

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

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

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

4 **(1) After June 30, 2019, an eligible company that has not received preliminary**
 5 **approval shall not receive final approval by the authority to become an approved**
 6 **company and receive tax credits under Subchapter 26 of KRS Chapter 154.**
 7 **Approved companies and outstanding eligible companies with preliminary**
 8 **approval granted on or before June 30, 2019, shall continue to be governed by**
 9 **Subchapter 26 of KRS Chapter 154 and subsections (2) to (9) of this section.**

10 ~~(2)(1)~~ As used in this section, unless the context requires otherwise:

11 (a) "Approved company" ~~has~~~~shall have~~ the same meaning as ~~set forth~~ in KRS
 12 154.26-010;

13 (b) "Economic revitalization project" ~~has~~~~shall have~~ the same meaning as ~~set~~
 14 ~~forth~~ in KRS 154.26-010;

15 (c) **"Eligible company" has the same meaning as in KRS 154.26-010;**

16 **(d) "Final approval" has the same meaning as in KRS 154.26-010**~~"Tax credit"~~
 17 ~~means the tax credit allowed in KRS 154.26-090~~;

18 ~~(e)(d)~~ "Kentucky gross receipts" means Kentucky gross receipts as defined in
 19 KRS 141.0401; and

20 ~~(f)(e)~~ "Kentucky gross profits" means Kentucky gross profits as defined in
 21 KRS 141.0401;

22 **(g) "Preliminary approval" has the same meaning as in KRS 154.26-010; and**

23 **(h) "Tax credit" means the tax credit allowed in KRS 154.26-090.**

24 ~~(3)(2)~~ An approved company shall determine the income tax credit as provided in
 25 this section.

26 ~~(4)(3)~~ An approved company which is an individual sole proprietorship subject to
 27 tax under KRS 141.020 or a corporation or pass-through entity treated as a

- 1 corporation for federal income tax purposes subject to tax under KRS 141.040 shall:
- 2 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
3 141.020 or 141.040 on net income or taxable net income, including
4 income from the economic revitalization project;
- 5 2. Compute the limited liability entity tax imposed under KRS 141.0401,
6 including Kentucky gross profits or Kentucky gross receipts from the
7 economic revitalization project; and
- 8 3. Add the amounts computed under subparagraphs 1. and 2. of this
9 paragraph and, if applicable, subtract the credit permitted by KRS
10 141.0401(3) from that sum. The resulting amount shall be the net tax for
11 purposes of this paragraph.
- 12 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
13 141.020 or 141.040 on net income or taxable net income, 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 paragraph (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 in KRS 154.26-090.
- 27 ~~(5)~~~~(4)~~ (a) Notwithstanding any other provisions of this chapter, an approved

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

5 (b) The amount of the tax credit shall be determined as provided in subsection (3)
6 of this section. Upon the annual election of the approved company, in lieu of
7 the tax credit, an amount shall be applied as an estimated tax payment equal to
8 the tax computed in this section. Any estimated tax payment made pursuant to
9 this paragraph shall be in satisfaction of the tax liability of the partners,
10 members, shareholders, or beneficiaries of the pass-through entity or trust, and
11 shall be paid on behalf of the partners, members, shareholders, or
12 beneficiaries.

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

15 (d) If the tax computed in this section exceeds the tax credit, the difference shall
16 be paid by the pass-through entity or trust at the times provided by KRS
17 141.160 for filing the returns.

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

22 ~~(6)~~~~(5)~~ Notwithstanding any other provisions of this chapter, the net income subject
23 to tax, the tax credit, and the estimated tax payment determined under subsection
24 (4) of this section shall be excluded in determining each partner's, member's,
25 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
26 through entity or trust.

27 ~~(7)~~~~(6)~~ If the economic revitalization project is a totally separate facility:

- 1 (a) Net income attributable to the project for the purposes of subsections~~[(3),]~~
2 (4),~~and~~ (5), and (6) of this section shall be determined under the separate
3 accounting method reflecting only the gross income, deductions, expenses,
4 gains, and losses allowed under KRS Chapter 141 directly attributable to the
5 facility and overhead expenses apportioned to the facility; and
- 6 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
7 for purposes of subsection (4)~~[(3)]~~ of this section shall be determined under
8 the separate accounting method reflecting only the Kentucky gross receipts or
9 Kentucky gross profits directly attributable to the facility.
- 10 (8)~~[(7)]~~ If the economic revitalization project is an expansion to a previously existing
11 facility:
- 12 (a) Net income attributable to the entire facility shall be determined under the
13 separate accounting method reflecting only the gross income, deductions,
14 expenses, gains, and losses allowed under KRS Chapter 141 directly
15 attributable to the facility and overhead expenses apportioned to the facility,
16 and the net income attributable to the economic revitalization project for the
17 purposes of subsections~~[(3),]~~ (4), ~~and~~ (5), and (6) of this section shall be
18 determined by apportioning the separate accounting net income of the entire
19 facility to the economic revitalization project by a formula approved by the
20 Department of Revenue; and
- 21 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire
22 facility shall be determined under the separate accounting method reflecting
23 only the Kentucky gross receipts or Kentucky gross profits directly
24 attributable to the facility. Kentucky gross receipts or Kentucky gross profits
25 attributable to the economic revitalization project for purposes of subsection
26 (4)~~[(3)]~~ of this section shall be determined by apportioning the separate
27 accounting Kentucky gross receipts or Kentucky gross profits of the entire

1 facility to the economic revitalization project pursuant to a formula approved
2 by the Department of Revenue.

3 ~~(9)~~⁽⁸⁾ If an approved company can show to the satisfaction of the Department of
4 Revenue that the nature of the operations and activities of the approved company
5 are such that it is not practical to use the separate accounting method to determine
6 the net income, Kentucky gross receipts, or Kentucky gross profits from the facility
7 at 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 ~~(10)~~⁽⁹⁾ The Department of Revenue may issue administrative regulations and require
12 the filing of forms designed by the Department of Revenue to reflect the intent of
13 KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an
14 approved company may retain under KRS 154.26-010 to 154.26-100.

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

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

17 (a) "Approved company" means the same as defined in KRS 154.32-010 or
18 154.34-010;

19 (b) "Economic development project" means the same as defined in KRS 154.32-
20 010;

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

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

24 ~~(d)~~^(e) "Kentucky gross receipts" means the same as defined in KRS 141.0401;
25 and

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

27 (2) An approved company shall determine the income tax credit as provided in this

1 section.

2 (3) 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 shall:

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

9 2. Compute the limited liability entity tax imposed under KRS 141.0401
10 including Kentucky gross profits or Kentucky gross receipts from the
11 ~~reinvestment project or]~~ 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 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
17 141.020 or 141.040 on net income or taxable net income, excluding net
18 income attributable to an~~[a reinvestment project or]~~ economic
19 development project;

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

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

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

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

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

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

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

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

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

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

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

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

17 (9) The department may promulgate administrative regulations and require the filing of
 18 forms designed by the department to reflect the intent of ~~KRS 154.34-010 to~~
 19 ~~154.34-100 and~~ Subchapter 32 of KRS Chapter 154, and the allowable income tax
 20 credit which an approved company may retain under ~~KRS 154.34-010 to 154.34-~~
 21 ~~100 or~~ Subchapter 32 of KRS Chapter 154.

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

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

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

26 **(b) "Authority" has the same meaning as in Section 5 of this Act;**

27 **(c) "Eligible company" has the same meaning as in Section 5 of this Act;**

- 1 (d) "Final approval" has the same meaning as in Section 5 of this Act;
- 2 (e) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- 3 (f) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- 4 (g) "Preliminary approval" has the same meaning as in Section 5 of this Act;
- 5 (h) "Reinvestment project" has the same meaning as in Section 5 of this Act;
- 6 and
- 7 (i) "Tax credit" means the tax credit allowed in Section 10 of this Act.
- 8 (2) An approved company shall determine the income tax credit as provided in this
- 9 section.
- 10 (3) An approved company which is an individual sole proprietorship subject to tax
- 11 under KRS 141.020 or a corporation or pass-through entity treated as a
- 12 corporation for federal income tax purposes subject to tax under KRS 141.040(1)
- 13 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 in KRS 141.010 or
- 16 taxable net income as defined in KRS 141.010, including income from
- 17 a reinvestment 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; 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
- 24 for purposes of this paragraph; and
- 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 in KRS 141.010 or
- 27 taxable net income as defined in KRS 141.010, excluding net income

- 1 attributable to a reinvestment 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 reinvestment 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
8 for purposes of this paragraph.

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

13 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
14 which is a pass-through entity not subject to the tax imposed by KRS
15 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be
16 subject to income tax on the net income attributable to a reinvestment
17 project at the rates provided in KRS 141.020(2).

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

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

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

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

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

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

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

19 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
20 for the purposes of subsection (3) of this section shall be determined under
21 the separate accounting method reflecting only the Kentucky gross receipts
22 or Kentucky gross profits directly attributable to the facility.

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

24 (a) Net income attributable to the entire facility shall be determined under the
25 separate accounting method reflecting only the gross income, deductions,
26 expenses, gains, and losses allowed under KRS Chapter 141 directly
27 attributable to the facility and overhead expenses apportioned to the facility,

- 1 and the net income attributable to the reinvestment project for the purposes
2 of subsections (3), (4), and (5) of this section shall be determined by
3 apportioning the separate accounting net income of the entire facility to the
4 reinvestment project by a formula approved by the department; and
- 5 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire
6 facility shall be determined under the separate accounting method
7 reflecting only the Kentucky gross receipts or Kentucky gross profits directly
8 attributable to the facility, and Kentucky gross receipts or Kentucky gross
9 profits attributable to the reinvestment project for the purposes of
10 subsection (3) of this section shall be determined by apportioning the
11 separate accounting Kentucky gross receipts or Kentucky gross profits of
12 the entire facility to the reinvestment project by a formula approved by the
13 department.
- 14 (8) If an approved company can show to the satisfaction of the department that the
15 nature of the operations and activities of the approved company are such that it is
16 not practical to use the separate accounting method to determine the net income,
17 Kentucky gross receipts, or Kentucky gross profits from the facility at which the
18 reinvestment project is located, the approved company shall determine net
19 income, Kentucky gross receipts, or Kentucky gross profits from the reinvestment
20 project using an alternative method approved by the department.
- 21 (9) The department may promulgate administrative regulations and require the filing
22 of forms designed by the department to reflect the intent of Subchapter 34 of KRS
23 Chapter 154, and the allowable income tax credit which an approved company
24 may retain under Subchapter 34 of KRS Chapter 154.
- 25 (10) After January 1, 2023, an eligible company that has not received preliminary
26 approval shall not receive final approval by the authority to become an approved
27 company and receive tax credits under Subchapter 34 of KRS Chapter 154.

1 Approved companies and outstanding eligible companies with preliminary
2 approval granted on or before January 1, 2022, shall continue to be governed by
3 Subchapter 34 of KRS Chapter 154 and subsections (1) to (8) of this section.

4 (11) (a) In order for the General Assembly to evaluate the fulfillment of the purpose
5 stated in Section 9 of this Act, the department shall provide the following
6 information on a cumulative basis for each taxable year to provide a
7 historical impact of the tax credit to the Commonwealth:

8 1. The name and address for each taxpayer claiming the tax credit;

9 2. The entity type of that taxpayer, including:

10 a. Individuals;

11 b. Corporations; and

12 c. Pass-through entities;

13 3. The location, by county, of that reinvestment project and whether the
14 reinvestment project is located within an enhanced incentive county;

15 4. The amount of tax credit claimed by that taxpayer;

16 5. The amount of wage assessment fee claimed by that taxpayer;

17 6. The number of full-time employees employed by the taxpayer on the
18 first day of each calendar quarter during the taxable year, classified by
19 whether the employee is:

20 a. Working at its headquarters;

21 b. Engaged in manufacturing;

22 c. Engaged in coal mining;

23 d. Engaged in agribusiness; or

24 e. Engaged in nonretail service or technology;

25 7. The amount of raw production of coal mined from the
26 reinvestment project;

27 8. Whether the reinvestment project is a leased project;

1 9. The amount of expenditure for eligible equipment and related costs
 2 for the reinvestment project;

3 10. In the case of all taxpayers other than corporations, based on ranges
 4 of adjusted gross income of no larger than five thousand dollars
 5 (\$5,000) for the taxable year, the total amount of tax credits claimed
 6 and the number of returns claiming a tax credit for each adjusted
 7 gross income range; and

8 11. In the case of all corporations, based on ranges of net income no
 9 larger than fifty thousand dollars (\$50,000) for the taxable year, the
 10 total amount of tax credits claimed and the number of returns
 11 claiming a tax credit for each net income range.

12 (b) The report required by paragraph (a) of this subsection shall be submitted
 13 to the Interim Joint Committee on Appropriations and Revenue beginning
 14 no later than November 1, 2020, and no later than each November 1
 15 thereafter, as long as the credit is claimed on any return processed by the
 16 department.

17 ➔SECTION 4. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER
 18 154 IS CREATED TO READ AS FOLLOWS:

19 After June 30, 2019, an eligible company that has not received preliminary approval
 20 shall not receive final approval by the authority to become an approved company under
 21 the provisions of this subchapter. Outstanding eligible companies with preliminary or
 22 final approval granted on or before June 30, 2019, shall continue to be governed by
 23 this subchapter and Section 1 of this Act.

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

25 As used in this subchapter:

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

27 (2) "Approved company" means an eligible company approved under Section 6 of this

1 Act for a reinvestment project;

2 ~~(3)(2)~~ "Approved costs" means the ~~sum of the~~

3 ~~(a)~~ eligible equipment and related costs ~~;~~ and

4 ~~(b)~~ eligible skills upgrade training costs;

5 ~~—~~ approved by the authority that may be recovered by an approved company through
6 the incentives authorized by this subchapter;

7 ~~(4)(3)~~ "Authority" means the Kentucky Economic Development Finance Authority
8 created by KRS 154.20-010;

9 (5) "Capital lease" means a lease classified as a capital lease by the Statement of
10 Financial Accounting Standards No. 13, Accounting for Leases, issued by the
11 Financial Accounting Standards Board, November 1976, as amended;

12 (6) "Coal mining and processing" means activities resulting in the eligible company
13 being subject to the tax imposed by KRS Chapter 143;

14 ~~(7)(4)~~ "Commonwealth" means the Commonwealth of Kentucky;

15 ~~(8)(5)~~ "Department" means the Department of Revenue;

16 ~~(9)(6)~~ (a) "Eligible company" means any corporation, limited liability company,
17 partnership, limited partnership, sole proprietorship, business trust, or any
18 other entity;

19 1. Employing or intending to employ full-time a minimum of twenty-five
20 (25) persons:

21 a. Working at its headquarters;

22 b. Engaged in manufacturing;

23 c. Engaged in agribusiness; or

24 d. Engaged in nonretail service or technology;

25 at the same ~~at a~~ facility located and operating within the
26 Commonwealth on a permanent basis for a reasonable period of time
27 preceding the request for approval of a reinvestment project by the

1 authority, including facilities where operations have been temporarily
2 suspended and which meets the standards promulgated by the
3 authority pursuant to Section 6 of this Act; or

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

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

18 1. Forestry;

19 2. Fishing;

20 3. The provision of utilities;

21 4. Construction;

22 5. Wholesale trade;

23 6. Retail trade;

24 7. Real estate;

25 8. Rental and leasing;

26 9. Educational services;

27 10. Accommodation and food services; or

1 **11. Public administration services:**

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

1 replacement or repair of existing machinery or equipment resulting from
 2 normal wear and usage of the machinery ***or equipment***;

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

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

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

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

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

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

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

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

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

19 ~~(12)~~~~[(9)]~~ "Equipment" means manufacturing machinery, ***computers, furnishings,***
 20 ***fixtures, and other assets*** installed by the approved company as part of the
 21 reinvestment project;

22 ~~(13)~~~~[(10)]~~ "Final approval" means the action taken by the authority designating a
 23 preliminarily approved eligible company as an approved company ***to receive***
 24 ***inducements under this subchapter;***

25 ~~(14)~~~~[(11)]~~ "Full-time" means a minimum of thirty-five (35) hours per week;

26 **(15) "Headquarters" means the principal office where the principal executives of the**
 27 **entity are located and from which other personnel, branches, affiliates, offices, or**

1 *entities are controlled;*

2 *(16) "Inducements" means the Kentucky tax credit and the wage assessment fee as*
 3 *prescribed in this subchapter;*

4 *(17)*~~[(12)]~~ "Kentucky gross profits" has the same meaning as in KRS 141.0401;

5 *(18)*~~[(13)]~~ "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

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

9 *(20) "Leased project" means a reinvestment project site occupied by an approved*
 10 *company pursuant to a lease agreement;*

11 *(21)*~~[(14)]~~ "Manufacturing" means any activity involving the processing, assembling, or
 12 production of any property, including activities that result in a change in the
 13 condition of the property. "Manufacturing" includes any activity or function related
 14 to the manufacturing activity, including storage, warehousing, distribution, and
 15 related office facilities;

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

17 *(23)*~~[(15)]~~ "Preliminary approval" means the action taken by the authority designating an
 18 eligible company as a preliminarily approved company;

19 *(24)*~~[(16)]~~ "Reinvestment agreement" means the agreement entered into pursuant to KRS
 20 154.34-080 between the authority and an approved company with respect to a
 21 reinvestment project; and

22 *(25)*~~[(17)]~~ "Reinvestment project" means:

23 (a) A reinvestment in the ~~physical plant of a manufacturing~~ facility *of an*
 24 *eligible company*, and in the full-time employees of *an eligible company*~~a~~
 25 ~~manufacturing facility~~, through ~~[-~~
 26 ~~1.—]~~the acquisition, construction, and installation of new equipment and,
 27 with respect thereto, the construction, rehabilitation, and installation of

1 improvements to facilities necessary to house the new equipment,
 2 including surveys; installation of utilities, including water, sewer,
 3 sewage treatment, gas, electricity, communications, and similar
 4 facilities; or off-site construction of utility extensions to the boundaries
 5 of the real estate on which the facilities are located; and

6 ~~[2. The development of an occupational training program to train or retrain~~
 7 ~~the full-time employees of the company to support the reinvestment in~~
 8 ~~the manufacturing facility, if applicable, for the purpose of improving~~
 9 ~~the economic and operational situation of a company; and]~~

- 10 (b) The expenditure of at least **one million dollars (\$1,000,000) in eligible**
 11 **equipment and related costs for leased projects and at least** two million five
 12 hundred thousand dollars (\$2,500,000) in eligible equipment and related costs
 13 **for all other reinvestment projects.**

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

- 15 (1) The application and approval process under this subchapter shall be as follows:
- 16 (a) An eligible company with a proposed reinvestment project may submit an
 17 application to the authority. The application shall include the information
 18 required by subsection (4) of this section;
- 19 (b) Upon review of the application and any additional information submitted, the
 20 authority may, by resolution, give preliminary approval to a reinvestment
 21 project and authorize the negotiation and execution of a memorandum of
 22 agreement. The memorandum of agreement shall establish the minimum job
 23 retention requirements and maximum total approved cost for the reinvestment
 24 project, shall only allow the recovery of costs incurred after preliminary
 25 approval, and may include any other terms as agreed to by the parties to the
 26 agreement. Upon preliminary approval, the preliminarily approved company
 27 may undertake the project in accordance with the memorandum of agreement;

- 1 (c) The preliminarily approved company shall submit any documentation required
2 by the authority upon request of the authority;
- 3 (d) The preliminarily approved company shall have up to three (3) years from the
4 date of preliminary approval to complete the reinvestment project and obtain
5 final approval. Upon the earlier of completion of the project or the passage of
6 three (3) years from the date of preliminary approval, the preliminarily
7 approved company shall submit documentation required by the authority, and
8 the authority shall confirm that the minimum investment and job retention
9 requirements established by the memorandum of agreement have been met.
10 Upon review and confirmation of the documentation, the authority may, by
11 resolution, give final approval to the preliminarily approved company and
12 authorize the execution of a reinvestment agreement between the authority
13 and the approved company pursuant to KRS 154.34-080. As part of the
14 reinvestment agreement, the approved costs shall be finally determined, not to
15 exceed the maximum approved costs as determined at preliminary approval,
16 and the approved company shall be eligible to receive incentives in
17 accordance with the provisions of the reinvestment agreement;
- 18 (e) The authority shall monitor the reinvestment agreement at least annually, and
19 the approved company shall submit all documentation necessary for the
20 authority to monitor the agreement. The authority shall, based on the
21 documentation provided, confirm that the approved company is in continued
22 compliance with the provisions of the reinvestment agreement and, therefore,
23 eligible for incentives; and
- 24 (f) Upon final approval, the authority shall notify the department that an
25 approved company is eligible for incentives and shall provide the department
26 with the information necessary to monitor the use of inducements~~[credits]~~ by
27 the approved company. If, at any time during the term of the reinvestment

1 agreement, an approved company becomes ineligible for incentives, the
2 authority shall notify the department, and the department shall discontinue the
3 availability of inducements~~[credits]~~ for the approved company.

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

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

12 (4) The application shall include:

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

16 (b) A description of the proposed reinvestment project, including anticipated
17 sources of funding, the total anticipated equipment and related costs~~[and~~
18 ~~skills upgrade training costs]~~, the impact of the proposed reinvestment project
19 on full-time employment at the facility, and an explanation of why
20 reinvestment in the facility and its full-time employees is necessary;

21 (c) A timeline for the proposed reinvestment project;

22 (d) A description of the other alternatives that are available to the eligible
23 company, if incentives are not provided;

24 (e) The amount of incentives sought, and an explanation of why the requested
25 incentives are needed;

26 (f) A certification from the company that the reinvestment project would not be
27 economically feasible for the company, but for the incentives available under

1 this subchapter;

2 (g) Payment of any applicable application fees required by the authority; and

3 (h) Any additional information relating to the proposed reinvestment project that
4 the authority may require.

5 (5) The authority may request any materials and make any inquiries concerning an
6 application that the authority deems necessary.

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

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

13 (1) That the authority may employ an independent consultant or utilize technical
14 resources to verify the cost of the project, and that the approved company shall
15 reimburse the authority for the cost of a consultant or other technical resources
16 employed by the authority;

17 (2) The maximum approved costs that may be recovered;

18 (3) A set employment retention goal, which shall be at least eighty-five percent (85%)
19 of the number of full-time employees employed at the facility on the date the
20 company receives preliminary approval;

21 (4) That approval of the company is not a guarantee of incentives and that eligibility for
22 incentives shall be contingent on the approved company meeting the requirements
23 established by the reinvestment agreement and this subchapter;

24 (5) The term of the reinvestment agreement, which shall not be longer than the earlier
25 of:

26 (a) The date on which the approved company has received incentives equal to the
27 approved costs of its reinvestment project; or

- 1 (b) Ten (10) years from the date of final approval granted by the authority;
- 2 (6) That the authority may reduce the incentives, suspend the incentives, or terminate
3 the agreement if the approved company fails to comply with provisions of the
4 reinvestment agreement;
- 5 (7) That both the authority and the department shall have the right to pursue any
6 remedy provided under this reinvestment agreement and any other remedy at law to
7 which it may be entitled;
- 8 (8) That the approved company shall make available to the department and the
9 authority all of its records pertaining to the reinvestment project, including but not
10 limited to payroll records, records relating to the expenditure of eligible equipment
11 and related costs, ~~eligible skills upgrade training costs,~~ and approved costs, and
12 any other records pertaining to the project as the authority or the department may
13 require;
- 14 (9) That the authority may share information with the department for the purposes of
15 monitoring and enforcing the terms of the reinvestment agreement;
- 16 (10) That the agreement shall not be transferred or assigned by the approved company
17 without the expressed written consent of the authority; and
- 18 (11) Any other provisions not inconsistent with this subchapter and determined to be
19 necessary or appropriate by the parties to the reinvestment agreement.

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

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

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

2 (1) (a) The purpose of this subchapter is to provide a means for the Commonwealth
3 to promote job retention by providing incentives for existing businesses to
4 reinvest in existing~~[-manufacturing]~~ operations in Kentucky for eligible
5 companies.

6 (b) In order for the General Assembly to evaluate the fulfillment of the purpose
7 stated in paragraph (a) of this subsection, the Cabinet for Economic
8 Development and the Department of Revenue shall work together in data
9 collection. The Cabinet for Economic Development shall submit the
10 following information, related to actions taken by the authority during the
11 immediately preceding calendar year, to the Interim Joint Committee on
12 Appropriations and Revenue beginning no later than May 1, 2020, and no
13 later than each May 1 thereafter, as long as the tax credit from the
14 Kentucky Reinvestment Act is awarded by the authority:

15 1. The total number of applications received during the calendar year;

16 2. The number of applications received that were given preliminary
17 approval during the calendar year, by reinvestment project type;

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

20 4. The number of memoranda of agreement that were established during
21 the calendar year, by reinvestment project type;

22 5. A historical perspective related to all memoranda of agreement issued,
23 including the number of preliminarily approved companies that are
24 within the:

25 a. First year following the preliminary approval;

26 b. Second year following the preliminary approval; and

27 c. Third year following the preliminary approval;

- 1 6. The number of final approvals that were issued during the calendar
2 year, by reinvestment project type;
- 3 7. The total amount of eligible equipment and other costs expended by
4 the approved companies, by reinvestment project type;
- 5 8. The total number of jobs created or preserved as a result of the
6 projects, by reinvestment project type, including:
- 7 a. The number of full-time employees and part-time employees for
8 all approved companies prior to final approval; and
- 9 b. The number of full-time employees and part-time employees for
10 all approved companies on the first day of each calendar quarter
11 during the calendar year;
- 12 9. The maximum approved costs that may be recovered by the approved
13 companies for reinvestment projects established during the calendar
14 year;
- 15 10. The number of approved companies that may impose wage assessment
16 against employees as an inducement;
- 17 11. Actions taken by the Cabinet for Economic Development during the
18 calendar year to ensure that the number of employees have been hired
19 or retained and the amount of eligible equipment and other costs have
20 been expended by all approved projects, including:
- 21 a. The number of phone calls made;
- 22 b. The number of memoranda issued;
- 23 c. The number of site visits made;
- 24 d. The number of audits conducted; and
- 25 e. Any other actions taken;
- 26 12. A map depicting the location within the Commonwealth for all
27 projects that have received final approval for a reinvestment project;

1 **13. The total amount of inducements awarded for reinvestment projects**
 2 **located in an enhanced incentive county; and**

3 **14. The total amount of inducements awarded for reinvestment projects**
 4 **located outside an enhanced incentive county.**

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

7 1. Incur eligible equipment and related costs of at least **one million dollars**
 8 **(\$1,000,000) for leased projects and at least** two million five hundred
 9 thousand dollars (\$2,500,000) **for all other reinvestment projects;**

10 2. Agree to maintain a full-time employment base of at least eighty-five
 11 percent (85%) at the facility on the date of preliminary approval; and

12 3. Not have been awarded incentives under Subchapter 26 of this chapter
 13 for a period of at least five (5) years prior to applying for incentives
 14 under this subchapter.

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

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

24 **(a)** Tax incentives of up to one hundred percent (100%) of the Kentucky income
 25 tax imposed under KRS 141.020 or 141.040 and the limited liability entity tax
 26 imposed under KRS 141.0401 on the income, Kentucky gross profits, or
 27 Kentucky gross receipts of the approved company generated by or arising

1 from the eligible project, as set forth in KRS 154.34-120; and
2 (b) Wage assessments against the gross wages of each employee subject to the
3 Kentucky income tax imposed by KRS 141.020, whose job was created or
4 preserved as a result of the reinvestment project as provided in this
5 subchapter.

- 6 (4) The General Assembly finds and declares that:
- 7 (a) The general welfare and material well-being of the citizens of the
8 Commonwealth depend in large measure upon the reinvestment and
9 development of existing industry in the Commonwealth;
- 10 (b) It is in the best interest of the Commonwealth to induce reinvestment in
11 existing~~[manufacturing]~~ facilities of eligible companies within the
12 Commonwealth in order to advance the public purposes of relieving
13 unemployment by preserving jobs that may be lost if not for the incentives to
14 be offered by the authority to approved companies, and by preserving and
15 creating sources of tax revenues for the support of public services provided by
16 the Commonwealth; and
- 17 (c) The authority prescribed by this subchapter and the purposes to be
18 accomplished under this subchapter are proper governmental and public
19 purposes for which public moneys may be expended.

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

- 21 (1) Except as provided in subsection (5) of this section, for taxable years beginning
22 after December 31, 2009, an approved company may be eligible for a nonrefundable
23 credit of up to one hundred percent (100%) of the Kentucky income tax imposed
24 under KRS 141.020 or 141.040, and the limited liability entity tax imposed under
25 KRS 141.0401 that would otherwise be owed by the approved company to the
26 Commonwealth for the approved company's tax year, on the income, Kentucky
27 gross profits, or Kentucky gross receipts of the approved company generated by or

1 arising from the reinvestment project.

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

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

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

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

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

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

27 ➔SECTION 11. A NEW SECTION OF SUBCHAPTER 34 OF KRS CHAPTER

1 154 IS CREATED TO READ AS FOLLOWS:

- 2 (1) An approved company may impose wage assessments against employees as
3 provided in this section if a wage assessment is included in the inducements
4 awarded to the approved company in the reinvestment agreement. The level of
5 wage assessment shall be negotiated as part of the reinvestment agreement.
- 6 (2) If a reinvestment project is located in an enhanced incentive county, the approved
7 company may require that each employee subject to the Kentucky income tax
8 imposed by KRS 141.020, whose job is determined by the authority to be created
9 or preserved as a result of the reinvestment project, as a condition of employment,
10 or retention of employment, agree to an assessment of up to one percent (1%) of
11 taxable wages.
- 12 (3) (a) If the reinvestment project is not located in an enhanced incentive county,
13 and is located in a local jurisdiction where:
- 14 1. No local occupational license fee is imposed; or
15 2. a. A local occupational license fee greater than or equal to a
16 quarter of one percent (0.25%) is imposed; and
17 b. The local jurisdiction agrees to forgo a quarter of one percent
18 (0.25%) through credits against the local occupational license
19 fee for the affected employees; then
- 20 (b) An approved company may require that each employee subject to tax
21 imposed by KRS 141.020, whose job is determined by the authority to be
22 created or preserved as a result of the reinvestment project, as a condition of
23 employment, agree to pay an assessment of up to one-half of one percent
24 (0.5%) of taxable wages.
- 25 (4) (a) If the reinvestment project is not located in an enhanced incentive county,
26 and is located in a local jurisdiction where:
- 27 1. The local occupational license fee is less than a quarter of one percent

1 (0.25%); and

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

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

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

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

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

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

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

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

24 3. Add the result from subparagraph 2. of this paragraph to the local
25 occupational license fee that the local jurisdiction has agreed to forgo.

26 (6) (a) If the reinvestment project is not located in an enhanced incentive county,
27 and is located in a county where:

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

- 1 shall review all requests for a waiver, and may waive the local occupational
2 license fee requirements and instead require the local jurisdiction to provide
3 alternative inducements of similar value if the authority determines that the
4 circumstances warrant an alternative contribution by the local jurisdiction.
- 5 (8) Each employee paying the assessment shall simultaneously be entitled to a credit
6 against the Kentucky individual income tax required to be withheld under KRS
7 141.310 equal to the state portion of the assessment and shall be entitled to a
8 credit against the local occupational license tax equal to the local portion of the
9 assessment.
- 10 (9) If more than one (1) local jurisdiction imposes an occupational license fee, the
11 local jurisdiction portion of the assessment shall be prorated proportionately
12 among the taxes imposed by the local jurisdictions unless one (1) local
13 jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the
14 local jurisdiction portion of the wage assessment, in which case no proration
15 shall be made.
- 16 (10) If an approved company elects to impose the assessment as a condition of
17 employment, or retention of employment, it shall be authorized to deduct the
18 assessment from each payment of wages to the employee.
- 19 (11) Notwithstanding KRS 131.183(3), if an approved company elects not to deduct
20 the assessment from each payment of wages to the employee, but rather requests
21 a reimbursement of state tax imposed by KRS 141.020 or local occupational tax
22 in the aggregate after they have been paid to the state or local jurisdiction, no
23 interest shall be paid by the state or by the local jurisdiction on that
24 reimbursement.
- 25 (12) No credit, or portion thereof, shall be allowed against any occupational license
26 fee imposed by or dedicated solely to the board of education in a local
27 jurisdiction.

1 **(13) An approved company imposing an assessment shall make its payroll, books, and**
 2 **records available to the authority or the department upon request, and shall file**
 3 **with the authority or department documentation pertaining to the assessment as**
 4 **the authority or department may require.**

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

8 ➔SECTION 12. A NEW SECTION OF SUBCHAPTER 34 OF KRS CHAPTER
 9 154 IS CREATED TO READ AS FOLLOWS:

10 **No applications for inducements in this subchapter shall be accepted by the authority**
 11 **after December 31, 2022. All outstanding projects receiving final approval before**
 12 **January 1, 2024, shall continue to be governed by the provisions of this subchapter.**

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

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

17 (1) The nonrefundable business incentive credits against the tax imposed by KRS
 18 141.020 shall be taken in the following order:

- 19 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 20 (b) The economic development credits computed under KRS 141.347, 141.381,
 21 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, **Section 3 of this Act,**
 22 154.12-207, and 154.12-2088;
- 23 (c) The qualified farming operation credit permitted by KRS 141.412;
- 24 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 25 (e) The health insurance credit permitted by KRS 141.062;
- 26 (f) The tax paid to other states credit permitted by KRS 141.070;
- 27 (g) The credit for hiring the unemployed permitted by KRS 141.065;

- 1 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 2 (i) The tax credit for cash contributions in 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 research facilities credit permitted by KRS 141.395;
- 6 (k) The employer High School Equivalency Diploma program incentive credit
- 7 permitted under KRS 164.0062;
- 8 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 9 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 10 (n) The clean coal incentive credit permitted by KRS 141.428;
- 11 (o) The ethanol credit permitted by KRS 141.4242;
- 12 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 13 (q) The energy efficiency credits permitted by KRS 141.436;
- 14 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 15 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 16 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 17 (u) The distilled spirits credit permitted by KRS 141.389;
- 18 (v) The angel investor credit permitted by KRS 141.396;
- 19 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 20 on or after April 27, 2018; and
- 21 (x) The inventory credit permitted by KRS 141.408.
- 22 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 23 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 24 shall be taken in the following order:
- 25 (a) The individual credits permitted by KRS 141.020(3);
- 26 (b) The credit permitted by KRS 141.066;
- 27 (c) The tuition credit permitted by KRS 141.069; and

- 1 (d) The household and dependent care credit permitted by KRS 141.067.
- 2 (3) After the application of the nonrefundable credits provided for in subsection (2) of
3 this section, 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) The certified rehabilitation credit permitted by KRS 171.3961 and
8 171.397(1)(b); and
- 9 (d) The film industry tax credit permitted by KRS 141.383 for applications
10 approved prior to April 27, 2018.
- 11 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
12 tax imposed by KRS 141.040.
- 13 (5) The following nonrefundable credits shall be applied against the sum of the tax
14 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
15 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 16 (a) The economic development credits computed under KRS 141.347, 141.381,
17 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, Section 3 of this Act,
18 154.12-207, and 154.12-2088;
- 19 (b) The qualified farming operation credit permitted by KRS 141.412;
- 20 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 21 (d) The health insurance credit permitted by KRS 141.062;
- 22 (e) The unemployment credit permitted by KRS 141.065;
- 23 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 24 (g) The coal conversion credit permitted by KRS 141.041;
- 25 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
26 ending prior to January 1, 2008;
- 27 (i) The tax credit for cash contributions to investment funds permitted by KRS

- 1 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
2 154.20-258;
- 3 (j) The research facilities credit permitted by KRS 141.395;
- 4 (k) The employer High School Equivalency Diploma program incentive credit
5 permitted by KRS 164.0062;
- 6 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 7 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 8 (n) The clean coal incentive credit permitted by KRS 141.428;
- 9 (o) The ethanol credit permitted by KRS 141.4242;
- 10 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 11 (q) The energy efficiency credits permitted by KRS 141.436;
- 12 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
13 permitted by KRS 141.437;
- 14 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 15 (t) The railroad expansion credit permitted by KRS 141.386;
- 16 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 17 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 18 (w) The distilled spirits credit permitted by KRS 141.389;
- 19 (x) The film industry credit permitted by KRS 141.383 for applications approved
20 on or after April 27, 2018; and
- 21 (y) The inventory credit permitted by KRS 141.408.
- 22 (6) After the application of the nonrefundable credits in subsection (5) of this section,
23 the refundable credits shall be taken in the following order:
- 24 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 25 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
26 171.397(1)(b); and
- 27 (c) The film industry tax credit permitted by KRS 141.383 for applications

1 approved prior to April 27, 2018.

2 ➔Section 14. KRS 131.190 is amended to read as follows:

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

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

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

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

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

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

24 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
25 energy resources assessed under KRS 132.820, or owners of surface land
26 under which the unmined minerals lie, factual information about the owner's
27 property derived from third-party returns filed for that owner's property, under

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

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

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

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

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

21 (j) Providing information to the Legislative Research Commission under:
22 1. KRS 139.519 for purposes of the sales and use tax refund on building
23 materials used for disaster recovery;
24 2. KRS 141.436 for purposes of the energy efficiency products credits;
25 3. KRS 141.437 for purposes of the ENERGY STAR home and the
26 ENERGY STAR manufactured home credits;
27 4. KRS 148.544 for purposes of the film industry incentives;

- 1 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 2 tax credits and the job assessment fees;
- 3 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 4 7. KRS 141.396 for purposes of the angel investor tax credit;
- 5 8. KRS 141.389 for purposes of the distilled spirits credit;~~[-and]~~
- 6 9. KRS 141.408 for purposes of the inventory credit; **and**

7 **10. Section 3 of this Act for purposes of the reinvestment project credit.**

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

1 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
2 out parcel areas. These electronic maps shall not be relied upon to determine actual
3 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
4 required under KRS Chapters 350 and 352 shall not be construed to constitute land
5 surveying or boundary surveys as defined by KRS 322.010 and any administrative
6 regulations promulgated thereto.

7 ➔Section 15. Whereas qualifying for tax credits related to economic development
8 programs is important for Kentucky businesses, an emergency is declared to exist, and
9 this Act takes effect upon its passage and approval by the Governor or upon its otherwise
10 becoming a law.