
23	→ Section 132. Real Property Disposal: There is hereby established within the
24	Education and Workforce Development Cabinet the Office of Employment Training
25	Building Proceeds Fund for the support of workforce operations. Notwithstanding KRS
26	45.229, any fund balance at the close of fiscal year 2018-2019 shall not lapse but shall be
27	carried forward to the next fiscal year. Pursuant to KRS 45.229, any fund balance at the

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1 close of fiscal year 2019-2020 shall lapse to the surplus account of the General Fund.

- 2 Notwithstanding KRS 45.777, up to \$3,000,000 of proceeds from the disposal under KRS
- 3 45A.045 of any state-owned real property operated by the Office of Employment and
- 4 Training shall be deposited in the Office of Employment Training Building Proceeds
- 5 Fund.
- 6 → Section 133. Office of Procurement Services Administrative Costs:
- 7 Notwithstanding KRS 47.010(1), any revenue derived from the establishment of
- 8 statewide contracts by the Office of Material and Procurement Services shall be credited
- 9 to a trust and agency account and shall be used to administer the program.
- 10 → Section 134. Insurance Surcharge Rate: Pursuant to KRS 136.392, the
- insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the
- 12 2018-2020 fiscal biennium for the Firefighters Foundation Program Fund and the
- 13 Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient
- 14 funds for those programs shall include any Restricted Funds carried forward from fiscal
- years 2017-2018 and 2018-2019 as provided by the General Assembly.
- Section 135. **Medicaid Copayments:** Notwithstanding KRS 205.6312, the
- 17 Department for Medicaid Services may impose copayments for services rendered to
- Medicaid recipients, not to exceed the amounts permitted by federal law or waivers.
- 19 → Section 136. Medicaid and KCHIP Premiums and Cost-Sharing:
- 20 Notwithstanding KRS 205.6312 and 205.6485(1)(c), the Department for Medicaid
- 21 Services may utilize premiums and cost-sharing for services rendered to Medicaid and
- 22 KCHIP recipients not to exceed amounts permitted by federal law or waivers. KCHIP
- premiums are suspended for the 2018-2020 biennium.
- 24 → Section 137. Assessment on Insurers: Notwithstanding KRS 304.17B-021 or
- 25 any other provision of the Kentucky Revised Statutes to the contrary, for participating
- 26 insurers who offer Qualified Health Plans, as defined in 42 U.S.C. sec. 18021, being sold
- 27 on the Federal Exchange in the individual market segment, the assessment in KRS

1 304.17B-021(1)(a) 2. to 4. may be waived or assessed at any rate between zero and one

- 2 percent for the 2019 or 2020 Plan Year on any health benefit plan premium written by
- 3 that insurer in the individual market segment.
- 4 → Section 138. **Pro Rata Assessment:** The Personnel Cabinet shall collect a pro
- 5 rata assessment from all state agencies, in all three branches of government, and other
- 6 organizations that are supported by the System. Those collections shall be deposited and
- 7 retained in a Restricted Funds account within the Personnel Cabinet.
- 8 → Section 139. Service Capacity Upgrade Fund: Notwithstanding KRS
- 9 341.243(4) and (7), beginning July 1, 2018, seventy-five thousandths of one percent shall
- 10 be withheld from each rate established under KRS 341.270 and 341.272, only if the
- 11 Unemployment Insurance Trust Fund balance exceeds the balance of the trust fund as of
- December 31, 2017, and shall be deposited in the Service Capacity Upgrade Fund and
- used solely in accordance with KRS 341.243(2) and as provided by the General
- 14 Assembly. The Secretary of the Education and Workforce Development Cabinet may
- 15 exercise his or her discretion to reduce the percentage rate established in this subsection
- or suspend required payments to the Service Capacity Upgrade Fund at any time.
- → Section 140. **Premium and Retaliatory Taxes:** Notwithstanding KRS
- 18 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer
- and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to
- the General Fund.
- **→** Section 141. **Monthly Per Employee Health Insurance Benefits Assessment:**
- 22 The Personnel Cabinet shall collect a benefits assessment per month per employee
- eligible for health insurance coverage in the state group for duly authorized use by the
- 24 Personnel Cabinet in administering its statutory and administrative responsibilities,
- 25 including but not limited to administration of the Commonwealth's health insurance
- 26 program.
- **→** Section 142. **Surplus Property:** Notwithstanding KRS 45.777, any funds

1 received by the Commonwealth from the disposal of any surplus property at the Kentucky

- 2 School for the Blind, the Kentucky School for the Deaf, and the FFA Leadership Training
- 3 Center shall be deposited in a separate restricted account for each facility and shall not be
- 4 expended without appropriation authority granted by the General Assembly.
- 5 → Section 143. Publishing Requirements: Notwithstanding KRS 83A.060,
- 6 91A.040, and Chapter 424, a county containing a population of more than 90,000 or any
- 7 city within a county containing a population of more than 90,000, as determined by the
- 8 2010 United States Census, may publish enacted ordinances, audits, and bid solicitations
- 9 by posting the full ordinances, the full audit report including the auditor's opinion letter,
- 10 or the bid solicitations on an Internet Web site maintained by the county or city
- government for a period of at least one year. If a county or city publishes ordinances,
- audits, or bid solicitations on an Internet Web site, the county or city shall also publish an
- advertisement, in a newspaper qualified in accordance with KRS 424.120, with a
- description of the ordinances, audits, or bid solicitations published on the Internet Web
- site, including the Uniform Resource Locator (URL) where the documents can be viewed.
- Section 144. (1) Notwithstanding KRS 68.197 or any other statute to the
- 17 contrary, the provisions of this section shall apply to the levy of license fees by a county
- that levied a license fee that was in effect on the effective date of this Act, and a city
- 19 within that county that has levied but not collected a license fee as of the effective date of
- 20 this Act.
- 21 (2) From July 1, 2018, through June 30, 2019, the credit established by KRS
- 22 68.197(7) shall only apply to the first one-tenth of one percent (0.1%) of the tax rate
- 23 imposed by the county within the corporate limits of the city.
- 24 (3) From July 1, 2019, through June 30, 2020, the credit established by KRS
- 25 68.197(7) shall only apply to the first two-tenths of one percent (0.2%) of the tax rate
- 26 imposed by the county within the corporate limits of the city.
- 27 (4) Any city and county subject to this section may enter into an interlocal

1 agreement to establish a revenue-sharing arrangement that differs from the requirements 2 of this section.

- 3 → Section 145. Notwithstanding KRS 68.197 or any other statute to the contrary, 4 the provisions of this section shall apply as follows from the effective date of this Act
- 5 through June 30, 2020:

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- 6 (1) Any set-off or credit of city license fees against county license fees that exists 7 between a city and county as of the effective date of this Act, shall remain in effect as it is 8 on the effective date of this Act;
 - (2) The provisions of subsection (7) of KRS 68.197 shall not apply to a city and county unless both the city and the county have levied and are collecting license fees on the effective date of this Act;
- 12 (3) Any agreement between a city and county related to the sharing of revenues 13 from a license fee that is in effect on the effective date of this Act shall remain in effect, 14 regardless of whether the agreement, by its terms, was set to expire prior to June 30, 15 2020; and
 - Any city and county subject to the provisions of subsections (1) to (3) of this section may enter into an interlocal agreement to establish a revenue-sharing arrangement that differs from the requirements of this section.
 - → Section 146. Notwithstanding the provisions of KRS 68.197, KRS 68.199, or any other statute to the contrary, any county that:
- 21 (1) Enacted an occupational license fee under the authority of KRS 67.083 at a rate 22 of greater than one percent (1%) prior to reaching a population of 30,000; and
- 23 (2) Has an agreement with the largest city in the county to share revenues from the 24 occupational license fee levied by the county;
- 25 may increase the occupational license fee rate above the rate that was imposed at the 26 time the population of the county grew to beyond 30,000 if the county and the largest city 27 within the county enter into an agreement approving the rate increase, and providing an

1 agreed distribution of revenues from the levy to the city and the county. Other cities

- 2 within the county may also be parties to the agreement if agreed to by all the parties.
- **→** Section 147. **Severability of Provisions:** If any section, any subsection, or any
- 4 provision of this Act is found by a court of competent jurisdiction in a final, unappealable
- 5 order to be invalid or unconstitutional, the decision of the court shall not affect or impair
- 6 any of the remaining sections, subsections, or provisions.
- 7 → Section 148. The following KRS sections are repealed:
- 8 136.070 Corporation license tax -- Exemptions -- Apportionment -- Credit.
- 9 136.0701 Corporation license tax -- Removal after December 31, 2005.
- 10 136.0704 License tax credit for economic revitalization projects -- Computation -- Cap.
- 11 136.071 Corporation license tax -- Apportionment of capital when corporation holds
- stock in other corporations.
- 13 141.0202 Deduction of leasehold interest of property contributed as living quarters for
- 14 homeless persons.
- 15 141.0405 Coal incentive tax credit for electric power generation and alternative fuel or
- 16 gasification facilities -- Procedure for claiming credit -- Priority of application.
- 17 141.0406 Time frame for claiming coal incentive tax credit allowed under KRS
- 18 141.0405.
- 19 141.388 Nonrefundable tax credit for new home purchases.
- 20 141.392 Tax credit for donated edible agricultural products.
- 21 141.420 Taxable income of individuals from pass through entities -- Allowable credits
- from pass through entities -- Determining basis in ownership interest.
- 23 154.48-010 Definitions for KRS 154.48-010 to 154.48-035.
- 24 154.48-015 Findings of General Assembly regarding provisions of KRS 154.48-010 to
- 25 154.48-035.
- 26 154.48-020 Administrative regulations establishing standards for preliminary approval
- of eligible companies and projects -- Review by authority and final approval of

1 companies and projects -- Authority's meetings to be governed by provisions of

- 2 Open Meetings Act.
- 3 154.48-025 Environmental stewardship agreements -- Final approval of application --
- 4 Tax credits -- Sum of total inducements -- Limitation on use of recycling credit --
- 5 Consent of authority required for transfer of agreement.
- 6 154.48-030 Department to make annual report on income tax credits and returns to
- 7 authority.
- 8 154.48-035 Short title for KRS 154.48-010 to 154.48-035 -- Kentucky Environmental
- 9 Stewardship Act.
- → Section 149. The repeal of the following statutes in 2018 HB 366/EN, Section
- 11 140, is hereby repealed:
- 12 (1) 141.402 Taxing provisions governing approved companies under Subchapter
- 13 25 of KRS Chapter 154;
- 14 (2) 141.421 Tax incentives for alternative fuel, gasification, and renewable energy
- 15 facilities:
- 16 (3) 154.25-010 Definitions for subchapter;
- 17 (4) 154.25-020 Criteria for approval of eligible companies and job retention
- 18 projects -- Preliminary approval;
- 19 (5) 154.25-030 Jobs retention project agreement -- Requirements, limitations, and
- 20 permitted inducements;
- 21 (6) 154.25-040 Wage assessment -- Tax credits for employees -- Department of
- 22 Revenue to make annual report to authority;
- 23 (7) 154.25-050 Supplemental projects -- Application for and approval of --
- 24 Project's activation date -- Inducements, when authorized;
- 25 (8) 154.27-010 Definitions for subchapter;
- 26 (9) 154.27-020 Short title -- Legislative findings -- Purpose of subchapter—
- 27 Incentives;

1 (10) 154.27-030 Application for incentives -- Review -- Approval -- Approval of

- 2 projects involving new, retrofitted, or upgraded alternative fuel facilities;
- 3 (11) 154.27-040 Tax incentive agreement -- Required provisions;
- 4 (12) 154.27-050 Release of sales tax incentives under tax incentive agreement --
- 5 Monitoring, tracking, and reporting requirements;
- 6 (13) 154.27-060 Severance tax incentives;
- 7 (14) 154.27-070 Sales and use tax incentives;
- 8 (15) 154.27-080 Income and limited liability entity tax incentives -- Assessment on
- 9 employees' wages;
- 10 (16) 154.27-090 Advance disbursement of incentives -- Computation of maximum
- disbursement amount -- Schedule for disbursement Repayment; and
- 12 (17) 154.27-100 Construction of carbon dioxide transmission pipeline --
- 13 Proceedings for condemnation under Eminent Domain Act -- Legislative determination of
- 14 essential public use.
- → Section 150. Section 27 of this Act applies to the sale of cigarettes on or after
- 16 July 1, 2018.
- → Section 151. Section 28 of this Act applies to the inventory taken on June 30,
- 18 2018.
- → Section 152. Sections 36 to 51 and 121 of this Act apply to transactions
- 20 occurring on or after July 1, 2018.
- 21 → Section 153. Sections 53 to 58, 60, 61, 78, 79, 115, and 118 of this Act apply to
- taxable years beginning on or after January 1, 2018.
- → Section 154. Sections 119 and 120 of this Act apply to taxable years beginning
- on or after January 1, 2019.
- Section 155. Sections 124 to 136 and 138 to 146 of this Act apply to the fiscal
- year beginning July 1, 2018, and ending June 30, 2019, and the fiscal year beginning July
- 27 1, 2019, and ending June 30, 2020, and shall expire at the end of June 30, 2020.

1	→ Section 156. Section 137 of this Act applies to the plan year beginning January
2	1, 2019, and ending December 31, 2019, and the plan year beginning January 1, 2020,
3	and ending December 31, 2020, and shall expire at the end of December 31, 2020.
4	→SECTION 157. KRS 61.522 IS REPEALED AND REENACTED TO READ
5	AS FOLLOWS:
6	Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to
7	the contrary:
8	(1) For purposes of this section:
9	(a) "Active member" means a member who is participating in the system;
10	(b) "Employer" means the governing body of a department, as defined by KRS
11	61.510, or a county as defined by KRS 78.510;
12	(c) "Employer's effective cessation date" means the last day of the system's
13	plan year in the year in which the employer has elected to cease
14	participation in the system, provided the employer has met the requirements
15	of this section and has given the Kentucky Retirement Systems sufficient
16	notice as provided by administrative regulations promulgated by the
17	systems; and
18	(d) "Inactive member" means a member who is not participating with the
19	system;
20	(2) Any employer participating in the Kentucky Employees Retirement System or the
21	County Employees Retirement System on July 1, 2015, except as limited by
22	subsection (6) of this section, may:
23	(a) Voluntarily cease participation in its respective retirement system subject to
24	the requirements and restrictions of this section; or
25	(b) Be required to involuntarily cease participation in the system under the
26	provisions of this section if the board has determined the employer is no
27	longer qualified to participate in a governmental plan or has failed to

1		comply with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852;
2	(3) (a)	If an employer desires to voluntarily cease participation in the Kentucky
3		Employees Retirement System or the County Employees Retirement System
4		as provided by subsection (2)(a) of this section:
5		1. The employer shall adopt a resolution requesting to cease
6		participation in the system and shall submit the resolution to the
7		board for its approval;
8		2. The cessation of participation in the system shall apply to all
9		employees of the employer;
10		3. The employer shall pay for all administrative costs of an actuarial
11		study to be completed by the Kentucky Retirement Systems' consulting
12		actuary and for any other administrative costs for discontinuing
13		participation in the system as determined by the board and as provided
14		by this section;
15		4. The employer shall provide an alternative retirement program for
16		employees who will no longer be covered by the system, which may
17		include a voluntary defined contribution plan;
18		5. If the alternative retirement program established by the employer
19		meets the qualification requirements under 26 U.S.C. sec. 401(a) and
20		is capable of accepting trustee-to-trustee transfers of both pre-tax and
21		post-tax contributions, employees of the employer ceasing
22		participation may seek to transfer his or her account balance to the
23		employer's qualified alternate retirement program within sixty (60)
24		days of the employer's effective cessation date. An employee's election
25		to transfer his or her account balance within sixty (60) days of the
26		employer's effective cessation date is an irrevocable waiver of the right
27		to obtain service credits in the system for the time worked for the

1	employer ceasing participation; and
2	6. The employer shall pay by lump sum to the system the full actuarian
3	cost of the benefits accrued by its current and former employees in the
4	system as determined separately for the pension fund and the
5	insurance fund by the actuarial study required by subparagraph 3. of
6	this paragraph. The full actuarial cost shall not include any employee
7	who seeks a transfer of his or her account balance within sixty (60)
8	days of the employer's effective cessation date as provided by
9	subparagraph 5. of this paragraph. The actuarial cost shall be fixed,
10	and the employer shall not be subject to any increases or subsequent
11	adjustments, once the lump sum is paid.
12	(b) If the board determines an employer must involuntarily cease participation
13	in the system as provided by subsection (2)(b) of this section:
14	1. The cessation of participation in the system shall apply to all
15	employees of the employer;
16	2. The employer shall pay for all administrative costs of an actuarial
17	study to be completed by the Kentucky Retirement Systems' consulting
18	actuary and for any other administrative costs for discontinuing
19	participation in the system as determined by the board and as provided
20	by this section; and
21	3. The employer shall pay by lump sum to the system the full actuarial
22	cost of the benefits accrued by its current and former employees in the
23	system as determined separately for the pension fund and the
24	insurance fund by the actuarial study required by subparagraph 2. of
25	this paragraph. The actuarial cost shall be fixed, and the employer
26	shall not be subject to any increases or subsequent adjustments, once
27	the lump sum is paid;

1	<u>(4)</u>	Any employee hired on or after the employer's effective cessation date by an
2		employer who has ceased participation in the system as provided by this section
3		shall not, regardless of his or her membership date in the systems administered
4		by Kentucky Retirement Systems, be eligible to participate in the Kentucky
5		Employees Retirement System or the County Employees Retirement System
6		through the employer that ceased participation for the duration of his or her
7		employment with that employer;
8	<u>(5)</u>	If an employer has ceased participation in the system as provided by this section:
9		(a) The rights of recipients and the vested rights of inactive members accrued
10		as of the employer's effective cessation date shall not be impaired or
11		reduced in any manner as a result of the employer ceasing participation in
12		the system; and
13		(b) Employees of the employer ceasing participation shall accrue benefits
14		through the employer's effective cessation date but shall not accrue any
15		additional benefits in the Kentucky Employees Retirement System or the
16		County Employees Retirement System, including earning years of service
17		credit through the ceased employer, after the employer's effective cessation
18		date for as long as they remain employed by the employer. The day after the
19		employer's effective cessation date, each employee described by this
20		paragraph shall be considered an inactive member with respect to his or her
21		employment with the employer that ceased participation and, subject to the
22		provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852,
23		<u>shall:</u>
24		1. Retain his or her accounts with the Kentucky Employees Retirement
25		System or the County Employees Retirement System and have those
26		accounts credited with interest in accordance with KRS 61.510 to
27		61.705 and 78.510 to 78.852;

1	2. Retain his or her vested rights in accordance with paragraph (a) of
2	this subsection; and
3	3. Be eligible to take a refund of his or her accumulated account balance
4	in accordance with KRS 61.625 or any other available distribution if
5	<u>eligible;</u>
6	(6) (a) Kentucky Employees Retirement System employers who are county attorney
7	offices, Commonwealth's attorney offices, local and district health
8	departments governed by KRS Chapter 212, master commissioners,
9	executive branch agencies whose employees are subject to KRS 18A.005 to
10	18A.200, state-administered retirement systems, state-supported universities
11	and community colleges, property valuation administration offices, or
12	employers in the legislative or judicial branch of Kentucky state
13	government, shall not be eligible to voluntarily discontinue participation in
14	the Kentucky Employees Retirement System unless the employer is a
15	nonstock nonprofit corporation organized under KRS Chapter 273.
16	(b) Only the employers in the County Employees Retirement System who are a
17	nonstock nonprofit corporation organized under KRS Chapter 273 may
18	voluntarily cease participation in the County Employees Retirement System;
19	(7) For purposes of this section, the full actuarial cost shall be determined by the
20	Kentucky Retirement Systems' consulting actuary separately for the pension fund
21	and the insurance fund using the assumptions and methodology established by
22	the system specifically for determining the full actuarial cost of ceasing
23	participation as of the employer's effective cessation date. For purposes of
24	determining the full actuarial cost, the assumed rate of return used to calculate
25	the cost shall be the lesser of the assumed rate of return utilized in the system's
26	most recent actuarial valuation or the yield on a thirty (30) year United States
27	treasury bond as of the employer's effective cessation date, but shall in no case be

1	lower than the assumed rate of return utilized in the system's most recent
2	actuarial valuation minus three and one-half percent (3.5%);
3	(8) The Kentucky Retirement Systems shall promulgate administrative regulations
4	pursuant to KRS Chapter 13A to administer this section; and
5	(9) Any employer who voluntarily ceases participation, or who is required to
6	involuntarily cease participation as provided in this section, shall hold the
7	Commonwealth harmless from damages, attorney's fees and costs from legal
8	claims for any cause of action brought by any member or retired member of the
9	departing employer.
10	→ Section 158. Sections 1 and 3 of House Bill 362/EN as enacted at the 2018
11	Regular Session of the General Assembly are hereby repealed in their entirety and shall
12	have no effect on the laws of the Commonwealth of Kentucky.
13	→ Section 159. Notwithstanding any statutory language to the contrary, the reviser
14	of statutes appointed under KRS 7.140 is directed that the provisions of Sections 157 and
15	158 of this Act shall prevail over the language contained in Sections 1 and 3 of House
16	Bill 362/EN as enacted at the 2018 Regular Session of the General Assembly, and
17	accordingly no part of Sections 1 and 3 of House Bill 362/EN shall be codified in the
18	Kentucky Revised Statutes.
19	→ Section 160. KRS 138.358 is amended to read as follows:
20	(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by
21	KRS 138.220 has been paid, into a tank having no dispensing outlet and used
22	exclusively to heat a personal residence, shall be entitled to claim a credit against
23	the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer
24	obtains from the purchaser and retains in his files a signed and dated statement from
25	the purchaser certifying that the fuel will be used exclusively to heat the personal
26	residence to which it is delivered. No person so certifying shall use the special fue
27	for any other purpose. The Department of Revenue may require dealers claiming the

1 credit authorized herein to submit information required by the department to 2 reasonably protect the revenues of the Commonwealth.

(3)

(2)

Any special fuels dealer who sells gasoline or special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use gasoline or the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The Department of Revenue may require dealers claiming the credit authorized herein to submit information required by the department to reasonably protect the revenues of the Commonwealth.

Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(6)[(7)] or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The Department of Revenue may require dealers claiming the credit authorized herein to submit information required by the department to reasonably

- 1 protect the revenues of the Commonwealth.
- 2 Any special fuels dealer who sells special fuels, on which the tax imposed by KRS (4) 3 138.220 has been paid, which shall be used exclusively for consumption in 4 unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on 5 6 the fuel if the dealer obtains from the purchaser and retains in his files a signed and 7 dated statement from the purchaser certifying that the fuel will be used exclusively 8 for nonhighway purposes. No person making the certification shall use the special 9 fuels for any other purpose. Sales made from a retail filling station do not qualify 10 for the credit. The Department of Revenue may require dealers claiming the credit 11 authorized in this subsection to submit information required by the department to 12 reasonably protect the revenues of the Commonwealth. This credit shall not apply to 13 special fuels taxes subject to a refund under KRS 138.445.
- → Section 161. KRS 139.778 is amended to read as follows:
- 15 (1) The county clerk shall collect any applicable sales and use tax for the following 16 tangible personal property purchased out of state at the time the property is offered 17 for titling or first registration:
- 18 (a) Recreational vehicles as defined in KRS 186.650;
- 19 (b) Manufactured homes as defined in KRS 186.650;
- 20 (c) Motorboats as defined in KRS 235.010;
- 21 (d) Vessels as defined in KRS 235.010; and
- 22 (e) Any other tangible personal property offered for titling or first registration in Kentucky.
- 24 (2) The tax shall be collected unless the owner:
- 25 (a) Presents a tax receipt from the seller verifying that the tax has been previously paid;
- 27 (b) Demonstrates that the transfer of the property is exempt under KRS

1		139.470 <u>(3)[(4)]</u> ; or
2	(c)	Provides a properly executed resale certificate or certificate of exemption in
3		accordance with KRS 139 270

- 4 (3) The tax collected by the county clerk shall be reported and remitted to the department on forms provided by the department.
- 6 (4) For services provided in collecting the tax, the county clerk shall deduct a fee of three percent (3%) of the tax collected and remit the balance to the department as provided in KRS 138.464.
- Section 162. Whereas this Act applies to the balancing of the Executive Branch
 Budget, an emergency is declared to exist, and this Act takes effect upon its passage and
 approval by the Governor or upon its otherwise becoming a law.