

1 AN ACT relating to the oversight of tax expenditures and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 5 of this Act, unless the context indicates otherwise:*

6 *(1) "Cabinet" means the Cabinet for Economic Development;*

7 *(2) "Committee" means the Legislative Tax Incentive Review Committee established*  
8 *in Section 2 of this Act; and*

9 *(3) "Tax incentive" means a benefit provided through a state or local tax that is*  
10 *intended to alter, reward, or subsidize a particular action or behavior by the tax*  
11 *incentive recipient, including but not limited to a benefit intended to encourage*  
12 *economic development, including:*

13 *(a) An exemption, deduction, credit, preferential rate, or other tax benefit that:*

14 *1. Reduces the amount of a tax that would otherwise be due to the state*  
15 *or a local government;*

16 *2. Results in a tax refund in excess of any tax due; or*

17 *3. Reduces the amount of property taxes that would otherwise be due to*  
18 *the Commonwealth or a political subdivision thereof; and*

19 *(b) The dedication of revenue by a political subdivision of the Commonwealth*  
20 *to provide improvements or to retire bonds issued to pay for improvements*  
21 *in a development area established pursuant to KRS 65.7049, 65.7051, and*  
22 *65.7053, an enterprise zone, a qualified zone as defined in KRS 154.23-010,*  
23 *or a tax increment financing district.*

24 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO  
25 READ AS FOLLOWS:

26 *(1) There is created a Legislative Tax Incentive Review Committee which shall be a*  
27 *permanent standing committee of the General Assembly, consisting of seven (7)*

1 members of the Senate, four (4) of whom shall be appointed by the President and  
2 three (3) of whom shall be appointed by the Minority Leader of the Senate; and  
3 seven (7) members of the House of Representatives, four (4) of whom shall be  
4 appointed by the Speaker and three (3) of whom shall be appointed by the  
5 Minority Leader of the House of Representatives. At least one (1) appointee by  
6 each appointive authority shall be a member of the Senate or House Standing  
7 Committee on Appropriations and Revenue. The appointments shall be made  
8 within seven (7) legislative days of the end of each regular session of the General  
9 Assembly held in even-numbered years, and the members so appointed shall serve  
10 for a term of two (2) years coextensive with the biennium in which the  
11 appointment is made. Vacancies shall be filled within sixty (60) days of  
12 occurrence in the same manner as the original appointments, and for the balance  
13 of the term of the vacated member.

14 (2) The members appointed from each chamber shall elect one (1) member from  
15 their chamber to serve as co-chair. Co-chairs shall be elected at the first meeting  
16 of the committee following the end of the regular session in even-numbered  
17 years. The co-chairs shall have joint responsibilities for committee meeting  
18 agendas and presiding at committee meetings. On an alternating basis, each co-  
19 chair shall have the first option to set the monthly meeting date. A monthly  
20 meeting may be canceled by agreement of both co-chairs. A majority of the entire  
21 membership of the Legislative Tax Incentive Review Committee shall constitute a  
22 quorum, and all actions of the committee shall be by vote of a majority of its  
23 entire membership.

24 (3) The co-chairs from the Interim Joint Committee on Appropriations and Revenue  
25 shall serve as nonvoting ex officio members of the committee.

26 (4) Each regular and nonvoting ex officio member of the committee shall receive the  
27 same travel allowances and compensation for attending interim meetings of the

1 committee as are received by members of subcommittees of the Legislative  
2 Research Commission under KRS 7.090(3).

3 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) The committee shall conduct a systematic and comprehensive review, analysis,  
6 and evaluation of each tax incentive scheduled for review. The review, analysis,  
7 and evaluation shall include the following information for the previous five (5)  
8 fiscal years:

9 (a) The basic attributes and policy goals of the tax incentive, including the  
10 statutory and programmatic goals of the tax incentive, the economic  
11 parameters of the tax incentive, the original scope and purpose of the tax  
12 incentive, and how the scope or purpose has changed over time;

13 (b) The tax incentive's equity, simplicity, competitiveness, public purpose,  
14 adequacy, and extent of conformance with the original purposes of the  
15 legislation enacting the tax incentive;

16 (c) The types of activities on which the tax incentive is based and how effective  
17 the tax incentive has been in promoting these targeted activities and in  
18 assisting recipients of the tax incentive;

19 (d) The count of the following, by fiscal year:

20 1. Applicants for the tax incentive;

21 2. Applicants that qualify for the tax incentive;

22 3. Qualified applicants that, if applicable, are approved to receive the tax  
23 incentive;

24 4. Taxpayers that actually claim the tax incentive; and

25 5. Taxpayers that actually receive the tax incentive;

26 (e) The dollar amount of the tax incentive benefits that has been actually  
27 claimed by all taxpayers over time, including the following:

- 1           1. The dollar amount of the tax incentive, listed by the North American
- 2           Industrial Classification System (NAICS) Code associated with the tax
- 3           incentive recipients, if an NAICS Code is available; and
- 4           2. The dollar amount of income tax credits that can be carried forward
- 5           for the next five (5) state fiscal years;
- 6       (f) An estimate of the economic impact of the tax incentive, including the
- 7       following:
- 8           1. A return on investment calculation for the tax incentive. For purposes
- 9           of this clause, "return on investment calculation" means analyzing
- 10           the cost to the state or political subdivision of providing the tax
- 11           incentive, analyzing the benefits realized by the state or political
- 12           subdivision from providing the tax incentive;
- 13           2. A cost-benefit comparison of the state and local revenue foregone,
- 14           including any shifting of property taxes, as a result of allowing the tax
- 15           incentive, compared to tax revenue generated by the taxpayer
- 16           receiving the incentive, including direct taxes applied to the taxpayer
- 17           and taxes applied to the taxpayer's employees;
- 18           3. The number of jobs that were the direct result of the tax incentive; and
- 19           4. For any tax incentive that is reviewed or approved by the cabinet, a
- 20           statement by the secretary of the cabinet as to whether the statutory
- 21           and programmatic goals of the tax incentive are being met, with
- 22           obstacles to these goals identified, if possible;
- 23       (g) The methodology and assumptions used in carrying out the reviews,
- 24       analyses, and evaluations required under this subsection;
- 25       (h) The estimated cost to the state to administer the tax incentive;
- 26       (i) An estimate of the extent to which benefits of the tax incentive remained in
- 27       the Commonwealth or flowed outside the Commonwealth;

- 1        (j) Whether the effectiveness of the tax incentive could be determined more  
2        definitively if the General Assembly were to clarify or modify the tax  
3        incentive's goals and intended purpose;
- 4        (k) Whether measuring the economic impact is significantly limited due to data  
5        constraints and whether any changes in statute would facilitate data  
6        collection in a way that would allow for better review, analysis, or  
7        evaluation;
- 8        (l) Whether the tax incentive should be discontinued or modified;
- 9        (m) An estimate of the indirect economic benefit or activity stimulated by the tax  
10       incentive; and
- 11       (n) Any additional review, analysis, or evaluation that the committee considers  
12       advisable, including comparisons with tax incentives offered by other states  
13       if those comparisons would add value to the review, analysis, and  
14       evaluation.
- 15       (2) The committee may request a state or local official or a state agency, a political  
16       subdivision, a body corporate and politic, or a county or municipal redevelopment  
17       commission to furnish information necessary to complete the tax incentive  
18       review, analysis, and evaluation required by this section. Notwithstanding any  
19       other section of the Kentucky Revised Statutes, an official or entity presented with  
20       a request from the committee under this subsection shall cooperate with the  
21       committee in providing the requested information. An official or entity may  
22       require that the committee adhere to the agency's rules, if any, that concern the  
23       confidential nature of the information.

24       ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO  
25 READ AS FOLLOWS:

- 26       (1) The committee shall, before October 1 of each year, submit a report to the  
27       Legislative Research Commission and to the Interim Joint Committee on

1 Appropriations and Revenue containing the results of the committee's review,  
 2 analysis, and evaluation. The report shall include at least the following:

3 (a) A detailed description of the review, analysis, and evaluation for each tax  
 4 incentive reviewed;

5 (b) Information to be used by the General Assembly to determine whether a  
 6 reviewed tax incentive should be continued, modified, or terminated, the  
 7 basis for the recommendation, and the expected impact of the  
 8 recommendation on the state's economy; and

9 (c) Information to be used by the General Assembly to better align a reviewed  
 10 tax incentive with the original intent of the legislation that enacted the tax  
 11 incentive.

12 (2) The report required by this section shall not disclose any proprietary or otherwise  
 13 confidential taxpayer information.

14 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO  
 15 READ AS FOLLOWS:

16 (1) The committee shall establish and maintain a system for making available to the  
 17 public information about the amount and effectiveness of tax incentives.

18 (2) The committee shall develop and publish on the General Assembly's Web site a  
 19 multiyear schedule that lists all tax incentives and indicates the year when the  
 20 report will be published for each tax incentive reviewed. The committee may  
 21 revise the schedule as long as the committee provides for a systematic review,  
 22 analysis, and evaluation of all tax incentives and that each tax incentive is  
 23 reviewed at least once every five (5) years. As much as is possible, the committee  
 24 shall review, analyze, and evaluate tax incentives in decreasing order of monetary  
 25 value.

26 ➔Section 6. Whereas the revenue slowdown in fiscal year 2016-2017 for the  
 27 Commonwealth of Kentucky was caused mainly by slow individual income tax growth,

1 even slower sales tax growth, and a decline in corporate tax revenue and a review of all  
2 tax expenditures is critical to the financial health of the Commonwealth, an emergency is  
3 declared to exist, and this Act takes effect upon its passage and approval by the Governor  
4 or upon its otherwise becoming a law.