

1 AN ACT relating to economic development.

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

3 ➔Section 1. KRS 56.440 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Commission" means the State Property and Buildings Commission;
- 6 (2) "Real estate" includes lands together with improvements thereon and appurtenances
7 thereto;
- 8 (3) "Building" includes any structure or improvement upon real estate of a permanent
9 nature and additionally includes any sites, structures, equipment, machinery, or
10 devices for the purpose of establishing, developing, or furthering television or
11 related services in aid of education or in aid of any other proper public functions,
12 whether or not the same would otherwise be legally defined as buildings; but only
13 (except for industrial development projects) if used or to be used by the
14 Commonwealth of Kentucky or one (1) of its departments or agencies (not
15 including independent municipal corporations or political subdivisions);
- 16 (4) "Building project" includes the acquisition of any real estate and the acquisition,
17 construction, reconstruction, and structural maintenance of buildings, the
18 installation of utility services, including roads and sewers, and the purchase and
19 installation of equipment, facilities, and furnishings of a permanent nature for
20 buildings; the purchase and installation initially of movable equipment, furnishings,
21 and appurtenances necessary to make a building operable; and for television or
22 related purposes as referred to in subsection (3) of this section, for use by the state
23 government or one (1) of its departments or agencies, not including any independent
24 municipal corporation or political subdivision, or any other capital outlay program
25 authorized by any branch budget bill or other legislation;
- 26 (5) "Industrial development project" means and includes the acquisition of any real
27 estate and the construction, acquisition, and installation thereon and with respect

1 thereto of improvements and facilities necessary and useful for the improvement of
2 such real estate for conveyance to or lease to industrial entities to be used for
3 manufacturing, processing, or assembling purposes, including surveys, site tests and
4 inspections, subsurface site work, excavation, removal of structures, roadways,
5 cemeteries, and other surface obstructions, filling, grading and provision of
6 drainage, storm water detention, installation of utilities such as water, sewer,
7 sewage treatment, gas, electricity, communication, and other similar facilities, off-
8 site construction of utility extensions to the boundaries of such real estate,
9 construction and installation of buildings, including buildings to be used for worker
10 training and education, rail facilities, roads, sidewalks, curbs, and other
11 improvements to such real estate necessary to its manufacturing, processing, or
12 assembling use by industrial entities; provided that an industrial entity must have
13 agreed with the commission, prior to the financing of an industrial development
14 project, to develop, in conjunction with such industrial development project,
15 manufacturing, processing, or assembling facilities satisfactory to the commission;

16 (6) "Industrial entity" means any corporation, partnership, person, or other legal entity,
17 whether domestic or foreign, which will itself or through its subsidiaries and
18 affiliates construct and develop a manufacturing, processing, or assembling facility
19 on the site of an industrial development project financed pursuant to this chapter;

20 (7) "Incremental taxes" means, for any fiscal year of the Commonwealth, that amount
21 of money which is equal to all tax revenues received by the Commonwealth, as
22 taxing entity, during such fiscal year in respect of an industrial development project
23 and improvements and equipment thereon and the products thereof, and activities
24 carried out by the occupants and users of such industrial development project,
25 minus an amount equal to all tax revenues received by the Commonwealth, as
26 taxing entity, in respect of the site of the industrial development project and the
27 same type of taxable properties and activities during the fiscal year immediately

1 preceding the fiscal year during which construction of the improvements undertaken
2 by an industrial entity as a result of the financing of such industrial development
3 project commenced. Incremental taxes shall include such tax revenues as state
4 corporate income taxes, state income taxes paid by employees of manufacturing,
5 processing, and assembling facilities developed on the site of an industrial
6 development project, state property taxes, state corporation license taxes, and state
7 sales and use taxes, but shall not include any taxes levied specifically for
8 educational purposes;

9 (8) "State agency" means any state administrative body, agency, department, or division
10 as defined in KRS 42.005, or any board, commission, institution, or division
11 exercising any function of the state but which is not an independent municipal
12 corporation or political subdivision;

13 (9) "Cabinet" means the Finance and Administration Cabinet;

14 (10) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite
15 (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and
16 actinolite;

17 (11) "Asbestos-containing material" means any material which contains more than one
18 percent (1%) asbestos by weight;

19 (12) "Friable material" means any material applied onto ceilings, walls, structural
20 members, piping, ductwork, or any other part of the building structure which, when
21 dry, may be crumbled, pulverized, or reduced to powder by hand pressure;

22 (13) "Meeting" means all gatherings of every kind, including video teleconferences;

23 (14) "Video teleconference" means one (1) meeting, occurring in two (2) or more
24 locations, where individuals can see and hear each other by means of video and
25 audio equipment;

26 (15) "Writing" or "written" shall mean letters, words, or numbers, or their equivalent, set
27 down by handwriting, typewriting, printing, photostating, photographing, magnetic

1 impulse, mechanical or electronic recording, or other form of data compilation;

2 (16) "Branch budget" shall have the same meaning as in KRS 48.010;~~and~~

3 (17) "Reverse auction" shall have the same meaning as in KRS 45A.070;

4 **(18) "'Headquarters' means the principal office where the principal executives of the**
 5 **entity are located and from which other personnel, branches, affiliates, offices, or**
 6 **entities are controlled;**

7 **(19) "Nonretail service and technology project" means and includes the acquisition of**
 8 **any real estate and the construction, acquisition, equipping, and installation**
 9 **thereon and with respect thereto of improvements and facilities necessary and**
 10 **useful for the improvement of that real estate for conveyance to or lease to**
 11 **nonretail service and technology entities to be used for call centers, centralized**
 12 **administrative or processing centers, telephone or Internet sales order or**
 13 **processing centers, distribution or fulfillment centers, data processing centers,**
 14 **research and development facilities, or other similar activities; and**

15 **(20) "Nonretail service and technology entity" means any corporation, partnership,**
 16 **person, or other legal entity, whether domestic or foreign, which will itself or**
 17 **through its subsidiaries and affiliates operate call centers, centralized**
 18 **administrative or processing centers, telephone or Internet sales order or**
 19 **processing centers, distribution or fulfillment centers, data processing centers,**
 20 **and research and development facilities, or conduct other similar activities.**

21 ➔Section 2. KRS 56.510 is amended to read as follows:

22 (1) In carrying out the purposes of this chapter, and in providing for the expenditure of
 23 funds for the acquisition of real estate or for a building project for the state or for
 24 any state agency, the cabinet may find that the cost may be paid in whole or in part:

25 (a) Out of the funds appropriated specifically for capital outlay purposes;

26 (b) Out of funds directly appropriated to the involved state agency which may
 27 legally be available for the purpose;

- 1 (c) Out of funds derived or which may be derived by the issuance and sale of
2 revenue bonds by the commission (but only for the purpose of acquiring
3 property for use by the state government or one of its departments or agencies,
4 but not including any independent municipal corporation or political
5 subdivision); or
- 6 (d) By any one (1) or a combination of said methods of financing. Any such
7 findings providing for the issuance and sale of bonds shall be submitted to the
8 commission for final determination. When any funds appropriated to or
9 standing to the credit of a particular state agency are to be used for a purpose
10 of the character above contemplated, the head of the agency may direct that
11 the funds be transferred to the credit of the Finance and Administration
12 Cabinet and made available for expenditure by the Finance and
13 Administration Cabinet for the agreed purpose. Industrial development,
14 headquarters, or nonretail service and technology projects may be financed
15 by the issuance of revenue bonds of the commission only at the request of the
16 Cabinet for Economic Development, subject to the provisions of subsection
17 (3) of this section.
- 18 (2) In any case where the expenditures for the acquisition of real estate or for a building
19 project for the state or any state agency are to be financed in whole or in part by the
20 issuance or sale of revenue bonds, the commission may provide that the title to any
21 real estate which may be so acquired shall not vest in the Commonwealth until the
22 revenue bonds, together with interest thereon, have been paid in full. In such cases
23 the commission may, by agreement or in a trust indenture securing the payment of
24 such revenue bonds, provide that the title of such real estate may be vested in some
25 other state agency, or in a trustee named in such indenture, until the revenue bonds,
26 together with the interest thereon, have been paid in full. It shall be provided in any
27 such financing:

- 1 (a) That upon the retirement and discharge of the bonds, notes, or other
2 obligations issued by the commission at the direction of and on behalf of a
3 state agency, title to the public project or public projects so acquired shall vest
4 in the Commonwealth;
- 5 (b) That in the event of default with respect to such bonds, notes, or other
6 obligations, the Commonwealth shall have the exclusive option to acquire the
7 public project or public projects for the amount required to discharge such
8 bonds, notes, or other obligations, and is provided a reasonable time to
9 exercise such option;
- 10 (c) That the issuance of such bonds, notes, or other obligations shall be directed
11 by and approved by such state agency not more than sixty (60) days prior to
12 the date of issue of such obligations; and
- 13 (d) That no bonds, notes, or other obligations shall be issued by the commission
14 for and on behalf of such state agency except upon express direction of such
15 state agency.
- 16 (3) (a) In any case where the expenditures for the acquisition, installation and
17 construction of an industrial development, headquarters, or nonretail service
18 and technology project will be financed in whole or in part by the issuance or
19 sale of revenue bonds, the commission may provide that the title to the
20 industrial development, headquarters, or nonretail service and technology
21 project which may be so acquired shall be conveyed to the ~~industrial~~ entity
22 which will occupy and utilize the industrial development, headquarters, or
23 nonretail service and technology project; provided, however, that such
24 conveyance shall only be made if:
- 25 1. The subject ~~industrial~~ entity agrees in writing prior to the issuance of
26 any revenue bonds to construct and acquire in connection with the
27 industrial development, headquarters, or nonretail service and

1 **technology** project~~[manufacturing, processing and assembling]~~ facilities
2 satisfactory to the commission;

3 2. The commission makes a finding in writing, that, based upon diligent
4 investigation, the aggregate incremental taxes to be received by the
5 Commonwealth as a result of such~~[industrial development]~~ project are
6 reasonably expected, over the life of the revenue bond issue, to be at
7 least equal to the principal amount of any revenue bonds issued to
8 finance such~~[industrial development]~~ project;

9 3. The industrial development, **headquarters, or nonretail service and**
10 **technology** project is separately approved in writing by the Governor;

11 4. The industrial development, **headquarters, or nonretail service and**
12 **technology** project is separately approved and authorized by the General
13 Assembly; and

14 5. Any revenue bond proceedings for the financing of an industrial
15 development, **headquarters, or nonretail service and technology**
16 project provide that in the event of any disposition by an~~[industrial]~~
17 entity of any such~~[industrial development]~~ project previously conveyed
18 to such industrial, **headquarters, or nonretail service and technology**
19 entity prior to the collection by the Commonwealth of incremental taxes
20 in the amount specified in subparagraph 2. of this paragraph, the subject
21 industrial, **headquarters, or nonretail service and technology** entity
22 shall pay to the Commonwealth an amount equal to the difference
23 between the aggregate incremental taxes collected by the
24 Commonwealth to such date of disposition and the principal amount of
25 such revenue bonds;

26 (b) As an alternate to the initial conveyance of an industrial development,
27 **headquarters, or nonretail service and technology** project to an~~[industrial]~~

1 entity, such~~[-industrial development]~~ project may be leased to such~~[-industrial]~~
2 entity upon such terms as the commission and the Cabinet for Economic
3 Development shall determine to be proper, and in such case, subject to the
4 provisions of subparagraphs 1., 2., and 3. of paragraph (a) of this subsection,
5 provision may also be made for title to such~~[-industrial development]~~ project
6 to be conveyed to the subject~~[-industrial]~~ entity at such time as the
7 Commonwealth has collected incremental taxes in respect of the~~[-industrial~~
8 ~~development]~~ project in an amount equal to the principal amount of any
9 revenue bonds issued to finance such industrial development, **headquarters,**
10 **or nonretail service and technology** project;

11 (c) It is hereby determined and declared as a legislative finding of fact that the
12 provisions and requirements of paragraphs (a) and (b) of this subsection
13 provide for the receipt by the Commonwealth of fair market value for any
14 industrial development, **headquarters, or nonretail service and technology**
15 project conveyed to an~~[-industrial]~~ entity pursuant to this subsection; and

16 (d) The Cabinet for Economic Development is authorized and empowered to
17 initiate industrial development, **headquarters, or nonretail service and**
18 **technology** projects and to finance such projects pursuant to the provisions of
19 this chapter. When revenue bonds are issued for the financing of any such~~[-~~
20 ~~industrial development]~~ project, the Cabinet for Economic Development is
21 authorized and empowered to enter into financing agreements or lease
22 agreements with the commission providing for the making of financing
23 payments by the Cabinet for Economic Development from appropriations
24 made to the Cabinet for Economic Development as, if and when received, for
25 the amortization of revenue bonds so issued, provided that no such obligation
26 shall be binding upon the Cabinet for Economic Development for a period
27 extending beyond the legislative biennium during which such obligation is

1 incurred, but such obligation may be renewed during successive biennial
2 periods by the Cabinet for Economic Development. The issuance of any
3 revenue bonds, notes or other obligations for the financing of industrial
4 development, headquarters, or nonretail service and technology projects
5 shall be directed by and approved by the Cabinet for Economic Development
6 not more than sixty (60) days prior to the date of the issue of such obligations,
7 and no bonds, notes or other obligations shall be issued by the commission for
8 and on behalf of the Cabinet for Economic Development, except upon such
9 express direction and upon compliance with this subsection. Any portion of an
10 industrial development, headquarters, or nonretail service and technology
11 project may be financed by a city or county of the Commonwealth in the same
12 manner as a financing by the commission under this section, KRS 56.513 and
13 56.514 or pursuant to the statutory authority of such city or county. In such
14 event, the Cabinet for Economic Development may enter into similar
15 financing agreements or lease agreements with such city or county in order to
16 make proper provision for such financing.

17 (4) The cabinet, in providing for the expenditure of funds for any of the purposes
18 mentioned in this section, or the commission in providing for the issuance and sale
19 of revenue bonds, shall have power to provide by agreement with the state agency
20 affected, or by provision in the trust indenture securing the bonds, such terms and
21 conditions as may be considered appropriate and reasonable so as to permit either
22 the leasing to, and use by, any state agency of any building project or the
23 conveyance or lease of any industrial, headquarters, or nonretail service and
24 technology development project to any ~~industrial~~ entity, any such building project
25 to be paid for by such state agency either:

- 26 (a) From its own appropriation;
- 27 (b) By the issuance of revenue bonds; or

1 (c) By means of a proposal to pay a rental for the use of all or any part of any
2 building proposed to be constructed and any such industrial, headquarters, or
3 nonretail service and technology development project to be paid for by the
4 Cabinet for Economic Development by the issuance of revenue bonds of the
5 commission, subject to the provisions of subsection (3) of this section, and
6 amortization of such revenue bonds by the Cabinet for Economic
7 Development.

8 The cabinet or the commission, in making any such lease agreement or financing
9 agreement, or in making provision in any trust indenture securing revenue bonds, is
10 authorized and empowered to lease all or any part of the facility financed for such
11 term and upon such conditions and for such considerations or enter into financing
12 agreements with the Cabinet for Economic Development in respect of any industrial
13 development, headquarters, or nonretail service and technology project as may
14 appear to be in the public interest.

15 ➔Section 3. KRS 65.7049 is amended to read as follows:

16 Any city or county may establish a development area pursuant to this section, KRS
17 65.7051, and 65.7053 to encourage investment and reinvestment in and development, use,
18 and reuse of areas of the city or county under the following conditions:

- 19 (1) The area shall be contiguous and shall be no more than three (3) square miles;
- 20 (2) The establishment or expansion of the development area shall not cause the
21 assessed value of taxable real property within all development areas and local
22 development areas of the city or county establishing the development area to exceed
23 twenty percent (20%) of the assessed value of all taxable real property within its
24 jurisdiction. For the purpose of determining whether the twenty percent (20%)
25 threshold has been met, the assessed value of taxable real property within all of the
26 development areas and local development areas shall be valued as of the
27 establishment date;

1 (3) The governing body of the city or county shall determine that the development area
2 either:

3 (a) Has two (2) or more of the following conditions:

- 4 1. Substantial loss of residential, commercial, or industrial activity or use;
- 5 2. Forty percent (40%) or more of the households are low-income
6 households;
- 7 3. More than fifty percent (50%) of residential, commercial, or industrial
8 structures are deteriorating or deteriorated;
- 9 4. Substantial abandonment of residential, commercial, or industrial
10 structures;
- 11 5. Substantial presence of environmentally contaminated land;
- 12 6. Inadequate public improvements or substantial deterioration in public
13 infrastructure; or
- 14 7. Any combination of factors that substantially impairs or arrests the
15 growth and economic development of the city or county; impedes the
16 provision of adequate housing; impedes the development of commercial
17 or industrial property; or adversely affects public health, safety, or
18 general welfare due to the development area's present condition and use;
- 19 or

20 (b) The project meets the requirements of KRS 65.7043(2)(a)(1)b. ~~is a mixed-~~
21 ~~use development:~~

- 22 1. ~~Located in a university research park;~~
- 23 2. ~~Located within three (3) miles of a military base that houses, deploys, or~~
24 ~~employs any combination of at least twenty five thousand (25,000)~~
25 ~~military personnel, their families, military retirees, or civilian~~
26 ~~employees; or~~
- 27 3. ~~Which includes either or both significant public storm water and sanitary~~

1 ~~sewer facilities designed to comply with a community wide court decree~~
 2 ~~mandating corrective action by the local government or an agency~~
 3 ~~thereof]; and~~

4 (4) The governing body of the city or county shall find that all of the following are true
 5 for projects meeting the requirements of paragraph (a) of subsection (3) of this
 6 section:

7 (a) That the development area is not reasonably expected to be developed without
 8 public assistance. This finding shall be supported by specific reasons and
 9 supporting facts, including a clear demonstration of the financial need for
 10 public assistance; and

11 (b) That the public benefits of the development area justify the public costs
 12 proposed. This finding shall be supported by specific data and figures
 13 demonstrating that the projected benefits outweigh the anticipated costs and
 14 shall take into account the positive and negative effects of investment in the
 15 development on existing businesses and residents within the community as a
 16 whole; and

17 (c) 1. That the area immediately surrounding the development area has not
 18 been subject to growth and development through investment by private
 19 enterprise; or

20 2. If the area immediately surrounding the development area has been
 21 subject to growth and development through investment by private
 22 enterprise, the identification of special circumstances within the
 23 development area that would prevent its development without public
 24 assistance.

25 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 26 READ AS FOLLOWS:

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

- 1 (a) "Approved company" has the same meaning as in Section 11 of this Act;
- 2 (b) "Corporation" has the same meaning as in Section 11 of this Act;
- 3 (c) "Occupational upgrade training" has the same meaning as in Section 11 of
- 4 this Act;
- 5 (d) "Qualified company" has the same meaning as in Section 11 of this Act;
- 6 (e) "Skills training investment credit" has the same meaning as in Section 11
- 7 of this Act;
- 8 (f) "Skills upgrade training" has the same meaning as in Section 11 of this
- 9 Act.
- 10 (2) For taxable years beginning on or after July 1, 2022, the corporation shall not
- 11 accept applications for the skills training investment credits allowed by KRS
- 12 154.12-204 to 154.12-208.
- 13 (3) The amount of skills training investment credit awarded by the corporation under
- 14 KRS 154.12-204 to 154.12-208 shall be credited on the tax return of the approved
- 15 company in the year the corporation's closeout of approved training costs were
- 16 incurred. The skills training investment credits allowed shall only be used by the
- 17 approved company that has been awarded the credits in accordance with KRS
- 18 154.12-204 to 154.12-208. The skills training investment credits shall be applied
- 19 to the income tax imposed by KRS 141.020 or 141.040. The credit may also be
- 20 applied to the limited liability entity tax imposed by KRS 141.0401, with the order
- 21 of the credits as provided in KRS 141.0205. These credits shall be in addition to
- 22 all other tax credits granted under the laws of the Commonwealth.
- 23 (4) The skills training investment credit may be carried forward for three (3)
- 24 successive fiscal years by the approved company if the amount allowable as
- 25 credits exceeds the income tax liability of the approved company in the tax year
- 26 during which the final closeout of the approved training costs were incurred. Any
- 27 excess credits shall not be refundable or carried forward beyond the third fiscal

1 year.

2 (5) A qualified company shall not be entitled to receive the grant-in-aid under section
3 14 of this Act or skills training investment credits if the qualified company
4 requires the employee to reimburse the employer or otherwise pay for any costs or
5 expenses incurred in connection with the occupational upgrade training or skills
6 upgrade training.

7 (6) To the extent that any expenditures of a qualified company constitute approved
8 costs and are the basis for the skills upgrade or occupational upgrade training
9 under this Section 14 of this Act, these expenditures shall only be eligible as the
10 basis for either grants-in-aid or skills training investment credits.

11 (7) By October 1 of each year, the Department of Revenue shall certify to the
12 corporation the amount of any skills training investment credits taken pursuant
13 to Section 14 of this Act on tax returns filed during the fiscal year ending June 30
14 of that year.

15 (8) The Department of Revenue may promulgate administrative regulations in
16 accordance with KRS Chapter 13A to adopt forms and procedures for the
17 reporting of the credit authorized in KRS 154.12-204 to 154.12-208.

18 (9) (a) In order for the General Assembly to evaluate the fulfillment of the
19 purposes of this section, the department shall submit the following
20 information, related to each taxable year that a grant-in-aid under Section
21 14 of this Act or skills training investment credit is claimed on any income
22 tax return filed:

23 1. The cumulative amount of tax credits by taxable year claimed by entity
24 type, including:

25 a. Person;

26 b. Corporation;

27 c. Limited liability company;

- 1 *d. Partnership;*
 2 *e. Limited partnership,*
 3 *f. Sole proprietorship;*
 4 *g. Holding company;*
 5 *h. Joint stock company;*
 6 *i. Professional services corporation; or*
 7 *j. Any other legal entity through which business is conducted;*
 8 *2. The number of returns filed claiming a tax credit for each taxable*
 9 *year by entity type;*
 10 *3. In the case of a taxpayer other than a corporation, based on the*
 11 *mailing address of the return, the total amount of credits claimed by*
 12 *county;*
 13 *4. In the case of a taxpayer other than a corporation, based on ranges of*
 14 *adjusted gross income of no larger than five thousand dollars*
 15 *(\$5,000), the total amount of credit claimed for each adjusted gross*
 16 *income range by taxable year; and*
 17 *5. In the case of a corporation, based on ranges of net income no larger*
 18 *than fifty thousand dollars (\$50,000), the total amount of credit*
 19 *claimed for each net income range.*
 20 *(b) The report required by paragraph (a) of this subsection shall be submitted*
 21 *to the Interim Joint Committee on Appropriations and Revenue beginning*
 22 *no later than November 1, 2018, and no later than each November 1*
 23 *thereafter, as long as the skills training investment credit is claimed on any*
 24 *return processed by the department.*

25 ➔Section 5. KRS 141.0205 is amended to read as follows:

26 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
 27 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of

1 the credits shall be determined as follows:

2 (1) The nonrefundable business incentive credits against the tax imposed by KRS
3 141.020 shall be taken in the following order:

4 (a) 1. For taxable years beginning after December 31, 2004, and before
5 January 1, 2007, the corporation income tax credit permitted by KRS
6 141.420(3)(a);

7 2. For taxable years beginning after December 31, 2006, the limited
8 liability entity tax credit permitted by KRS 141.0401;

9 (b) The economic development credits computed under KRS 141.347, 141.381,
10 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, Section 14
11 of this Act, 154.12-2088, and 154.27-080;

12 (c) The qualified farming operation credit permitted by KRS 141.412;

13 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

14 (e) The health insurance credit permitted by KRS 141.062;

15 (f) The tax paid to other states credit permitted by KRS 141.070;

16 (g) The credit for hiring the unemployed permitted by KRS 141.065;

17 (h) The recycling or composting equipment credit permitted by KRS 141.390;

18 (i) The tax credit for cash contributions in investment funds permitted by KRS
19 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
20 154.20-258;

21 (j) The coal incentive credit permitted under KRS 141.0405;

22 (k) The research facilities credit permitted under KRS 141.395;

23 (l) The employer High School Equivalency Diploma program incentive credit
24 permitted under KRS 164.0062;

25 (m) The voluntary environmental remediation credit permitted by KRS 141.418;

26 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;

27 ~~{(o) The environmental stewardship credit permitted by KRS 154.48-025;}~~

- 1 ~~(o)~~~~(p)~~ The clean coal incentive credit permitted by KRS 141.428;
- 2 ~~(p)~~~~(q)~~ The ethanol credit permitted by KRS 141.4242;
- 3 ~~(q)~~~~(r)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- 4 ~~(r)~~~~(s)~~ The energy efficiency credits permitted by KRS 141.436;
- 5 ~~(s)~~~~(t)~~ The railroad maintenance and improvement credit permitted by KRS
- 6 141.385;
- 7 ~~(t)~~~~(u)~~ The Endow Kentucky credit permitted by KRS 141.438;
- 8 ~~(u)~~~~(v)~~ The New Markets Development Program credit permitted by KRS
- 9 141.434;
- 10 ~~(v)~~~~(w)~~ The food donation credit permitted by KRS 141.392;
- 11 ~~(w)~~~~(x)~~ The distilled spirits credit permitted by KRS 141.389; and
- 12 ~~(x)~~~~(y)~~ The angel investor credit permitted by KRS 141.396.
- 13 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 14 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 15 shall be taken in the following order:
- 16 (a) The individual credits permitted by KRS 141.020(3);
- 17 (b) The credit permitted by KRS 141.066;
- 18 (c) The tuition credit permitted by KRS 141.069;
- 19 (d) The household and dependent care credit permitted by KRS 141.067; and
- 20 (e) The new home credit permitted by KRS 141.388.
- 21 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 22 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 23 taken in the following order:
- 24 (a) The individual withholding tax credit permitted by KRS 141.350;
- 25 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 26 (c) For taxable years beginning after December 31, 2004, and before January 1,
- 27 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);

- 1 (d) The certified rehabilitation credit permitted by KRS 171.3961 and
2 171.397(1)(b); and
- 3 (e) The film industry tax credit allowed by KRS 141.383.
- 4 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
5 tax imposed by KRS 141.040.
- 6 (5) The following nonrefundable credits shall be applied against the sum of the tax
7 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
8 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 9 (a) The economic development credits computed under KRS 141.347, 141.381,
10 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, Section 14
11 of this Act, 154.12-2088, and 154.27-080;
- 12 (b) The qualified farming operation credit permitted by KRS 141.412;
- 13 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 14 (d) The health insurance credit permitted by KRS 141.062;
- 15 (e) The unemployment credit permitted by KRS 141.065;
- 16 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 17 (g) The coal conversion credit permitted by KRS 141.041;
- 18 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
19 ending prior to January 1, 2008;
- 20 (i) The tax credit for cash contributions to investment funds permitted by KRS
21 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
22 154.20-258;
- 23 (j) The coal incentive credit permitted under KRS 141.0405;
- 24 (k) The research facilities credit permitted under KRS 141.395;
- 25 (l) The employer High School Equivalency Diploma program incentive credit
26 permitted under KRS 164.0062;
- 27 (m) The voluntary environmental remediation credit permitted by KRS 141.418;

- 1 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 2 ~~[(o) The environmental stewardship credit permitted by KRS 154.48-025;]~~
 3 ~~[(p)]~~ The clean coal incentive credit permitted by KRS 141.428;
 4 ~~[(q)]~~ The ethanol credit permitted by KRS 141.4242;
 5 ~~[(r)]~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 6 ~~[(s)]~~ The energy efficiency credits permitted by KRS 141.436;
 7 ~~[(t)]~~ The ENERGY STAR home or ENERGY STAR manufactured home
 8 credit permitted by KRS 141.437;
 9 ~~[(u)]~~ The railroad maintenance and improvement credit permitted by KRS
 10 141.385;
 11 ~~[(v)]~~ The railroad expansion credit permitted by KRS 141.386;
 12 ~~[(w)]~~ The Endow Kentucky credit permitted by KRS 141.438;
 13 ~~[(x)]~~ The New Markets Development Program credit permitted by KRS
 14 141.434;
 15 ~~[(y)]~~ The food donation credit permitted by KRS 141.392; and
 16 ~~[(z)]~~ The distilled spirits credit permitted by KRS 141.389.
- 17 (6) After the application of the nonrefundable credits in subsection (5) of this section,
 18 the refundable credits shall be taken in the following order:
- 19 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 20 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
 21 171.397(1)(b); and
 22 (c) The film industry tax credit allowed in KRS 141.383.
- 23 ➔Section 6. KRS 148.546 is amended to read as follows:
- 24 (1) An eligible company shall, at least thirty (30) days prior to incurring any
 25 expenditure for which recovery will be sought, file an application for tax incentives
 26 with the office. The application shall include:
- 27 (a) The name and address of the applicant;

- 1 (b) Verification that the applicant is a Kentucky-based company;
- 2 (c) The production script or a detailed synopsis of the script;
- 3 (d) The locations where the filming or production will occur;
- 4 (e) The anticipated date on which filming or production shall begin;
- 5 (f) The anticipated date on which the production will be completed;
- 6 (g) The total anticipated qualifying expenditures;
- 7 (h) The total anticipated qualifying payroll expenditures for resident and
- 8 nonresident above-the-line crew by county;
- 9 (i) The total anticipated qualifying payroll expenditures for resident and
- 10 nonresident below-the-line crew by county;
- 11 (j) The address of a Kentucky location at which records of the production will be
- 12 kept;
- 13 (k) An affirmation that if not for the incentive offered under KRS 148.542 to
- 14 148.546, the eligible company would not film or produce the production in the
- 15 Commonwealth; and
- 16 (l) Any other information the office may require.
- 17 (2) The office shall notify the eligible company within thirty (30) days after receiving
- 18 the application of its status.
- 19 (3) (a) Upon review of the application and any additional information submitted, the
- 20 office shall present the application and its recommendation to the Tourism
- 21 Development Finance Authority established by KRS 148.850 which may, by
- 22 resolution, authorize the execution of a tax incentive agreement between the
- 23 Tourism Development Finance Authority and the approved company.
- 24 (b) 1. The total amount of tax credits authorized by the Tourism Development
- 25 Finance Authority during fiscal year 2010-2011 shall not exceed five
- 26 million dollars (\$5,000,000).
- 27 2. The total amount of tax credits authorized by the Tourism Development

1 Finance Authority during the fiscal year 2011-2012 shall not exceed
2 seven million five hundred thousand dollars (\$7,500,000).

- 3 (4) The tax incentive agreement shall include the following provisions:
- 4 (a) The duties and responsibilities of the parties;
 - 5 (b) A detailed description of the motion picture or entertainment production for
6 which incentives are requested;
 - 7 (c) The anticipated qualifying expenditures and qualifying payroll expenditures
8 for resident and nonresident above-the-line and below-the-line crews by
9 county;
 - 10 (d) The minimum combined total of qualifying expenditures and qualifying
11 payroll expenditures necessary for the approved company to qualify for
12 incentives;
 - 13 (e) That the approved company shall have no more than two (2) years from the
14 date the tax incentive agreement is executed to start the motion picture or
15 entertainment production;
 - 16 (f) That the approved company shall have no more than four (4) years from the
17 execution of the tax incentive agreement to complete the motion picture or
18 entertainment production;
 - 19 (g) That the motion picture or entertainment production shall not include obscene
20 materials and shall not negatively impact the economy or the tourism industry
21 of the Commonwealth;
 - 22 (h) That the execution of the agreement is not a guarantee of tax incentives and
23 that actual receipt of the incentives shall be contingent upon the approved
24 company meeting the requirements established by the tax incentive
25 agreement;
 - 26 (i) That the approved company shall submit to the office within one hundred
27 eighty (180) days of the completion of the motion picture or entertainment

- 1 production a detailed cost report of the qualifying expenditures, qualifying
2 payroll expenditures, and final script;
- 3 (j) That the approved company shall provide the office with documentation that
4 the approved company has withheld income tax as required by KRS 141.310
5 on all qualified payroll expenditures for which an incentive under KRS
6 141.383 and 148.544 is sought;
- 7 (k) That, if the office determines that the approved company has failed to comply
8 with any of its obligations under the tax incentive agreement:
- 9 1. The office may deny the incentives available to the approved company;
 - 10 2. Both the office and the cabinet may pursue any remedy provided under
11 the tax incentive agreement;
 - 12 3. The office may terminate the tax incentive agreement; and
 - 13 4. Both the office and the cabinet may pursue any other remedy at law to
14 which it may be entitled;
- 15 (l) That the office shall monitor the tax incentive agreement;
- 16 (m) That the approved company shall provide to the office and the cabinet all
17 information necessary to monitor the tax incentive agreement;
- 18 (n) That the office may share information with the cabinet or any other entity the
19 office determines is necessary for the purposes of monitoring and enforcing
20 the terms of the tax incentive agreement;
- 21 (o) That the motion picture or entertainment production shall contain an
22 acknowledgment that the motion picture or entertainment production was
23 produced or filmed in the Commonwealth of Kentucky;
- 24 (p) That the approved company shall include screen credits in its final production
25 that:
- 26 1. Indicate that the approved company received tax incentives from the
27 Commonwealth of Kentucky; and

- 1 2. Display the "Unbridled Spirit" logo;
- 2 (q) Terms of default;
- 3 (r) The method and procedures by which the approved company shall request and
- 4 receive the incentive provided under KRS 141.383 and 148.544;
- 5 (s) That the approved company may be required to pay an administrative fee as
- 6 authorized under subsection (5) of this section; and
- 7 (t) Any other provisions deemed necessary or appropriate by the parties to the tax
- 8 incentive agreement.
- 9 (5) The office may require the approved company to pay an administrative fee, the
- 10 amount of which shall be established by administrative regulation promulgated in
- 11 accordance with KRS Chapter 13A. The administrative fee shall not exceed one-
- 12 half of one percent (0.5%) of the estimated amount of tax incentive sought or five
- 13 hundred dollars (\$500), whichever is greater.
- 14 (6) Prior to commencement of activity as provided in a tax incentive agreement, the tax
- 15 incentive agreement shall be submitted to the Government Contract Review
- 16 Committee established by KRS 45A.705 for review, as provided in KRS 45A.695,
- 17 45A.705, and 45A.725.
- 18 (7) The office shall notify the cabinet upon approval of an approved company. The
- 19 notification shall include the name of the approved company, the name of the
- 20 motion picture or entertainment production, the estimated amount of qualifying
- 21 expenditures, the estimated date on which the approved company will complete
- 22 filming or production, and any other information required by the cabinet.
- 23 (8) Within one hundred eighty days (180) days of completion of the motion picture or
- 24 entertainment production, the approved company shall submit to the office a
- 25 detailed cost report of:
- 26 (a) Qualifying expenditures;
- 27 (b) Qualifying payroll expenditures for resident and nonresident above-the-line

- 1 crew by county;
- 2 (c) Qualifying payroll expenditures for resident and nonresident below-the-line
3 crew by county; and
- 4 (d) The final script.
- 5 (9) (a) The office, together with the secretary, shall review all information submitted
6 for accuracy and shall confirm that all relevant provisions of the tax incentive
7 agreement have been met.
- 8 (b) Upon confirmation that all requirements of the tax incentive agreement have
9 been met, the office, and the secretary shall review the final script, and if they
10 determine that the motion picture or entertainment production does not:
- 11 1. Contain visual or implied scenes that are obscene; or
12 2. Negatively impact the economy or the tourism industry of the
13 Commonwealth;
- 14 the office shall forward the detailed cost report to the cabinet for calculation
15 of the refundable credit.
- 16 (10) The cabinet shall verify that the approved company withheld the proper amount of
17 income tax on qualifying payroll expenditures, and the cabinet shall notify the
18 office of the total amount of refundable credit available on qualifying expenditures
19 and qualifying payroll expenditures.
- 20 (11) On or before October 1, 2010, and on or before each October 1 thereafter, for the
21 immediately preceding fiscal year, the office shall report to the Tourism
22 Development Finance Authority:
- 23 (a) The number of tax incentive agreements that have been executed;
- 24 (b) The estimated amount of tax incentives that have been requested under KRS
25 141.383 and 148.542 to 148.546; and
- 26 (c) The amount of tax incentives approved under KRS 139.538, 141.383, and
27 148.542 to 148.546.

- 1 (12) (a) By November 1 of each year, the authority shall **prepare**~~[file]~~ an annual
 2 report,~~[with the Governor and the Legislative Research Commission. The~~
 3 ~~report shall be submitted in cooperation with the Cabinet for Economic~~
 4 ~~Development and included in the single annual report required in KRS~~
 5 ~~154.12-2035.]~~ The report shall **be posted**~~[also be available]~~ on the Tourism,
 6 Arts and Heritage Cabinet's Web site.
- 7 (b) The report shall include information for all motion picture or entertainment
 8 production projects approved.
- 9 (c) The report shall include the following information:
- 10 1. For each approved motion picture or entertainment production project:
- 11 a. The name of the approved company and a brief description of the
 12 project;
- 13 b. The amount of approved costs included in the agreement; and
- 14 c. The total amount recovered under the tax incentive agreement;
- 15 2. The number of applications for projects submitted during the prior fiscal
 16 year;
- 17 3. The number of projects finally approved during the prior fiscal year; and
- 18 4. The total dollar amount approved for recovery for all projects approved
 19 during the prior fiscal year, and cumulatively under KRS 141.383 and
 20 148.542 to 148.546 since its inception, by year of approval.
- 21 (d) The information required to be reported under this section shall not be
 22 considered confidential taxpayer information and shall not be subject to KRS
 23 Chapter 131 or any other provisions of the Kentucky Revised Statutes
 24 prohibiting disclosure or reporting of information.

25 ➔Section 7. KRS 148.8591 is amended to read as follows:

- 26 (1) By November 1 of each year, the authority shall **prepare**~~[file]~~ an annual report~~[with~~
 27 ~~the Governor and the Legislative Research Commission].~~ The report shall be

1 ~~[submitted in cooperation with the Cabinet for Economic Development and]~~ ***posted***
2 ***to***~~[included in the single annual report required in KRS 154.12-2035. The report~~
3 ~~shall also be available on]~~ the Tourism, Arts and Heritage Cabinet's Web site.

4 (2) The report shall include information for all projects approved after June 26, 2009.

5 (3) The report shall include the following information:

6 (a) For each approved project:

7 1. The name of the approved company and a brief description of the
8 project;

9 2. The amount of approved costs included in the agreement;

10 3. The maximum amount of incentives the approved company may recover
11 over the term of the agreement;

12 4. The term of the agreement; and

13 5. The total amount recovered under the agreement, reported for both the
14 prior fiscal year and cumulatively;

15 (b) The number of applications for projects submitted during the prior fiscal year;

16 (c) The number of projects finally approved during the prior fiscal year; and

17 (d) The total dollar amount approved for recovery for all projects approved during
18 the prior fiscal year, and cumulatively under the Tourism Development Act
19 since its inception, by year of approval.

20 (4) The information required to be reported under this section shall not be considered
21 confidential taxpayer information and shall not be subject to KRS Chapter 131 or
22 any other provision of the Kentucky Revised Statutes prohibiting disclosure or
23 reporting of information.

24 ➔Section 8. KRS 154.10-050 is amended to read as follows:

25 (1) The secretary shall be the chief executive officer of the Cabinet for Economic
26 Development and shall possess the professional qualifications appropriate for that
27 office as determined by the board.

- 1 (2) The board shall set the salary of the secretary and up to two (2) additional executive
2 officers of the cabinet as determined by the board, which shall be exempt from state
3 employee salary limitations as set forth in KRS 64.640. No executive officer of the
4 cabinet shall be paid a salary greater than that of the secretary.
- 5 (3) The secretary shall be responsible for the day-to-day operations of the cabinet and
6 shall report and submit on an annual basis implementation plans to the board as
7 provided in KRS 154.10-060; ~~submit the strategic plan for economic development~~
8 ~~to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125;~~
9 ~~submit program evaluation reports to the board in accordance with the provisions of~~
10 ~~KRS 154.10-140;~~ carry out policy and program directives of the board; coordinate
11 programs of the cabinet with all other agencies of state government having
12 economic development responsibilities; hire all other personnel of the cabinet
13 consistent with state law; and carry out all other duties and responsibilities assigned
14 by state law.
- 15 (4) The secretary shall prepare and submit the proposed budget of the cabinet to the
16 chairman who shall present it to the board for final approval. Upon approval, the
17 board shall submit the proposed budget to the Governor's Office for Policy and
18 Management.
- 19 (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in
20 the performance of all assigned duties and responsibilities.
- 21 (6) The secretary shall give highest priority consideration in marketing, targeting, and
22 recruiting new businesses, in expanding existing businesses, and in recommending
23 state economic development loans, grants, and incentive programs administered by
24 the authority, to Kentucky counties which have had an average countywide rate of
25 unemployment of fifteen percent (15%) or greater in the most recent twelve (12)
26 consecutive months for which unemployment figures are available, on the basis of
27 the final unemployment figures calculated by the Office of Employment and

1 Training within the Department of Workforce Investment within the Education and
2 Workforce Development Cabinet.

3 ➔SECTION 9. A NEW SECTION OF KRS 154.12-2084 TO 154.12-2089 IS
4 CREATED TO READ AS FOLLOWS:

5 **The Bluegrass State Skills Corporation shall not accept applications for skills training**
6 **investment credits described in KRS 154.12-2084 to 154.12-2089 after the effective date**
7 **of this Act. All outstanding projects with preliminary or final approval under KRS**
8 **154.12-2084 to 154.12-2089 as of the effective date of this Act shall continue to be**
9 **governed by those provisions.**

10 ➔Section 10. KRS 154.12-100 is amended to read as follows:

11 (1) "Economic development bonds" means the bond program authorized by the General
12 Assembly for the purpose of promoting economic development within the state.

13 (2) The economic development bond program shall be administered by the secretary of
14 the Cabinet for Economic Development. The board shall promulgate administrative
15 regulations in accordance with KRS Chapter 13A for project selection criteria. The
16 project selection criteria shall include, but not be limited to, the following:

17 (a) Potential job creation or job retention;

18 (b) Degree of public or private and local involvement;

19 (c) Degree and conditions of project payback; and

20 (d) Provision of child care assistance for employees' dependents aged twelve (12)
21 years and younger. For the purpose of this section, child care assistance means
22 onsite child care, child care information and referral, the purchasing of child
23 care through vouchers or contracts, and any other form of child care assistance
24 deemed applicable by the secretary.

25 (3) Prior to submission of an economic development bond project to the Capital
26 Projects and Bond Oversight Committee, the secretary of the Cabinet for Economic
27 Development shall receive a written commitment from the public or private

1 organization which has requested state bonds outlining projected job creation and
2 retention, an investment breakdown, and overall project description. This shall be
3 submitted by the secretary to the Capital Projects and Bond Oversight Committee.
4 Subsequently, the secretary of the Cabinet for Economic Development shall execute
5 a written agreement with the public or private organizations involved expressing in
6 detail the respective obligations on the parties, which shall thereafter be
7 automatically forwarded to the committee for its records.

8 (4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding
9 from the economic development bond program, unless expressly provided in a
10 branch budget bill. Airport construction and renovation projects shall be eligible for
11 funding under this section. The secretary of the Cabinet for Economic Development
12 shall consult with the secretary of the Finance and Administration Cabinet on the
13 terms and conditions relating to the use of state economic development bonds
14 before any commitment is made on any project to any public or private
15 organization. Before any economic development bonds are issued, the proposed
16 bond issue shall be approved by the board, and the State Property and Buildings
17 Commission, under the provisions of KRS 56.450.

18 (5) Following the approval by the board, the project shall be presented by the secretary
19 of the Cabinet for Economic Development or his designee with supporting
20 documentation for review and approval at the next regularly scheduled meeting of
21 the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810 and at
22 the next regularly scheduled meeting of the State Property and Buildings
23 Commission.

24 (6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic
25 development bonds issued during any biennium shall not exceed the amount stated
26 in the biennial budget.

27 (7) **By November 1 of each year, the**~~The~~ Cabinet for Economic Development shall

1 ~~*prepare and post*~~~~[-submit]~~ an annual report to the ~~*cabinet's Web site*~~~~[-Capital~~
 2 ~~Projects and Bond Oversight Committee, and to the Governor and Legislative~~
 3 ~~Research Commission]~~ as required in KRS 154.12-2035, showing the economic
 4 development bonds issued during the previous fiscal year,~~[-and]~~ the amounts paid
 5 back, and the balance still owing with respect to loans made by the Cabinet for
 6 Economic Development with proceeds of economic development bonds during the
 7 previous five (5) fiscal years.

8 ➔Section 11. KRS 154.12-204 is amended to read as follows:

9 As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

10 (1) "Applicant" means an educational institution, business, or industry that has made
 11 application for a grant-in-aid *or skills training investment credit* as authorized by
 12 KRS 154.12-205 to 154.12-208;

13 (2) *"Approved company" means any qualified company seeking to sponsor an*
 14 *occupational upgrade training program or skills upgrade training program for*
 15 *the benefit of one (1) or more of its employees, which is approved by the*
 16 *corporation to receive grant-in-aid or skills training investment credits as*
 17 *provided by KRS 154.12-205 to 154.12-208;*

18 (3) *"Approved costs" means:*

19 (a) *Fees or salaries required to be paid to instructors who are employees of the*
 20 *approved company, instructors who are full-time, part-time, or adjunct*
 21 *instructors with an educational institution, and instructors who are*
 22 *consultants on contract with an approved company in connection with an*
 23 *occupational upgrade training program or skills upgrade training program*
 24 *sponsored by an approved company;*

25 (b) *The cost of supplies and materials used exclusively in an occupational*
 26 *upgrade training program or skills upgrade training program sponsored by*
 27 *an approved company;*

1 (c) Employee wages to be paid in connection with an occupational upgrade
 2 training program or skills upgrade training program sponsored by an
 3 approved company; and

4 (d) All other costs of a nature comparable to those described in this subsection;

5 (4) "Board" means the board of directors of the Bluegrass State Skills Corporation;

6 ~~[(3) "Business and industry" means a private corporation, limited liability company,~~
 7 ~~limited partnership, institution, firm, person, group, or other entity or association of~~
 8 ~~the same, concerned with commerce, trade, manufacturing, or the provision of~~
 9 ~~services within the Commonwealth, or a public or nonprofit hospital licensed by the~~
 10 ~~Commonwealth, or any company whose primary purpose is the sale of goods at~~
 11 ~~retail, if specific funds for grants in aid to retail business and industry are~~
 12 ~~appropriated by the General Assembly;]~~

13 (5)~~[(4)]~~ "Corporation" means the Bluegrass State Skills Corporation, or BSSC;

14 (6)~~[(5)]~~ "Educational institution" means a public or nonpublic secondary or
 15 postsecondary institution or an independent provider within the Commonwealth
 16 authorized by law to provide a program of skills training or education beyond the
 17 secondary school level or to adult persons without a high school diploma or its
 18 equivalent;

19 (7) "Employee" means any person:

20 (a) Who is currently a permanent full-time employee of the qualified company;

21 (b) Who is a resident of Kentucky, as that term is defined in KRS 141.010; and

22 (c) Who is paid the minimum base hourly wage plus employee benefits equal to
 23 or greater than fifteen percent (15%) of the minimum base hourly wage. If
 24 the qualified company does not provide employee benefits equal to at least
 25 fifteen percent (15%) of the minimum base hourly wage, the qualified
 26 company may still qualify if it provides the full-time employee total hourly
 27 compensation equal to or greater than one hundred fifteen percent (115%)

1 of the minimum base hourly wage through increased hourly wages
 2 combined with at least one (1) company-paid employee benefit;

3 ~~(8)~~~~(6)~~ "Grant-in-aid" means funding that is provided to an educational institution and
 4 qualified companies~~[business and industry]~~ by the BSSC for the development or
 5 expansion of a program as provided in this chapter;

6 (9) "Minimum base hourly wage" means the minimum wage amount paid to an
 7 employee by a qualified company, which shall not be less than one hundred fifty
 8 percent (150%) of the federal minimum wage;

9 (10) "Occupational upgrade training" means employee training sponsored by a
 10 qualified company that is designed to qualify the employee for a promotional
 11 opportunity with the qualified company;

12 ~~(11)~~~~(7)~~ "Program" or "program of skills training or education consistent with
 13 employment needs" means a coordinated course of instruction which is designed to
 14 prepare individuals for employment in a specific trade, occupation, or profession.
 15 Such instruction may include:

- 16 (a) Classroom instruction;
 17 (b) Classroom-related field, shop, factory, office, or laboratory work; and
 18 (c) Basic skills, entry level training, job upgrading, retraining, and advance
 19 training;~~[-]~~

20 (12) (a) "Qualified company" means any person, corporation, limited liability
 21 company, partnership, limited partnership, sole proprietorship, firm,
 22 enterprise, franchise, association, organization, holding company, joint
 23 stock company, professional services corporation or any other legal entity
 24 through which business is conducted that has been or is planning to be
 25 actively engaged in one (1) or more of the following activities within the
 26 Commonwealth:

27 1. Manufacturing;

- 1 2. Agribusiness;
 2 3. Nonretail service or technology;
 3 4. National or regional headquarter operations, regardless of the
 4 underlying business activity of the company; or
 5 5. Health care.

6 (b) "Qualified company" does not include companies where the primary
 7 activity to be conducted within the Commonwealth is forestry, fishing,
 8 mining, coal or mineral processing, the provision of utilities, construction,
 9 wholesale trade, retail trade, real estate, rental and leasing, accommodation
 10 and food services, or public administration services.

11 (c) Other qualified companies may be included if specific funds for grants-in-
 12 aid to retail business and industry are appropriated by the General
 13 Assembly;

14 (13) "Skills upgrade training" means employee training sponsored by a qualified
 15 company that is designed to provide the employee with new skills necessary to
 16 enhance productivity, improve performance, or retain employment, including but
 17 not limited to technical and interpersonal skills, and training that is designed to
 18 enhance computer skills, communication skills, problem solving, reading,
 19 writing, or math skills of employees who are unable to function effectively on the
 20 job due to deficiencies in these areas, are unable to advance on the job, or who
 21 risk displacement because their skill deficiencies inhibit their training potential
 22 for new technology;

23 (14) "Skills training investment credit" means the credit against Kentucky income tax
 24 imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed
 25 by KRS 141.0401, as provided in this subchapter; and

26 (15)(8) "Technical assistance" means professional and any other assistance provided
 27 by qualified companies[- business and industry] to an educational institution, which

1 is reasonably calculated to support directly the development and expansion of a
2 particular program as defined herein.

3 ➔Section 12. KRS 154.12-205 is amended to read as follows:

- 4 (1) There is hereby created an independent, de jure corporation of the Commonwealth
5 with all the general corporate powers incidental thereto which shall be known as the
6 "Bluegrass State Skills Corporation." The corporation shall be a political
7 subdivision of the state and shall be attached to the Cabinet for Economic
8 Development.
- 9 (2) The corporation is created and established to improve and promote the employment
10 opportunities of the citizens of the Commonwealth by creating and expanding
11 programs of skills training and education which meet the needs of qualified
12 companies~~[business and industry]~~.
- 13 (3) The corporation shall be governed by a board of directors consisting of eighteen
14 (18) members, including the following six (6) ex officio members: the
15 commissioner of the Department of Workforce Investment or his or her designee,
16 the secretary of the Cabinet for Economic Development, the secretary of the Labor
17 Cabinet, the president of the Council on Postsecondary Education, the secretary of
18 the Education and Workforce Development Cabinet, and the president of the
19 Kentucky Community and Technical College System. The twelve (12) other
20 members shall be appointed by the Governor, including persons having knowledge
21 and experience in business and industry, skills training, education, and minority
22 employment; and at least one (1) of the twelve (12) members shall be appointed to
23 represent labor organizations. Each member appointed by the Governor shall serve
24 for a term of four (4) years, except that in making the initial appointments, the
25 Governor shall appoint three (3) members to serve for one (1) year, three (3)
26 members to serve for two (2) years, three (3) members to serve for three (3) years,
27 and three (3) members to serve for four (4) years. All succeeding appointments shall

1 be for a term of four (4) years.

2 (4) In the event of a vacancy, the Governor may appoint a replacement member who
3 shall hold office during the remainder of the term so vacated.

4 (5) Any member may be removed from his appointment by the Governor for cause.

5 (6) The Governor shall designate a member of the board as its chairman.

6 (7) Members of the board of directors of the corporation, except for ex officio
7 members, shall be entitled to compensation for their services in the amount of one
8 hundred dollars (\$100) for each regular or special called meeting of the corporation,
9 and all members shall be entitled to reimbursement for any actual and necessary
10 expenses incurred in the performance of their duties.

11 (8) The board of directors of the corporation shall annually elect a vice chairman, a
12 secretary, and a treasurer. The secretary shall keep a record of the proceedings of the
13 corporation and shall be custodian of all books, documents, and papers filed with
14 the corporation, and its official seal.

15 (9) ~~The [secretary of the] Cabinet for Economic Development shall~~ **provide staff and**
16 **support services to the corporation** ~~[hire an executive director and establish his~~
17 ~~salary. The executive director shall be the chief administrative and operational~~
18 ~~officer of the corporation]~~ and shall direct and supervise its administrative affairs
19 and general management subject to the policies, control, and direction of the board.

20 (10) All officers and employees of the corporation having access to its funding shall give
21 bond to the corporation, at its expense, in the amount and with the surety as the
22 board may prescribe.

23 ➔Section 13. KRS 154.12-206 is amended to read as follows:

24 The corporation shall have all of the powers necessary or convenient to carry out and
25 effectuate the purposes and provisions of this chapter, including, but not limited to the
26 following:

27 (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and

- 1 to prescribe rules, regulations, and policies in connection with the performance of
2 its function and duties;
- 3 (2) To adopt an official seal;
- 4 (3) To sue and be sued in its own name;
- 5 (4) To make contracts and execute all instruments necessary or convenient for the
6 conduct of its business;
- 7 (5) To make, execute, and effectuate all agreements with any federal or state agency or
8 any person, corporation, association, partnership, or other organization or entity
9 necessary to accomplish the purposes of this chapter;
- 10 (6) To procure sufficient insurance coverage against any losses in connection with its
11 property;
- 12 (7) To accept any and all donations, grants, bequests, and devices, conditional or
13 otherwise, of money, property, service, or other things of value which may be
14 received from the United States, or any agency thereof, any governmental agency,
15 an institution, person, firm, or corporation, public and private, to be held, used, or
16 applied solely for the purposes specified in KRS 154.12-204 to 154.12-208. Receipt
17 of each donation or grant shall be detailed in the annual report of the corporation.
18 Such reports shall include the identity of the donor and the nature of the transaction;
- 19 (8) To collect and disseminate to interested individuals, in cooperation with and
20 through any agencies of federal, state, and municipal government, information
21 concerning areas of present and projected employment need, programs of skills
22 training and education consistent therewith, and any other relevant information;
- 23 (9) To provide grants-in-aid to educational institutions and approved
24 companies~~[business and industry]~~ to encourage and facilitate the formation of
25 comprehensive cooperative relationships between the public and private sectors
26 which secure for such institutions the information, technical assistance, and
27 financial support necessary for the development and significant expansion of

- 1 programs of skills training and education consistent with employment need;
- 2 (10) To prepare, publish, and distribute, with or without charge as the corporation may
- 3 determine, such technical studies, reports, bulletins, and other materials as it deems
- 4 appropriate;
- 5 (11) To organize, conduct, or sponsor special institutes, conferences, demonstrations,
- 6 and studies to effectuate the purposes of KRS 154.12-204 to 154.12-208; and
- 7 (12) To certify or decertify skills training providers, both public and private, including
- 8 their teachers and instructors as approved providers of skills training services for a
- 9 grant-in-aid.

10 ➔Section 14. KRS 154.12-207 is amended to read as follows:

- 11 (1) The corporation may, subject to appropriation from the General Assembly or from
- 12 funds made available to the corporation from any other public or private source,
- 13 provide grants-in-aid to educational institutions, and qualified companies~~[business~~
- 14 ~~and industry]~~, not in excess of two hundred thousand dollars (\$200,000) per grant-
- 15 in-aid. Such grants-in-aid shall be used exclusively for programs which are
- 16 consistent with the provisions of this chapter.
- 17 (2) *The corporation may, in accordance with KRS 154.12.204 to 154.12-208, award a*
- 18 *skills training investment credit to an approved company. The amount of the*
- 19 *skills training investment credit awarded by the corporation shall be an amount*
- 20 *equal to fifty percent (50%) of the amount of approved costs incurred by the*
- 21 *approved company in connection with its program of occupational upgrade*
- 22 *training or skills upgrade training, the credit amount not to exceed five hundred*
- 23 *dollars (\$500) per employee and, in the aggregate, not to exceed one hundred*
- 24 *thousand dollars (\$100,000) for each approved company per biennium. The*
- 25 *corporation shall only approve one (1) application per biennium for each*
- 26 *approved company.*~~[To qualify for a grant in aid in which an educational institution~~
- 27 ~~will provide training, an educational institution and a business or industry shall~~

1 submit a joint application to the corporation that contains a proposal for a program
2 of skills training and education; a description of the program; the type of skills
3 training or education to be provided; a statement of the total cost of the program and
4 breakdown of the costs associated with equipment, personnel, facilities, and
5 materials; and with respect to educational institutions only, a statement of the
6 technical assistance and financial support for the program received or pledged from
7 business and industry. To qualify for a grant-in-aid in which a provider other than
8 an educational institution will provide training, the business or industry may
9 independently submit a proposal to the corporation containing the same information
10 as set forth in this subsection.}]

11 (3) (a) To apply for a grant-in-aid or a skills training investment credit, a qualified
12 company shall submit an application to the Bluegrass State Skills
13 Corporation before commencing its program of skills upgrade or
14 occupational upgrade training. Each application shall contain information
15 the corporation requires including, but not limited to:

16 1. A proposal for a program of skills upgrade training, occupational
17 upgrade training, and education;

18 2. A description of each component of the proposed training program
19 and the number of employee training hours requested;

20 3. A statement of the total anticipated costs and expenses of the program,
21 including a breakdown of the costs associated with equipment,
22 personnel, facilities, and materials; and

23 4. With respect to educational institutions only, a statement of the
24 technical assistance and financial support for the program received or
25 pledged from a qualified company.

26 (b) To qualify for a grant-in-aid or a skills training investment credit in which
27 an educational institution will provide training, an educational institution

1 and a qualified company shall submit a joint application to the corporation.
 2 To qualify for a grant-in-aid or a skills training investment credit in which
 3 a provider other than an educational institution will provide training, the
 4 qualified company may independently submit a proposal to the corporation
 5 containing the same information as set forth in this subsection.

- 6 **(4)** Approval of the grant-in-aid and skills training investment credit application by the
 7 board shall be based upon the following criteria:
- 8 (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
- 9 (b) Participants in the program must qualify as an employee as defined by
 10 Section 11 of this Act~~[be limited to a Kentucky resident, as the term is defined~~
 11 ~~in KRS 141.010];~~
- 12 (c) The program must involve an area of skills upgrade training, occupational
 13 upgrade training, and education which is needed by a qualified
 14 company~~[business and industry]~~ and for which a shortage of qualified
 15 individuals exists within the Commonwealth;
- 16 (d) The grant-in-aid and skills training investment credit must be essential to the
 17 success of the program as the resources of the educational institution are
 18 inadequate to attract the technical assistance and financial support necessary
 19 from a qualified company~~[business and industry];~~
- 20 (e) The educational institution must have obtained a firm commitment from a
 21 qualified company~~[business and industry]~~ for the information, technical
 22 assistance, and financial support which, together with the grant-in-aid or skills
 23 investment credit, the resources of the applicant, and support from any other
 24 source, is sufficient to ensure the success of the program. In addition, the
 25 commitment of financial support from an approved company~~[business and~~
 26 ~~industry]~~ shall be equal to or greater than the amount of the requested grant-
 27 in-aid or skills training investment credit; and

1 (f) The educational institution must have established adequate auditing
2 procedures and reporting methods for the submission of information and data
3 as required by the corporation[; and]

4 ~~[(g) Ninety percent (90%) of the participants receive a base hourly wage which is
5 one hundred fifty percent (150%) of the federal minimum wage plus employee
6 benefits equal to at least fifteen percent (15%) of the applicable base hourly
7 wage, if the business and industry is located in a county of Kentucky which
8 has had an average countywide rate of unemployment of fifteen percent (15%)
9 or greater in the most recent twelve (12) consecutive months for which
10 unemployment figures are available, on the basis of the final unemployment
11 figures calculated by the Office of Employment and Training within the
12 Department of Workforce Investment within the Education and Workforce
13 Development Cabinet].~~

14 **(5) After a review of applications for grant-in-aid and skills training investment**
15 **credits, the corporation may designate the qualified company as an approved**
16 **company and approve the maximum amount of grants and skills training**
17 **investment credits the approved company is eligible to receive. The maximum**
18 **amount of skills training investment credits approved for all qualified companies**
19 **by the corporation for fiscal year 1998-1999 and fiscal year 1999-2000 shall not**
20 **exceed one million dollars (\$1,000,000) and shall not exceed two million five**
21 **hundred thousand dollars (\$2,500,000) for each fiscal year thereafter. Skills**
22 **training investment credits that remain unallocated by the corporation at the end**
23 **of its fiscal year shall lapse and shall not be carried forward to a new fiscal year.**

24 **(6) The approved company shall complete all programs of skills upgrade training or**
25 **occupational upgrade training within one (1) year from the date of approval by**
26 **the corporation and shall certify the completion of these programs to the**
27 **corporation. Once they are completed and certified and all required**

1 documentation is provided and received by the corporation, the corporation shall
 2 disburse the grant funds or notify the approved company of the final authorized
 3 skills training investment credit.

4 ➔Section 15. KRS 154.12-208 is amended to read as follows:

5 By November 1 of each year, the corporation shall ~~annually~~ prepare an ~~submit a~~
 6 ~~complete and detailed~~ annual report of its activities and make it available on the
 7 Cabinet for Economic Development Web page~~by November 1 of each year to the~~
 8 ~~Legislative Research Commission and to the Governor,~~ as required in KRS 154.12-2035.

9 The annual report shall include, but not be limited to, descriptions of all programs funded,
 10 an evaluation of the performance of each program, a summary of expenditures, and a
 11 detailed description of the participants.

12 ➔Section 16. KRS 154.12-278 is amended to read as follows:

13 (1) As used in this section, "cluster" and "knowledge-based" shall have the same
 14 meaning as in KRS 164.6011.

15 (2) The Office of Entrepreneurship shall:

16 (a) Implement the Kentucky Innovation and Commercialization Center Program
 17 as set forth in KRS 154.12-300 to 154.12-310;

18 (b) Monitor the return on investments and effectiveness of the Kentucky
 19 Innovation Act initiatives as set forth in the Strategic Plan for the New
 20 Economy and prepare an annual report ~~annually~~ by November 1 of each
 21 year. The report shall be available on~~to~~ the Cabinet for Economic
 22 Development Web page as ~~Governor and the Legislative Research~~
 23 ~~Commission, as~~ required by~~in~~ KRS 154.12-2035;

24 (c) Oversee the modernization initiative in KRS 154.12-274;

25 (d) Assist the cabinet in the recruitment of research and development companies;

26 (e) Assist the cabinet in the attraction of high-technology research and
 27 development centers;

- 1 (f) Support growth and creation of knowledge-based, innovative companies;
- 2 (g) Build the infrastructure for innovative businesses and promote networks of
3 technology-driven clusters and research intensive industries;
- 4 (h) Administer the high-tech construction pool and the high-tech investment pool;
- 5 (i) Recommend projects to the Kentucky Economic Development Finance
6 Authority for funding through the high-tech construction pool and high-tech
7 investment pool; and
- 8 (j) Review and approve the annual plan which details the annual allocation of
9 funds from the Science and Technology Funding Program, prior to the
10 Council on Postsecondary Education executing a contract with the science and
11 technology organization to administer science and technology funding
12 programs. As used in this paragraph, the Science and Technology Funding
13 Program means the Kentucky Enterprise Fund Program, the Rural Innovation
14 Program, the Kentucky Commercialization Program, The Regional
15 Technology Corporations/Innovation and Commercialization Center
16 Satellites, and the Experimental Program to Stimulate Competitive
17 Research/Kentucky Science and Engineering Foundation.
- 18 (3) The high-tech construction pool shall be used for projects with a special emphasis
19 on the creation of high-technology jobs and knowledge-based companies. The
20 executive director, in administering the high-tech construction pool, shall
21 recommend distribution of funds and projects to the Kentucky Economic
22 Development Finance Authority for its approval. The executive director shall
23 recommend any designated amount of pool funds to be set aside for any match
24 requirements. Any funds used for matching purposes may include public and private
25 funds.
- 26 (4) The high-tech investment pool shall be used to build and promote technology-
27 driven industries and research-intensive industries, as well as their related suppliers,

1 with the goal of creating clusters of innovation-driven industries in Kentucky. The
2 executive director, in administering the high-tech investment pool, shall be
3 authorized to recommend funds to be used to support loans and grants, or to secure
4 an equity or related position.

5 (5) The Kentucky Economic Development Finance Authority shall assure in their
6 approval of funding of projects that the highest priority is given to knowledge-based
7 companies in fulfillment of the purposes and intentions of the purposes of this
8 section.

9 ➔Section 17. KRS 154.12-310 is amended to read as follows:

10 (1) The Kentucky Innovation and Commercialization Centers are private-public
11 partnerships, operating as a cohesive statewide infrastructure to support the
12 implementation of key Kentucky Innovation Act initiatives.

13 (2) The organization of the ICCs shall include a central statewide headquarters ***and up***
14 ***to twelve (12) affiliate centers.*** ~~[, six (6) affiliate centers, and a number of satellite~~
15 ~~offices.]~~

16 (a) The central headquarters has primary responsibility for the following:

- 17 1. Managing and administering the ICC Program;
- 18 2. Establishing uniform program application, protocol, and operating
19 guidelines when appropriate;
- 20 3. Supporting the protocol by creating and funding centralized services to
21 be distributed throughout the network; and
- 22 4. Identifying those issues, opportunities, and challenges that have
23 statewide implications.

24 (b) The regional affiliates are responsible for fulfilling the duties as set forth in
25 KRS 154.12-305 relating to the implementation of the region's innovation
26 strategic plan and supporting the implementation of the Kentucky Innovation
27 Act initiatives in the region or subregion;

1 (c) The satellites are responsible for generating technology business development
2 in their assigned geographic area, acting as a bridge between individuals and
3 businesses needing critical early state concept and development work and the
4 affiliate centers that can provide this support.

5 The affiliates and satellites provide a valuable assurance for equal access to the
6 Kentucky Innovation Act initiatives and funding, and provide an opportunity for full
7 participation in rural and remote, as well as metropolitan, areas of the state.

8 (3) The commissioner shall have all the powers and authority, not explicitly prohibited
9 by statute, necessary and convenient to carry out and effectuate the purposes of KRS
10 154.12-300 to 154.12-310.

11 (4) The commissioner may, in effectuating the provisions of KRS 154.12-300 to
12 154.12-310, contract with a science and technology organization as defined in KRS
13 164.6011 to administer and manage the ICC Program.

14 ➔Section 18. KRS 154.12-2035 is amended to read as follows:

15 (1) The cabinet shall maintain a searchable electronic database on its Web site
16 containing information on the cost and status of the programs listed in subsection
17 (3)(a) of this section. The database shall include all projects approved at any time in
18 the last five (5) years and shall include for each, where applicable, the following
19 information:

20 (a) The name of the program, the recipient or participant, the type of project, and
21 its location by county;

22 (b) Total and approved costs of the project or investment, and the amount of
23 incentives or other benefits authorized;

24 (c) For the Kentucky Business Investment Program and the Kentucky Enterprise
25 Initiative Act, the amount of incentives or other benefits actually recovered as
26 self-reported by the recipient;

27 (d) The number of new jobs estimated and, for the Kentucky Business Investment

1 Program~~[and the Kentucky Enterprise Initiative Act]~~, actually created, along
2 with wage information for those jobs;

3 (e) Project status and the date and nature of the most recent activity; and

4 (f) Any other comparable data or information necessary to achieve transparency
5 and accountability for the specified programs.

6 (2) In addition to the electronic database required in subsection (1) of this section, the
7 cabinet shall ***prepare an***~~[submit a single]~~ annual report on the programs listed in
8 subsection (3)~~(b)~~ of this section ***and make it available on the Cabinet for***
9 ***Economic Development Web site***~~[to the Governor and the Legislative Research~~
10 ~~Commission]~~ by November 1 of each year. The report shall include all projects
11 approved in the preceding fiscal year and shall provide for these projects the
12 information specified in subsection (1) of this section plus aggregate data for each
13 program, summary evaluations of program activity and effectiveness, and anything
14 required by statute to be reported for any particular program. The report shall also
15 list all projects that were approved in prior years but active at any time in the
16 preceding fiscal year, although for these projects the report need not provide further
17 data.

18 (3) The following programs shall be subject to the reporting requirements of this
19 section:

20 (a) The electronic database required in subsection (1) of this section shall include
21 the Bluegrass State Skills Corporation, grants-in-aid and skills training
22 investment credit; Kentucky Business Investment Program; Kentucky
23 Enterprise Initiative Act; Office of Entrepreneurship programs; Incentives for
24 Energy Independence Act; Kentucky Economic Development Finance
25 Authority small business and direct loan programs;~~[Kentucky Environmental~~
26 ~~Stewardship Act;]~~ Kentucky Industrial Revitalization Act; Kentucky
27 Reinvestment Act; ***Kentucky Small Business Tax Credit***~~[small business~~

1 ~~investment credit~~; economic development bonds; Kentucky Industrial
2 Development Act; Kentucky Jobs Development Act; Kentucky Jobs Retention
3 Act;~~and~~ the Kentucky Rural Economic Development Act; and

4 (b) The~~single~~ annual report required by subsection (2) of this section shall
5 include all programs listed in paragraph (a) of this subsection plus the
6 Kentucky Investment Fund Act, ~~the Tourism Development Act, film~~
7 ~~production industry incentives,~~ and tax increment financing, state
8 participation projects.

9 (4) The cabinet shall coordinate with~~the Tourism, Arts and Heritage Cabinet and~~ any
10 other agency necessary to supply the information required by this section.

11 ➔Section 19. KRS 154.20-033 is amended to read as follows:

12 (1) The authority shall have all the powers necessary or convenient to carry out and
13 effectuate the purposes and provisions of Subchapters 20 to 28,~~and~~ 30 to 34, and
14 60 of this chapter, including but not limited to:

15 (a) Employing fiscal consultants, attorneys, appraisers, and other agents on behalf
16 of the authority whom the authority deems necessary or convenient for the
17 preparation and administration of agreements and documents necessary or
18 incident to any project. The fees for the services provided by persons
19 employed on behalf of the authority shall be paid by the beneficiary of a loan,
20 grant, assessment, incentive, inducement, or tax credit under this chapter
21 directly to the person providing consultation, advisory, legal or other services;
22 and

23 (b) Imposing and collecting fees and charges in connection with any transaction
24 and providing for reasonable penalties for delinquent payment of fees and
25 charges.

26 (2) A director or officer of the authority shall not be subject to any personal liability or
27 accountability by reason of the execution of any obligation duly authorized by the

1 authority.

2 (3) The authority may accept and expend moneys which may be appropriated from time
3 to time by the General Assembly, or moneys which may be received from any
4 source, including income from the authority's operations for effectuating its
5 purpose, including without limitation the payment of the expenses of administration
6 and operation.

7 ➔Section 20. KRS 154.20-150 is amended to read as follows:

8 (1) On or before October 1, 1992, and on or before the first day of every third month
9 thereafter, the authority shall provide a written project status report to the
10 Legislative Research Commission, and the authority shall be compelled to send a
11 representative to testify on the project status report and the authority shall provide
12 additional information on any projects upon request by the Legislative Research
13 Commission. The written project status report shall include but is not limited to:

14 (a) The current status of each project under consideration by the authority, the
15 proposed cost of a project, for each project under consideration, including any
16 proposed financial obligations of the authority, the number of jobs to be
17 created or retained by each project under consideration, and a description of
18 the applicants with respect to each project under consideration; and

19 (b) The current status of each project, along with an updated cost for each project
20 in progress, including any financial obligations of the authority and a
21 description of the principals with respect to each project in progress.

22 (2) On or before November 1 of each year, the authority shall prepare an annual
23 ~~submit an overview~~ report and make it available on the Cabinet for Economic
24 Development Web site~~to the Legislative Research Commission and the Governor~~
25 ~~as required in~~ as required by KRS 154.12-2035. The report shall include
26 information about~~on~~ the success or failure of each completed project, in order to
27 determine the effectiveness of the Kentucky Economic Development Finance

1 Authority.

2 (3) In addition to the project status report, all construction, reconstruction, or alteration,
3 financed or facilitated in whole or in part by the authority shall be reported to the
4 Office of Employment and Training within the Department of Workforce
5 Investment in the Education and Workforce Development Cabinet and to the
6 Kentucky Legislative Research Commission not later than fifteen (15) days
7 following the end of the month in which the agreement or contract facilitating or
8 permitting such activity was executed. This construction activity report shall be
9 subject to public information requests as provided by KRS 61.878. Reports shall list
10 subject construction activity by location of project site, and shall specify the type of
11 construction, project owner, estimated cost of project, and estimated starting and
12 completion dates if known.

13 ➔Section 21. KRS 154.20-170 is amended to read as follows:

14 (1) Industrial entities, agricultural business entities, business enterprises, or private
15 sector firms which are members of a business network within the meaning of KRS
16 154.1-010~~[in a targeted industrial sector as set forth in the state strategic plan for~~
17 ~~economic development as prescribed in KRS 154.10-120,]~~ and businesses that
18 compose the secondary wood products industry as defined in KRS 154.47-005(8),
19 shall be given priority consideration under state economic development loan, grant,
20 and incentive programs administered by the Kentucky Economic Development
21 Finance Authority.

22 (2) Notwithstanding the provisions of subsection (1) of this section, highest priority
23 consideration under state economic development loan, grant, and incentive
24 programs administered by the authority shall be given to those projects that are
25 located in counties of Kentucky which have had an average countywide rate of
26 unemployment of fifteen percent (15%) or greater in the most recent twelve (12)
27 consecutive months for which unemployment figures are available, on the basis of

1 the final unemployment figures calculated by the Office of Employment and
2 Training within the Department of Workforce Investment in the Education and
3 Workforce Development Cabinet.

4 ➔Section 22. KRS 154.20-230 is amended to read as follows:

5 As used in KRS 154.20-230 to 154.20-240:

- 6 (1) "Application" means a document submitted by small businesses and investors, on a
7 form supplied by the authority, for the purpose of requesting certification to
8 participate in the program and to apply for a credit;
- 9 (2) "Authority" means the Kentucky Economic Development Finance Authority;
- 10 (3) "Commonwealth" means the Commonwealth of Kentucky;
- 11 (4) "Credit" means the nonrefundable angel investor tax credit established by KRS
12 141.396 and awarded by the authority pursuant to KRS 154.20-236;
- 13 (5) "Department" means the Department of Revenue;
- 14 (6) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;
- 15 (7) "Entity" means any corporation, limited liability company, business development
16 corporation, partnership, limited partnership, sole proprietorship, association, joint
17 stock company, receivership, trust, professional service organization, or other legal
18 entity through which business is conducted;
- 19 (8) "Fee" means a nonrefundable application fee in an amount set by the authority, to be
20 collected by the authority to offset the cost of administering KRS 154.20-230 to
21 154.20-240;
- 22 (9) "Full-time employee" means a person that is required to work a minimum of thirty-
23 five (35) hours per week and is subject to the tax imposed by KRS 141.020;
- 24 (10) "Knowledge-based" has the same meaning as in KRS 164.6011;
- 25 (11) (a) "Qualified activity" means any knowledge-based activity related to the new
26 economy focus areas of the Office of Entrepreneurship~~Department of~~
27 ~~Commercialization and Innovation~~, including but not limited to:

- 1 1. Bioscience;
- 2 2. Environmental and energy technology;
- 3 3. Health and human development;
- 4 4. Information technology and communications; and
- 5 5. Materials science and advanced manufacturing.

6 (b) A "qualified activity" does not include any activity principally engaged in by
7 financial institutions, commercial development companies, credit companies,
8 financial or investment advisors, brokerage or financial firms, other
9 investment funds or investment fund managers, charitable and religious
10 institutions, oil and gas exploration companies, insurance companies,
11 residential housing developers, retail establishments, or any activity that the
12 authority determines in its discretion to be against the public interest, against
13 the purposes of KRS 154.20-230 to 154.20-240, or in violation of any law;

14 (12) "Qualified investment" means an investment meeting the requirements of KRS
15 154.20-234 for qualified investments, and certified pursuant to KRS 154.20-236;

16 (13) "Qualified investor" means an individual investor meeting the requirements of KRS
17 154.20-234 for qualified investors, and certified pursuant to KRS 154.20-236; and

18 (14) "Qualified small business" means an entity meeting the requirements of KRS
19 154.20-234 for qualified small businesses, and certified pursuant to KRS 154.20-
20 236.

21 ➔Section 23. KRS 154.20-234 is amended to read as follows:

22 The requirements for small businesses, investors, and investments to be qualified for
23 participation in the Angel Investor Program are as follows:

24 (1) To be certified as a qualified small business, the business shall demonstrate to the
25 authority that it is an entity which, at the time the small business requests
26 certification:

27 (a) Has a net worth of ten million dollars (\$10,000,000) or less or net income

- 1 after federal income taxes for each of the two (2) preceding fiscal years of
2 three million dollars (\$3,000,000) or less;
- 3 (b) Is actively and principally engaged in a qualified activity within the
4 Commonwealth, or will be actively and principally engaged in a qualified
5 activity within the Commonwealth after the receipt of a qualified investment
6 by a qualified investor;
- 7 (c) Has no more than one hundred (100) full-time employees;
- 8 (d) Has more than fifty percent (50%) of its assets, operations, and employees
9 located in the Commonwealth; and
- 10 (e) Has at no time received an aggregate amount of qualified investments that has
11 allowed qualified investors to receive more than one million dollars
12 (\$1,000,000) in angel investor credits;
- 13 (2) To be certified as a qualified investor, an individual investor shall demonstrate to
14 the authority that he or she:
- 15 (a) Is an individual natural person;
- 16 (b) Qualifies as an accredited investor pursuant to Regulation D of the United
17 States Securities and Exchange Commission, 17 C.F.R. sec. 230.501, in effect
18 as of the date the individual investor requests certification;
- 19 (c) Does not hold in excess of twenty percent (20%) ownership interest in, and is
20 not employed by, the qualified small business prior to making the qualified
21 investment in that qualified small business;
- 22 (d) Is not closely related to an individual who holds in excess of twenty percent
23 (20%) ownership interest in, or who is employed by, the qualified small
24 business prior to making the qualified investment in that qualified small
25 business. For purposes of this paragraph, "closely related" means the parent,
26 spouse, or child of an individual; and
- 27 (e) Seeks a financial return from the investment made in the qualified small

1 business;~~and~~

2 (3) To be certified as a qualified investment, the investment shall:

3 (a) Be a cash investment of at least ten thousand dollars (\$10,000), in a qualified
4 small business by a qualified investor; **and**

5 (b) Be offered and executed in compliance with applicable state and federal
6 securities laws and regulations; and

7 ~~[(c) Be exchanged for consideration in the form of an equity interest in the
8 qualified small business, such as a general or limited partnership interest,
9 common or preferred stock with or without voting rights and without regard to
10 seniority position, or forms of subordinate or convertible unsecured debt, or
11 both, with warrants, rights, or other means of equity conversion attached.]~~

12 **(4) The authority may establish additional requirements and guidelines for the**
13 **efficient implementation and administration of the Kentucky Angel Investment**
14 **Act and to carry out its purposes.**

15 ➔Section 24. KRS 154.20-238 is amended to read as follows:

16 (1) No later than the earlier of:

17 (a) **Eighty (80)**~~[(Sixty (60))]~~ days following the date of credit approval, including
18 weekends and holidays; or

19 (b) December 31 of the calendar year of the approval;

20 The qualified investor shall make the qualified investment **and**~~[(Within twenty (20)~~
21 ~~days of making the qualified investment, including weekends and holidays, the~~
22 ~~qualified investor shall)] provide proof of the qualified investment to the authority in
23 the manner required by the authority.~~

24 (2) No later than sixty (60) days following the receipt of proof of the qualified
25 investment, the authority shall notify the department of the credit award, the amount
26 of the credit, and the name and Social Security number of the qualified investor that
27 will receive the credit.

1 (3) If the qualified investor either fails to make the qualified investment~~[prior to the~~
2 ~~deadline]~~ or fails to provide the required proof of the qualified investment **prior to**
3 **the deadline**, the award of credit approval shall be null and void, and the authority
4 shall notify the qualified investor of the nullification and readjust the amount of
5 credit available.

6 (4) (a) The authority shall maintain a publicly available Web site on which it shall
7 report:

- 8 1. A list of all **currently certified** qualified small businesses and qualified
9 investors~~[it has certified]~~;
- 10 2. The total amount of credit it has awarded; and
- 11 3. The total amount of available credit remaining.

12 (b) This report shall be updated as new small businesses and investors are
13 certified, and as new credits are awarded or the amount of available credit is
14 otherwise adjusted.

15 ➔Section 25. KRS 154.27-050 is amended to read as follows:

16 (1) The department may release to an approved company any sales tax incentives under
17 KRS 139.517 and 154.27-070 after review of the request for incentives required by
18 KRS 139.517 and determination of the amount due regardless of whether the
19 minimum capital investment has been made as required by the tax incentive
20 agreement.

21 (2) The authority shall monitor all tax incentive agreements. The authority may seek
22 assistance from the Department for Energy Development and Independence, the
23 Department of Revenue, the Center for Applied Energy Research, or other entities
24 or individuals in performing its monitoring functions.

25 (3) The department shall track the amount of revenues released and incentives received
26 for each eligible project under each tax incentive agreement and shall provide the
27 authority the information upon request.

1 (4) By November 1 of each year, the authority and the department shall jointly prepare
 2 **an annual report and post it to the Cabinet for Economic Development Web site**~~]~~
 3 ~~a report for the Governor and the Legislative Research Commission,]~~ as required in
 4 KRS 154.12-2035. The report shall include a list of all companies with which tax
 5 incentive agreements have been entered into and a summary of the terms of each
 6 agreement, including the type of facility approved, product to be produced,
 7 estimated output upon completion, required minimum capital investment and
 8 maximum recovery, incentives approved by type of tax and amount, activation date,
 9 and termination date.

10 ➔Section 26. KRS 154.30-010 is amended to read as follows:

11 As used in this subchapter:

12 (1) "Activation date" means:

- 13 (a) For all projects except those described in paragraph (b) of this subsection, the
 14 date established any time within a two (2) year period after the
 15 commencement date. The Commonwealth may extend the two (2) year period
 16 to no more than four (4) years upon written application by the agency
 17 requesting the extension; and
- 18 (b) For signature projects approved under KRS 154.30-050(2)(a), the date
 19 established any time within a ten (10) year period after the commencement
 20 date.

21 **For all projects established after the effective date of this Act, the**~~[The]~~ activation
 22 date is the date on which the time period for the pledge of incremental revenues
 23 shall commence. To implement the activation date, **the minimum capital**
 24 **investment must be met and** the agency that is a party to the tax incentive
 25 agreement shall notify the office;

26 (2) "Agency" means:

- 27 (a) An urban renewal and community development agency established under

- 1 KRS Chapter 99;
- 2 (b) A development authority established under KRS Chapter 99;
- 3 (c) A nonprofit corporation;
- 4 (d) A housing authority established under KRS Chapter 80;
- 5 (e) An air board established under KRS 183.132 to 183.160;
- 6 (f) A local industrial development authority established under KRS 154.50-301
- 7 to 154.50-346;
- 8 (g) A riverport authority established under KRS 65.510 to 65.650; or
- 9 (h) A designated department, division, or office of a city or county;
- 10 (3) "Approved public infrastructure costs" means costs associated with the acquisition,
- 11 installation, construction, or reconstruction of public works, public improvements,
- 12 and public buildings, including planning and design costs associated with the
- 13 development of such public amenities. "Approved public infrastructure costs"
- 14 includes but is not limited to costs incurred for the following:
- 15 (a) Land preparation, including demolition and clearance work;
- 16 (b) Buildings;
- 17 (c) Sewers and storm drainage;
- 18 (d) Curbs, sidewalks, promenades, and pedways;
- 19 (e) Roads;
- 20 (f) Street lighting;
- 21 (g) The provision of utilities;
- 22 (h) Environmental remediation;
- 23 (i) Floodwalls and floodgates;
- 24 (j) Public spaces or parks;
- 25 (k) Parking;
- 26 (l) Easements and rights-of-way;
- 27 (m) Transportation facilities;

- 1 (n) Public landings;
- 2 (o) Amenities, such as fountains, benches, and sculptures; and
- 3 (p) Riverbank modifications and improvements;
- 4 (4) "Approved signature project costs" means:
- 5 (a) The acquisition of land for portions of the project that are for infrastructure;
- 6 and
- 7 (b) Costs associated with the acquisition, installation, development, construction,
- 8 improvement, or reconstruction of infrastructure, including planning and
- 9 design costs associated with the development of infrastructure, including but
- 10 not limited to parking structures, including portions of parking structures that
- 11 serve as platforms to support development above;
- 12 that have been determined by the commission to represent a unique challenge in the
- 13 financing of a project such that the project could not be developed without
- 14 incentives intended by this chapter to foster economic development;
- 15 (5) "Authority" means the Kentucky Economic Development Finance Authority
- 16 established by KRS 154.20-010;
- 17 (6) "Capital investment" means:
- 18 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
- 19 materialmen in connection with the acquisition, construction, installation,
- 20 equipping, and rehabilitation of a project;
- 21 (b) The cost of acquiring land or rights in land within the development area on the
- 22 footprint of the project, and any cost incident thereto, including recording
- 23 fees;
- 24 (c) The cost of contract bonds and of insurance of all kinds that may be required
- 25 or necessary during the course of acquisition, construction, installation,
- 26 equipping, and rehabilitation of a project which is not paid by the contractor
- 27 or contractors or otherwise provided;

- 1 (d) All costs of architectural and engineering services, including test borings,
2 surveys, estimates, plans, specifications, preliminary investigations,
3 supervision of construction, and the performance of all the duties required by
4 or consequent upon the acquisition, construction, installation, equipping, and
5 rehabilitation of a project;
- 6 (e) All costs that are required to be paid under the terms of any contract for the
7 acquisition, construction, installation, equipping, and rehabilitation of a
8 project; and
- 9 (f) All other costs of a nature comparable to those described in this subsection
10 **that occur after preliminary approval;**
- 11 (7) "City" means any city, consolidated local government, or urban-county government;
- 12 (8) "Commencement date" means the **final approval date or the** date on which a tax
13 incentive agreement is executed;
- 14 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 15 (10) "County" means any county, consolidated local government, charter county, unified
16 local government, or urban-county government;
- 17 (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban
18 consumers, all items, base year computed for 1982 to 1984 equals one hundred
19 (100), published by the United States Department of Labor, Bureau of Labor
20 Statistics;
- 21 (12) "Department" means the Department of Revenue;
- 22 (13) "Development area" means an area established under KRS 65.7049, 65.7051, and
23 65.7053;
- 24 (14) "Economic development projects" means projects which are approved for tax
25 credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter
26 154;
- 27 (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve

1 requirements, underwriting discount, costs of credit enhancement or liquidity
2 instruments, and other costs directly related to the issuance of bonds or debt for
3 approved public infrastructure costs or approved signature project costs for projects
4 approved pursuant to KRS 154.30-050;

5 (16) "Footprint" means the actual perimeter of a discrete, identified project within a
6 development area. The footprint shall not include any portion of a development area
7 outside the area for which actual capital investments are made **and must be**
8 **contiguous**;

9 (17) "Governing body" means the body possessing legislative authority in a city or
10 county;

11 (18) "Increment bonds" means bonds and notes issued for the purpose of paying the costs
12 of one (1) or more projects;

13 (19) "Incremental revenues" means:

14 (a) The amount of revenues received by a taxing district, as determined by
15 subtracting old revenues from new revenues in a calendar year with respect to
16 a development area, or a project within a development area; or

17 (b) The amount of revenues received by the Commonwealth as determined by
18 subtracting old revenues from new revenues in a calendar year with respect to
19 the footprint;

20 (20) "Local participation agreement" means the agreement entered into under KRS
21 65.7063;

22 (21) "Local tax revenues" has the same meaning as in KRS 65.7045;

23 (22) "New revenues" means:

24 (a) The amount of local tax revenues received by a taxing district with respect to
25 a development area in any calendar year beginning with the year in which the
26 activation date occurred;~~{-or}~~

27 (b) The amount of state tax revenues received by the Commonwealth with respect

1 to the footprint in any calendar year beginning with the year in which the
2 activation date occurred;

3 (23) "Old revenues" means:

4 (a) The amount of local tax revenues received by a taxing district with respect to
5 a development area as of December 31 of the year of preliminary
6 approval~~[during the last calendar year prior to the commencement date]~~; or

7 (b) 1. The amount of state tax revenues received by the Commonwealth within
8 the footprint as of December 31 of the year of preliminary
9 approval~~[during the last calendar year prior to the commencement date]~~.

10 If the authority determines that the amount of state tax revenues received
11 as of December 31 of~~[during]~~ the last calendar year prior to the
12 commencement~~[date]~~ of preliminary approval does not represent a true
13 and accurate depiction of revenues, the authority may consider revenues
14 for a period of no longer than three (3) calendar years prior to the year of
15 preliminary approval~~[commencement date]~~, so as to determine a fair
16 representation of state tax revenues. The amount determined by the
17 authority shall be specified in the tax incentive agreement. If state tax
18 revenues were derived from the footprint prior to the year of
19 preliminary approval~~[commencement date]~~, old revenues shall increase
20 each calendar year by:

21 a. The percentage increase, if any, of the CPI or a comparable index;
22 or

23 b. An alternative percentage increase that is determined to be
24 appropriate by the authority.

25 The method for increasing old revenues shall be set forth in the tax
26 incentive agreement;

27 2. If state revenues were derived from the footprint prior to the year of

1 preliminary approval~~[commencement—date]~~, the calculation of
 2 incremental revenues shall be based on the value of old revenues as
 3 increased using the method prescribed in subparagraph 1. of this
 4 paragraph to reflect the same calendar year as is used in the
 5 determination of new revenues.

6 (24) "Outstanding" means increment bonds that have been issued, delivered, and paid for
 7 by the purchaser, except any of the following:

8 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon
 9 payment or redemption;

10 (b) Increment bonds in replacement of which or in exchange for which other
 11 increment bonds have been issued; or

12 (c) Increment bonds for the payment, redemption, or purchase for cancellation
 13 prior to maturity, of which sufficient moneys or investments, in accordance
 14 with the ordinance or other proceedings or any applicable law, by mandatory
 15 sinking fund redemption requirements, or otherwise, have been deposited, and
 16 credited in a sinking fund or with a trustee or paying or escrow agent, whether
 17 at or prior to their maturity or redemption, and, in the case of increment bonds
 18 to be redeemed prior to their stated maturity, notice of redemption has been
 19 given or satisfactory arrangements have been made for giving notice of that
 20 redemption, or waiver of that notice by or on behalf of the affected bond
 21 holders has been filed with the issuer or its agent;

22 (25) "Preliminary approval" means the action taken by the authority preliminarily
 23 approving an eligible project for incentives under this subchapter;

24 (26) "Project" means any property, asset, or improvement located in a development area
 25 and certified by the governing body as:

26 (a) Being for a public purpose; and

27 (b) Being for the development of facilities for residential, commercial, industrial,

1 public, recreational, or other uses, or for open space, including the
2 development, rehabilitation, renovation, installation, improvement,
3 enlargement, or extension of real estate and buildings; and

4 (c) Contributing to economic development or tourism; and

5 (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-
6 050, or 154.30-060;

7 ~~(27)~~~~(26)~~ "Signature project" means a project approved under KRS 154.30-050;

8 ~~(28)~~~~(27)~~ "State real property ad valorem tax" means real property ad valorem taxes
9 levied under KRS 132.020(1)(a);

10 ~~(29)~~~~(28)~~ "State tax revenues" means revenues received by the Commonwealth from
11 one (1) or more of the following sources:

12 (a) State real property ad valorem taxes;

13 (b) Individual income taxes levied under KRS 141.020, other than individual
14 income taxes that have already been pledged to support an economic
15 development project within the development area;

16 (c) Corporation income taxes levied under KRS 141.040, other than corporation
17 income taxes that have already been pledged to support an economic
18 development project within the development area;

19 (d) Limited liability entity taxes levied under KRS 141.0401, other than limited
20 liability entity taxes that have already been pledged to support an economic
21 development project within the development area; and

22 (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged
23 for:

24 1. Approved tourism attraction projects, as defined in KRS 148.851, within
25 the development area; and

26 2. Projects which are approved for sales tax refunds under Subchapter 20
27 of KRS Chapter 154 within the development area;

1 ~~(30)~~~~(29)~~ "Tax incentive agreement" means an agreement entered into in accordance
2 with KRS 154.30-070; and

3 ~~(31)~~~~(30)~~ "Termination date" means:

- 4 (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040
5 or 154.30-060, a date established by the tax incentive agreement that is no
6 more than twenty (20) years from the activation date. However, the
7 termination date for a tax incentive agreement shall in no event be more than
8 forty (40) years from the establishment date of the development area to which
9 the tax incentive agreement relates; and
- 10 (b) For a project grant agreement satisfying the requirements of KRS 154.30-050,
11 a date established by the tax incentive agreement that is no more than thirty
12 (30) years from the activation date. However, the termination date for a tax
13 incentive agreement shall in no event be more than forty (40) years from the
14 establishment date of the development area to which the tax incentive
15 agreement relates.

16 ➔SECTION 27. A NEW SECTION OF SUBCHAPTER 27 OF KRS CHAPTER
17 154 IS CREATED TO READ AS FOLLOWS:

18 **No application for incentives found in KRS 154.27-010 to 154.27-100 shall be accepted**
19 **by the authority after August 1, 2018. All outstanding projects with preliminary or final**
20 **approval shall continue to be governed by the provisions of this subchapter.**

21 ➔Section 28. KRS 154.30-070 is amended to read as follows:

- 22 (1) The terms and conditions of the tax incentive agreement shall be negotiated
23 between the authority and the agency. The tax incentive agreement shall include but
24 not be limited to the following provisions:
- 25 (a) Identification of the parties to the tax incentive agreement and the duties and
26 responsibilities of each party to the tax incentive agreement;
- 27 (b) The specific identification of the state tax revenues, by type of tax, to be

- 1 released or pledged by the Commonwealth for the project;
- 2 (c) 1. A detailed summary of old revenues collected and projected new
3 revenues for the Commonwealth on an annual basis for the term of the
4 tax incentive agreement; and
- 5 2. The maximum amount of incremental revenue to be released by the
6 Commonwealth and the maximum number of years the pledge of
7 incremental revenues will be effective;
- 8 (d) A detailed description of each project that is the subject of the tax incentive
9 agreement, including an estimate of the costs of construction or acquisition
10 and development;
- 11 (e) Identification of the project footprint from which the state incremental
12 revenues pledged by the Commonwealth are to be derived;
- 13 (f) The approved public infrastructure costs and, when applicable, approved
14 signature project costs, approved financing costs, and approved costs relating
15 to land preparation, demolition, and clearance that may be recovered;
- 16 (g) The minimum capital investment required,~~[-and]~~ the date by which the
17 minimum capital investment is expected to occur, **and a provision stating**
18 **that failure of the approved company to meet the minimum capital**
19 **investment established by KRS 154.30-040, 154.30-050, or 154.30-060 on or**
20 **before the activation date shall result in cancellation of the tax incentive**
21 **agreement;**
- 22 (h) Terms of default and remedies, provided that no remedy shall permit the
23 withholding by any party to the tax incentive agreement of any incremental
24 revenues if increment bonds are outstanding that are secured by a pledge of
25 those incremental revenues;
- 26 (i) The termination date;
- 27 (j) A requirement that the agency, city, or county annually certify to the authority

- 1 the use of incremental revenues for the payment of approved project costs
2 within the development area;
- 3 (k) A requirement that the agency shall utilize the portion of incremental revenues
4 pledged pursuant to a tax incentive agreement that exceeds, in a given year,
5 the amounts needed to:
- 6 1. Pay the current financing costs; and
7 2. Maintain a fully funded reserve;
8 to provide for the retirement or defeasance of all or a portion of the remaining
9 financing costs related to approved public infrastructure costs, and approved
10 signature project costs secured by the incremental revenues;
- 11 (l) A requirement that the agency, city, or county make periodic accountings to
12 the authority;
- 13 (m) A requirement that the authority monitor and verify approved public
14 infrastructure costs, financing costs and approved signature project costs and
15 minimum capital investment; and
- 16 (n) For a signature project, the eligible refund amount or percentage for the sales
17 tax as permitted under KRS 139.515, and as determined by the authority
18 pursuant to KRS 65.7075(6); and
- 19 (o) Any other provisions not inconsistent with this subchapter deemed necessary
20 or appropriate by the parties to the tax incentive agreement.
- 21 (2) Any pledge of incremental revenues in a tax incentive agreement shall be superior
22 to any other pledge of revenues for any other purpose and shall, from the activation
23 date to the termination date, supersede any statute or ordinance regarding the
24 application or use of incremental revenues. An ordinance in conflict with a tax
25 incentive agreement shall not be adopted while any increment bonds secured by that
26 pledge remain outstanding. Ordinances pledging increments on a subordinate basis
27 to any existing pledges may be adopted.

1 (3) Any tax incentive agreement shall be made on the basis of automatic year-to-year
2 renewals, with the option to discontinue upon sixty (60) days' notice before the end
3 of any annual termination date of the tax incentive agreement.

4 ➔Section 29. KRS 154.30-080 is amended to read as follows:

5 (1) (a) Prior to any incremental revenues being released by the Commonwealth for
6 any project, the authority shall certify that the minimum capital investment has
7 been made as required by the tax incentive agreement.

8 (b) Incremental revenues received after the activation date but prior to
9 certification of the minimum capital investment shall be retained by the
10 Commonwealth until the minimum capital investment is certified by the
11 authority. The incremental revenues shall be released to the agency upon
12 certification. If the minimum capital investment is not certified within the
13 time period established by the authority, the incremental revenues shall be
14 forfeited to the Commonwealth.

15 (c) The tax incentive agreement shall be canceled and the approved agency
16 shall not be eligible for incentives if the agency fails to meet the minimum
17 capital investment established by KRS 154.30-040, 15430-050, or 154.30-
18 060 on the activation date.

19 (2) The authority shall monitor all tax incentive agreements and shall verify for each
20 project expenditure identified as approved public infrastructure costs and where
21 applicable, financing costs, approved signature project costs and expenses for land
22 preparation, demolition and clearance.

23 (3) The authority and the department shall track the amount of incremental revenues
24 released to each agency under each tax incentive agreement.

25 ➔Section 30. KRS 154.31-010 is amended to read as follows:

26 As used in this subchapter:

27 (1) "Agreement" means an agreement entered into pursuant to KRS 154.31-030

1 between the authority and an approved company;

2 (2) **"Alternative fuel production" means a Kentucky operation that primarily**
 3 **produces for sale alternative transportation fuels. The alternative fuel production**
 4 **may produce electricity as a by-product if the primary function of the operations**
 5 **remains the production and sale of alternative transportation fuels;**

6 (3) **"Alternative transportation fuels" has the same meaning as in KRS 152.715;**

7 (4) "Approved company" means an eligible company that has received approval from
 8 the authority for a sales and use tax incentive under this subchapter;

9 (5)~~(3)~~ "Approved recovery amount" means the maximum sales and use tax incentive
 10 recoverable by an approved company as established in the agreement;

11 (6)~~(4)~~ "Authority" means the Kentucky Economic Development Finance Authority;

12 (7) **"Biomass resources" has the same meaning as in KRS 152.715;**

13 (8) **"Carbon dioxide transmission pipeline" means the in-state portion of a pipeline,**
 14 **including appurtenant facilities, property rights, and easements, that is used**
 15 **exclusively for the purpose of transporting carbon dioxide to the point of sale,**
 16 **storage, or other carbon management applications;**

17 (9)~~(5)~~ "Department" means the Department of Revenue;

18 (10)~~(6)~~ "Economic development project" means:

- 19 (a) 1. The acquisition or construction of a new facility; or
 20 2. The expansion or rehabilitation of an existing facility; ~~or~~ ~~and~~

21 (b) The installation and equipping of ~~a~~ ~~the~~ facility;

22 by an eligible company at a specific site in the Commonwealth to be used in ~~an~~ ~~a~~
 23 ~~service or technology, manufacturing, or tourism attraction~~ activity conducted by
 24 the approved company;

25 (11)~~(7)~~ "Electronic processing" means the use of technology having electronic, digital,
 26 magnetic, wireless, optical, electromagnetic, or similar capabilities, now in
 27 existence or later developed to perform a service or technology activity;

1 ~~(12)~~~~(8)~~ (a) "Eligible company" means any corporation, limited liability company,
 2 partnership, limited partnership, sole proprietorship, business trust, or other
 3 legal entity that is primarily engaged in manufacturing;~~;~~~~or~~ service or
 4 technology activities~~;~~; *agribusiness; headquarters operations; alternative*
 5 *fuel, gasification, energy-efficient alternative fuel or renewable energy*
 6 *production; carbon dioxide transmission pipelines;* or in operating or
 7 developing a tourism attraction.

8 (b) "Eligible company" does not include any company whose primary activity is
 9 retail sales;

10 ~~(13)~~~~(9)~~ "Eligible expenses" means the amount expended for:

11 (a) Building and construction materials permanently incorporated as an
 12 improvement to real property as part of an economic development project; or

13 (b) Equipment used for research and development or electronic processing at an
 14 economic development project;

15 if the Kentucky sales and use tax imposed by KRS Chapter 139 is paid on the
 16 purchase of the materials or equipment at the time of purchase;

17 *(14) "Energy-efficient alternative fuel production" means a Kentucky operation that*
 18 *produces energy-efficient alternative fuels for sale;*

19 *(15) "Energy-efficient alternative fuels" means homogeneous fuels that:*

20 *(a) Are produced from processes designed to densify feedstock coal, waste coal,*
 21 *or biomass resources; and*

22 *(b) Have an energy content that is greater than the feedstock coal, waste coal,*
 23 *or biomass resource;*

24 ~~(16)~~~~(10)~~ (a) "Equipment" means tangible personal property which is subject to
 25 depreciation under Sections 167 and 168 of the Internal Revenue Code,
 26 including assets which are expensed under Section 179 of the Internal
 27 Revenue Code, and that is used in the operation of a business.

1 (b) "Equipment" does not include any tangible personal property used to
2 maintain, restore, mend, or repair machinery or equipment, consumable
3 operating supplies, office supplies, or maintenance supplies;

4 **(17) "Gasification process" means a process that converts any carbon containing**
5 **material into a synthesis gas composed primarily of carbon monoxide and**
6 **hydrogen;**

7 **(18) "Gasification production" means a Kentucky operation that primarily produces**
8 **for sale:**

9 **(a) Alternative transportation fuels;**

10 **(b) Synthetic natural gas;**

11 **(c) Chemicals;**

12 **(d) Chemical feedstocks; or**

13 **(e) Liquid fuels;**

14 **from coal, waste coal, coal-processing waster, or biomass resources, through a**
15 **gasification process. The gasification production may produce electricity as a by-**
16 **product if the primary function of the operations remains the production and sale**
17 **of alternative transportation fuels, synthetic natural gas, chemicals, chemical**
18 **feedstocks, or liquid fuels;**

19 **(19) "Headquarters" means the principal office where the principal executives of the**
20 **entity are located and from which other personnel, branches, affiliates, offices, or**
21 **entities are controlled;**

22 **(20)[(11)]** (a) "Manufacturing" means to make, assemble, process, produce, or perform
23 any activity that changes the form or conditions of raw materials and other
24 property, and shall include any ancillary activity to the manufacturing process,
25 such as storage, warehousing, distribution, and related office facilities.

26 (b) "Manufacturing" does not include any activity involving the performance of
27 work classified by the divisions, including successor divisions, of mining in

1 accordance with the "North American Industry Classification System," as
2 revised by the United States Office of Management and Budget from time to
3 time, or any successor publication;

4 ~~(21)~~~~(12)~~ "Project term" means the time for which an agreement shall be in effect. The
5 project term shall be established in the agreement and shall not exceed seven (7)
6 years;

7 **(22) "Renewable energy production" means a Kentucky operation that utilizes wind**
8 **power, biomass resources, landfill methane gas, hydropower, solar power, or**
9 **other similar renewable resources to generate electricity for sale to unrelated**
10 **entities;**

11 ~~(23)~~~~(13)~~ (a) "Research and development" means experimental or laboratory activity
12 that has as its ultimate goal the development of new products, the
13 improvement of existing products, the development of new uses for existing
14 products, or the development or improvement of methods for producing
15 products.

16 (b) "Research and development" does not include testing or inspection of
17 materials or products for quality control purposes, efficiency surveys,
18 management studies, consumer surveys or other market research, advertising
19 or promotional activities, or research in connection with literary, historical, or
20 similar projects;~~and~~

21 ~~(24)~~~~(14)~~ "Service or technology" means any nonretail activity using technology or
22 providing a service, including but not limited to:

- 23 (a) Administration and processing activities;
24 (b) Research and development;
25 (c) Telephone or Internet sales or services;
26 (d) Distribution or fulfillment of orders;
27 (e) Data processing; and

1 (f) Similar activities;
 2 provided to customer or affiliate entities primarily outside the Commonwealth and
 3 designed to serve a multistate, national, or international market; and

4 **(25) "Synthetic natural gas" has the same meaning as in KRS 152.715.**

5 ➔Section 31. KRS 154.31-020 is amended to read as follows:

6 (1) The maximum amount of sales and use tax incentives that may be committed in
 7 each fiscal year by the authority shall be capped at twenty million dollars
 8 (\$20,000,000) for building and construction materials, and five million dollars
 9 (\$5,000,000) for equipment used for research and development, ~~or~~ electronic
 10 processing, or flight simulation.

11 (2) (a) To qualify for the sales and use tax incentives available under this subchapter,
 12 an eligible company shall make a minimum investment of at least five
 13 hundred thousand dollars (\$500,000) in an economic development project,
 14 including the cost of land, but excluding the cost of labor.

15 (b) To qualify for the sales and use tax incentive available under this subchapter
 16 for electronic processing equipment, in addition to the requirements of
 17 paragraph (a) of this subsection, the eligible company shall spend an aggregate
 18 amount of at least fifty thousand dollars (\$50,000) on electronic processing
 19 equipment installed as part of the economic development project.

20 (3) (a) The maximum sales and use tax incentive available to an approved company
 21 under this subchapter is the total amount of sales and use tax paid on
 22 purchases made on the following items, up to the approved recovery amount
 23 after approval by the authority:

- 24 1. Building and construction materials;
- 25 2. Research and development equipment; ~~and~~
- 26 3. Electronic processing equipment; and
- 27 **4. Flight simulation equipment.**

1 (b) An approved company may qualify for a sales and use tax incentive in more
2 than one (1) category listed in paragraph (a) of this subsection for the same
3 economic development project. If the authority approves an eligible company
4 to receive the sales and use tax incentives in more than one (1) category, the
5 authority shall allocate the incentives to the appropriate cap established by
6 subsection (~~1~~²) of this section.

7 ➔Section 32. KRS 154.31-030 is amended to read as follows:

- 8 (1) The application, approval, and monitoring process under this subchapter shall be as
9 follows:
- 10 (a) An eligible company with a proposed economic development project may
11 submit an application to the authority. The application shall include the
12 information required by subsection (3) of this section;
- 13 (b) Upon review of the application and any additional information submitted, the
14 authority may, by resolution, approve an economic development project and
15 authorize the negotiation and execution of an agreement pursuant to
16 subsection (4) of this section. Approval granted pursuant to this subsection
17 shall apply to a specific economic development project at a specific location
18 within the Commonwealth;
- 19 (c) Upon approval, the authority shall notify the department that an approved
20 company is eligible for a sales and use tax incentive under this subchapter and
21 shall provide the department with the information necessary to monitor the
22 use of incentives by the approved company. The authority shall notify the
23 department if the agreement is extended or amended, or if the incentives are
24 transferred, and shall provide the department with the information necessary
25 to update its records; and
- 26 (d) The approved company shall be eligible to receive the sales and use tax
27 incentives authorized by the agreement upon the earlier of the completion of

1 the economic development project or expiration of the project term. The
2 approved company shall apply to the department for the sales and use tax
3 incentives as provided in KRS 139.535, and shall, during the project term,
4 submit all information required by the department as provided in KRS
5 139.535.

6 (2) The authority may establish standards for the review of applications and the
7 approval of eligible companies through the promulgation of administrative
8 regulations in accordance with KRS Chapter 13A. In reviewing applications and
9 establishing standards, the authority shall consider the creditworthiness of the
10 eligible company, employment opportunities for Kentucky residents, wages to be
11 paid, whether the eligible company is participating in other incentive programs
12 pursuant to KRS Chapter 154 for the project, the likelihood that the project will be
13 an economic success, and any other factors the authority determines to be relevant.

14 (3) The application submitted by an eligible company shall include but not be limited to
15 the following:

- 16 (a) A description of the proposed economic development project;
- 17 (b) The anticipated minimum investment in the proposed economic development
18 project;
- 19 (c) An estimate of the approved recovery amount that the company will seek;
- 20 (d) A timeline for completion of the proposed economic development project;
- 21 (e) Supporting documentation, as requested by the authority;
- 22 (f) Payment of any applicable application fee required by the authority; and
- 23 (g) Any other information requested by the authority.

24 (4) (a) Upon approval of an eligible company, the authority may enter into an
25 agreement with the approved company. The terms of the agreement shall be
26 determined by negotiations between the authority and the approved company,
27 and shall include but not be limited to the following provisions:

- 1 1. The project term;
- 2 2. A description of the economic development project;
- 3 3. The total approved recovery amount in each category for which the
- 4 approved company is eligible;
- 5 4. That the approved company shall maintain all records and
- 6 documentation relating to eligible expenditures and the Kentucky sales
- 7 and use tax paid, and shall provide those records and documentation to
- 8 the authority or the department upon request;
- 9 5. That the approved company shall execute information-sharing
- 10 agreements prescribed by the department with contractors, vendors, and
- 11 other related parties to verify the costs of and payment of sales and use
- 12 tax on the tangible personal property eligible for the sales and use tax
- 13 incentive under this subchapter;
- 14 6. That the sales and use tax incentives shall not be assignable or
- 15 transferable without written notice to the authority and approval of the
- 16 authority; and
- 17 7. Any other provisions not inconsistent with this subchapter.
- 18 (b) The project term established in the agreement may be extended by approval of
- 19 the authority for good cause shown; however, the term shall not be extended
- 20 beyond seven (7) years from the date of approval.
- 21 (c) An approved company may transfer or assign its designation as an approved
- 22 company upon prior notification to the authority and approval of the authority
- 23 in a manner prescribed by the authority.
- 24 (5) The contents of a company's filings under this subchapter shall be subject to the
- 25 Kentucky Open Records Act, KRS 61.870 to 61.884.
- 26 (6) *By November 1 of each year,* the authority shall ~~annually~~ prepare ~~submit a~~
- 27 ~~complete and detailed~~ an annual report ~~of the use of the sales and use tax~~

1 ~~incentives and participation of approved companies under this subchapter by~~
2 ~~November 1 of each year to the Legislative Research Commission and to the~~
3 ~~Governor,] and make it available on the Cabinet for Economic Development Web~~
4 ~~site as required in KRS 154.12-2035.~~

5 ➔Section 33. KRS 154.32-010 is amended to read as follows:

- 6 (1) "Activation date" means the date established in the tax incentive agreement that is
7 within two (2) years of final approval;
- 8 (2) "Advance disbursement" means the disbursement of incentives prior to the
9 activation date;
- 10 (3) "Affiliate" means the following:
- 11 (a) Members of a family, including only brothers and sisters of the whole or
12 half blood, spouse, ancestors, and lineal descendants of an individual;
- 13 (b) An individual, and a corporation more than fifty percent (50%) in value of
14 the outstanding stock of which is owned, directly or indirectly, by or for that
15 individual;
- 16 (c) An individual, and a limited liability company of which more than fifty
17 percent (50%) of the capital interest or profits are owned or controlled,
18 directly or indirectly, by or for that individual;
- 19 (d) Two (2) corporations which are members of the same controlled group,
20 which includes and is limited to:
- 21 1. One (1) or more chains of corporations connected through stock
22 ownership with a common parent corporation if:
- 23 a. Stock possessing more than fifty percent (50%) of the total
24 combined voting power of all classes of stock entitled to vote or
25 more than fifty percent (50%) of the total value of shares of all
26 classes of stock of each of the corporations, except the common
27 parent corporation, is owned by one (1) or more of the other

1 corporations; and

2 b. The common parent corporation owns stock possessing more
3 than fifty percent (50%) of the total combined voting power of all
4 classes of stock entitled to vote or more than fifty percent (50%)
5 of the total value of shares of all classes of stock of at least one
6 (1) of the other corporations, excluding, in computing the voting
7 power or value, stock owned directly by the other corporations;
8 or

9 2. Two (2) or more corporations if five (5) or fewer persons who are
10 individuals, estates, or trusts own stock possessing more than fifty
11 percent (50%) of the total combined voting power of all classes of
12 stock entitled to vote or more than fifty percent (50%) of the total value
13 of shares of all classes of stock of each corporation, taking into
14 account the stock ownership of each person only to the extent the
15 stock ownership is identical with respect to each corporation;

16 (e) A grantor and a fiduciary of any trust;

17 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is
18 a grantor of both trusts;

19 (g) A fiduciary of a trust and a beneficiary of that trust;

20 (h) A fiduciary of a trust and a beneficiary of another trust, if the same person
21 is a grantor of both trusts;

22 (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in
23 value of the outstanding stock of which is owned, directly or indirectly, by or
24 for the trust or by or for a person who is a grantor of the trust;

25 (j) A fiduciary of a trust and a limited liability company more than fifty percent
26 (50%) of the capital interest, or the interest in profits, of which is owned
27 directly or indirectly, by or for the trust or by or for a person who is a

1 grantor of the trust;

2 (k) A corporation, a partnership, or a limited partnership if the same persons
3 own:

4 1. More than fifty percent (50%) in value of the outstanding stock of the
5 corporation; and

6 2. More than fifty percent (50%) of the capital interest, or the profits
7 interest, in the partnership or limited partnership;

8 (l) A corporation and a limited liability company if the same persons own:

9 1. More than fifty percent (50%) in value of the outstanding stock of the
10 corporation; and

11 2. More than fifty percent (50%) of the capital interest or the profits in
12 the limited liability company;

13 (m) A partnership or limited partnership and a limited liability company if the
14 same persons own:

15 1. More than fifty percent (50%) of the capital interest or profits in the
16 partnership or limited partnership; and

17 2. More than fifty percent (50%) of the capital interest or the profits in
18 the limited liability company;

19 (n) An S corporation and another S corporation if the same persons own more
20 than fifty percent (50%) in value of the outstanding stock of each
21 corporation; S corporation designation being the same as that designation
22 under the Internal Revenue Code of 1986, as amended; or

23 (o) An S corporation and a C corporation, if the same persons own more than
24 fifty percent (50%) in value of the outstanding stock of each corporation; S
25 and C corporation designations being the same as those designations under
26 the Internal Revenue Code of 1986, as amended; or

27 ~~as in KRS 154.48-010 and, in addition, shall include two (2) or more limited~~

1 liability companies if the same persons own more than fifty percent (50%) of
2 the capital interest or are entitled to more than fifty percent (50%) of the
3 capital profits in the limited liability companies;]

4 **(p) Two (2) or more limited liability companies, if the same persons own more**
5 **than fifty percent (50%) of the capital interest or are entitled to more than**
6 **fifty percent (50%) of the capital profits in the limited liability companies;**

7 (4) "Agribusiness" means the processing of raw agricultural products, including but not
8 limited to timber and industrial hemp, or the performance of value-added functions
9 with regard to raw agricultural products;

10 (5) **"Alternative fuel production" means a Kentucky operation that primarily**
11 **produces alternative transportation fuels for sale. The alternative fuel production**
12 **may produce electricity as a by-product if the primary function of the operations**
13 **remains the production and sale of alternative transportation fuels;**

14 **(6) "Alternative transportation fuels" has the same meaning as in KRS 152.715;**

15 **(7)** "Approved company" means an eligible company that has received final approval to
16 receive incentives under this subchapter;

17 ~~**(8)**~~~~**(6)**~~ "Approved costs" means the amount of eligible costs approved by the
18 authority at final approval;

19 ~~**(9)**~~~~**(7)**~~ "Authority" means the Kentucky Economic Development Finance Authority
20 established by KRS 154.20-010;

21 **(10) "Biomass resources" has the same meaning as in KRS 152.715;**

22 ~~**(11)**~~~~**(8)**~~ "Capital lease" means a lease classified as a capital lease by the Statement of
23 Financial Accounting Standards No. 13, Accounting for Leases, issued by the
24 Financial Accounting Standards Board, November 1976, as amended;

25 **(12) "Carbon dioxide transmission pipeline" means the in-state portion of a pipeline,**
26 **including appurtenant facilities, property rights, and easements, that is used**
27 **exclusively for the purpose of transporting carbon dioxide to the point of sale,**

1 **storage, or other carbon management applications;**

2 ~~(13)~~~~(9)~~ "Commonwealth" means the Commonwealth of Kentucky;

3 ~~(14)~~~~(10)~~ "Confirmed approved costs" means:

4 (a) For owned economic development projects, the documented eligible costs
5 incurred on or before the activation date; or

6 (b) For leased economic development projects:

- 7 1. The documented eligible costs incurred on or before the activation date;
8 and
9 2. Estimated rent to be incurred by the approved company throughout the
10 term of the tax incentive agreement.

11 For both owned and leased economic development projects, "confirmed approved
12 costs" may be less than approved costs, but shall not be more than approved costs;

13 ~~(15)~~~~(11)~~ "Department" means the Department of Revenue;

14 ~~(16)~~~~(12)~~ "Economic development project" means:

15 (a) ~~1.—~~The acquisition, leasing, or construction of a new facility;~~—or~~

16 ~~(b)~~ ~~2.—~~The acquisition, leasing, rehabilitation, or expansion of an existing
17 facility; or~~and~~

18 ~~(c)~~~~(b)~~ The installation and equipping of a~~the~~ facility;

19 by an eligible company. "Economic development project" does not include any
20 economic development project that will result in the replacement of facilities
21 existing in the Commonwealth, except as provided in KRS 154.32-060;

22 ~~(17)~~~~(13)~~ (a) "Eligible company" means any corporation, limited liability company,
23 partnership, limited partnership, sole proprietorship, business trust, or any
24 other entity with a proposed economic development project that is engaged in
25 or is planning to be engaged in one (1) or more of the following activities
26 within the Commonwealth:

- 27 1. Manufacturing;

- 1 2. Agribusiness;
- 2 3. Nonretail service or technology;~~[-or]~~
- 3 4. Headquarters~~[National or regional headquarters]~~ operations, regardless
- 4 of the underlying business activity of the company.;
- 5 5. Alternative fuel, gasification, energy-efficient alternative fuel, or
- 6 renewable energy production; or
- 7 6. Carbon dioxide transmission pipeline.

8 (b) "Eligible company" does not include companies where the primary activity to

9 be conducted within the Commonwealth is forestry, fishing, mining, coal or

10 mineral processing, the provision of utilities, construction, wholesale trade,

11 retail trade, real estate, rental and leasing, educational services,

12 accommodation and food services, or public administration services;

13 ~~(18)~~~~[(14)]~~ "Eligible costs" means:

- 14 (a) For owned economic development projects:
- 15 1. Start-up costs;
- 16 2. Nonrecurring obligations~~[Obligations]~~ incurred for labor and
- 17 nonrecurring payments~~[amounts paid]~~ to contractors, subcontractors,
- 18 builders, and materialmen in connection with the economic development
- 19 project;
- 20 3. The cost of acquiring land or rights in land and any cost incidental
- 21 thereto, including recording fees;
- 22 4. The cost of contract bonds and of insurance of all kinds that may be
- 23 required or necessary for completion of an economic development
- 24 project which is not paid by a contractor or otherwise provided for;
- 25 5. All costs of architectural and engineering services, including test
- 26 borings, surveys, estimated plans and specifications, preliminary
- 27 investigations, and supervision of construction, as well as for the

1 performance of all the duties required for construction of the economic
2 development project;

3 6. All costs which are required to be paid under the terms of any contract
4 for the economic development project;

5 7. All costs incurred for construction activities, including site tests and
6 inspections; subsurface site work; excavation; removal of structures,
7 roadways, cemeteries, and other surface obstructions; filling, grading,
8 and providing drainage and storm water retention; installation of utilities
9 such as water, sewer, sewage treatment, gas, electric, communications,
10 and similar facilities; off-site construction of utility extensions to the
11 boundaries of the real estate; construction and installation of railroad
12 spurs as needed to connect the economic development project to existing
13 railways; or similar activities as the authority may determine necessary
14 for construction of the economic development project; and

15 8. All other costs of a nature comparable to those described above; and

16 (b) For leased economic development projects:

17 1. Start-up costs;~~and~~

18 **2. Building/leasehold improvements; and**

19 **3**~~2~~. Fifty percent (50%) of the estimated annual rent for each year of the tax
20 incentive agreement.

21 Notwithstanding any other provision of this subsection, for economic development
22 projects that are not in enhanced incentive counties, the cost of equipment eligible
23 for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000)
24 for each new full-time job created as of the activation date;

25 **(19)**~~(15)~~ "Employee benefits" means~~nonmandated~~ payments by an approved
26 company for its full-time employees for health insurance, life insurance, dental
27 insurance, vision insurance, defined benefits, 401(k), or similar plans;

- 1 **(20) "Energy-efficient alternative fuel production" means a Kentucky operation that**
2 **produces for sale energy-efficient alternative fuels;**
- 3 **(21) "Energy-efficient alternative fuels" means homogeneous fuels that:**
- 4 **(a) Are produced from processes designed to densify feedstock coal, waste coal,**
5 **or biomass resources; and**
- 6 **(b) Have an energy content that is greater than the feedstock coal, waste coal,**
7 **or biomass resource;**
- 8 ~~(22)~~~~(16)~~ "Enhanced incentive counties" means counties certified by the authority
9 pursuant to KRS 154.32-050;
- 10 ~~(23)~~~~(17)~~ "Final approval" means the action taken by the authority authorizing the
11 eligible company to receive incentives under this subchapter;
- 12 ~~(24)~~~~(18)~~ "Full-time job" means a job held by a person who:
- 13 (a) Is a Kentucky resident subject to the Kentucky individual income tax imposed
14 by KRS 141.020; and
- 15 (b) Is required to work a minimum of thirty-five (35) hours per week;
- 16 **(25) "Gasification process" means a process that converts any carbon-containing**
17 **material into a synthesis gas composed primarily of carbon monoxide and**
18 **hydrogen;**
- 19 **(26) "Gasification production" means a Kentucky operation that primarily produces**
20 **for sale:**
- 21 **(a) Alternative transportation fuels;**
- 22 **(b) Synthetic natural gas;**
- 23 **(c) Chemicals;**
- 24 **(d) Chemical feedstocks; or**
- 25 **(e) Liquid fuels;**
- 26 **from coal, waste coal, coal-processing waste, or biomass resources, through a**
27 **gasification process. The gasification production may produce electricity as a by-**

1 product if the primary function of the operations remains the production and sale
 2 of alternative transportation fuels, synthetic natural gas, chemicals, chemical
 3 feedstocks, or liquid fuels;

4 (27) "Headquarters" means the principal office where the principal executives of the
 5 entity are located and from which other personnel, branches, affiliates, offices, or
 6 entities are controlled;

7 ~~(28)~~~~(19)~~ "Incentives" means the incentives available under this subchapter, as listed in
 8 KRS 154.32-020(3);

9 ~~(29)~~~~(20)~~ "Job target" means the annual average number of new full-time jobs that the
 10 approved company commits to create and maintain at the economic development
 11 project, which shall not be less than ten (10) new full-time jobs;

12 ~~(30)~~~~(21)~~ "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

13 ~~(31)~~~~(22)~~ "Kentucky gross profits" has the same meaning as in KRS 141.0401;

14 ~~(32)~~~~(23)~~ "Lease agreement" means an agreement between an approved company and an
 15 unrelated entity conveying the right to use a facility~~property, plant, or equipment~~,
 16 the terms of which reflect an arms' length transaction. "Lease agreement" does not
 17 include a capital lease;

18 ~~(33)~~~~(24)~~ "Leased project" means an economic development project site occupied by an
 19 approved company pursuant to a lease agreement;

20 ~~(34)~~~~(25)~~ "Loan agreement" means the agreement between the authority and a
 21 preliminarily approved company establishing the terms and conditions of an
 22 advance disbursement;

23 ~~(35)~~~~(26)~~ "Manufacturing" means any activity involving the processing, assembling, or
 24 production of any property, including the processing resulting in a change in the
 25 conditions of the property and any activity related to the processing, assembling, or
 26 production of property~~[-], together with the~~ ~~"Manufacturing" also includes~~
 27 storage, warehousing, distribution, and related office facilities~~activities related to~~

1 ~~the manufacturing activity];~~

2 ~~(36)~~~~(27)~~ "~~Wage~~~~[Minimum wage]~~ target" means the average ***total hourly compensation***
 3 ***amount, including the*** minimum wage ***and employee benefits***,~~[amount]~~ that the
 4 approved company commits to meet for all new full-time jobs created and
 5 maintained as a result of the economic development project, which shall not be less
 6 than:

7 (a) One hundred twenty-five percent (125%) of the federal minimum wage in
 8 enhanced incentive counties; or

9 (b) One hundred fifty percent (150%) of the federal minimum wage in all other
 10 counties;

11 ~~(37)~~~~(28)~~ (a) "Nonretail service or technology" means any activity where~~[-~~

12 ~~1-]~~ service or technology is~~[-~~

13 ~~a-]~~ provided predominantly outside the Commonwealth~~[-]~~ and

14 ~~[b-]~~ designed to serve a multistate, national, or international market~~[-~~

15 ~~or]~~

16 ~~[2. Service or technology is provided by a national or regional headquarters~~
 17 ~~as a support to other business activities conducted by the eligible~~
 18 ~~company].~~

19 (b) "Nonretail service or technology" includes but is not limited to call centers,
 20 centralized administrative or processing centers, telephone or Internet sales
 21 order or processing centers, distribution or fulfillment centers, data processing
 22 centers, research and development facilities, and other similar activities;

23 ~~(38)~~~~(29)~~ "Owned project" means an economic development project owned in fee
 24 simple by the approved company or an affiliate, or possessed by the approved
 25 company or an affiliate pursuant to a capital lease;

26 ~~(39)~~~~(30)~~ "Preliminary approval" means the action taken by the authority preliminarily
 27 approving an eligible company for incentives under this subchapter;

1 **(40) "Renewable energy production" means a Kentucky operation that utilizes wind**
 2 **power, biomass resources, landfill methane gas, hydropower, solar power, or**
 3 **other similar renewable resources to generate electricity for sale to unrelated**
 4 **entities;**

5 **(41)**~~(31)~~ "Rent" means the actual annual rent or fee paid by an approved company
 6 under a lease agreement;

7 **(42)**~~(32)~~ "Start-up costs" means **nonrecurring** costs incurred to furnish and equip a
 8 facility for an economic development project, including costs incurred for:

- 9 (a) Computers, furnishings, office equipment, manufacturing equipment, and
 10 fixtures;
- 11 (b) The relocation of out-of-state equipment; and
- 12 (c) **Cost**~~[Nonrecurring costs]~~ of fixed telecommunications equipment;
 13 as certified to the authority in accordance with KRS 154.32-030;

14 **(43) "Synthetic natural gas" means the same thing as in KRS 152.715;**

15 **(44)**~~(33)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS
 16 154.32-040 between the authority and an approved company;~~and]~~

17 **(45)**~~(34)~~ "Term" means the period of time for which a tax incentive agreement may be
 18 in effect, which shall not exceed fifteen (15) years for an economic development
 19 project located in an enhanced incentive county, or ten (10) years for an economic
 20 development project not located in any other county; **and**

21 **(46) "Wage" means the per hour earnings of a full-time employee, including wages,**
 22 **tips, overtime, bonuses, and commissions, as reflected on the employee's federal**
 23 **form W-2 wage and tax statement, but excludes employee benefits.**

24 ➔Section 34. KRS 154.32-020 is amended to read as follows:

25 (1) The purposes of this subchapter are:

- 26 (a) To provide incentives for eligible companies and to encourage the location or
 27 expansion of manufacturing facilities, agribusiness operations, nonretail

1 service or technology facilities,~~[and regional or national corporate]~~
 2 headquarters operations, alternative fuel production facilities, gasification
 3 production facilities, energy-efficient alternative fuel production facilities,
 4 renewable energy production facilities, and carbon dioxide transmission
 5 pipelines in the Commonwealth to advance the public purposes of:

- 6 1. Creation of new jobs that, but for the incentives offered by the authority,
 7 would not exist within the Commonwealth;
- 8 2. Creation of new sources of tax revenues for the support of public
 9 services provided by the Commonwealth; and
- 10 3. Improvement in the quality of life for Kentucky citizens through the
 11 creation of sustainable jobs with higher salaries; and

12 (b) To provide enhanced incentives for companies that locate in enhanced
 13 incentive counties in recognition of the depressed economic conditions in
 14 those counties and the increased need for the growth and development caused
 15 by the depressed economic conditions.

16 (2) (a) To qualify for the incentives provided by subsection (3) of this section, an
 17 approved company shall:

- 18 1. Incur eligible costs of at least one hundred thousand dollars (\$100,000);
- 19 2. Create at least ten (10) new full-time jobs and maintain an annual
 20 average number of at least ten (10) new full-time jobs; and
- 21 3. a. Pay at least ninety percent (90%) of all new full-time employees
 22 whose jobs were created as a result of the economic development
 23 project a minimum wage of at least one hundred twenty-five
 24 percent (125%) of the federal minimum wage in enhanced
 25 incentive counties, and one hundred fifty percent (150%) of the
 26 federal minimum wage in other counties throughout the term of
 27 the economic development project; and

1 b. Provide employee benefits for all new full-time jobs equal to at
2 least fifteen percent (15%) of the minimum wage requirement
3 ~~[target]~~ established by subdivision a. of this subparagraph~~[the tax~~
4 ~~incentive agreement]~~. If the eligible company does not provide
5 employee benefits equal to at least fifteen percent (15%) of the
6 minimum wage requirement~~[target]~~ established by subdivision a.
7 of this subparagraph~~[the tax incentive agreement]~~, the eligible
8 company may still qualify for incentives if it provides the full-time
9 employees hired as a result of the economic development project
10 total hourly compensation equal to or greater than one hundred
11 fifteen percent (115%) of the minimum wage requirement~~[target]~~
12 established in subdivision a. of this subparagraph~~[the tax~~
13 ~~incentive agreement]~~ through increased hourly wages combined
14 with employee benefits.

15 (b) To qualify for the advance disbursement provided by KRS 154.32-080, an
16 approved company shall commit to meeting the job and wage requirements
17 established by paragraph (a) of this subsection, and shall provide
18 documentation indicating that the proposed economic development project
19 will require investment of at least five hundred million dollars
20 (\$500,000,000).

21 (3) The incentives available under this subchapter are as follows:

22 (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax
23 imposed under KRS 141.020 or 141.040 and the limited liability entity tax
24 imposed under KRS 141.0401 on the income, Kentucky gross profits, or
25 Kentucky gross receipts of the approved company generated by or arising
26 from the economic development project, as set forth in KRS 141.415 and
27 154.32-070;

1 (b) Authorization for the approved company to impose a wage assessment against
2 the gross wages of each new employee subject to the Kentucky income tax as
3 provided in KRS 154.32-090; and

4 (c) For economic development projects with an investment of more than five
5 hundred million dollars (\$500,000,000), an advance disbursement as provided
6 in KRS 154.32-080.

7 (4) The General Assembly hereby finds and declares that the authority granted in this
8 subchapter and the purposes accomplished hereby are proper governmental and
9 public purposes for which public moneys may be expended, and that the
10 inducement of the location of economic development projects within the
11 Commonwealth is of paramount importance to the economic well-being of the
12 Commonwealth.

13 ➔Section 35. KRS 154.60-010 is amended to read as follows:

14 As used in this subchapter:

15 (1) "Authority" means the Kentucky Economic Development Finance Authority;

16 (2) (a) "Average hourly wage" means the per-hour wage earned by a full-time
17 employee, including wages, tips, overtime, bonuses, and commissions, as
18 reflected on the employee's federal form W-2 wage and tax statement.

19 (b) "Average hourly wage" does not include employee benefits as defined in KRS
20 154.32-010, including health insurance and reimbursements;

21 (3) "Base employment" means:

22 (a) For the first application for which credits are approved, the number of full-
23 time employees employed on the day prior to the hire date of the new
24 employee filling the earliest eligible position identified on the application; and

25 (b) For subsequent applications, the number of full-time employees employed on
26 the day prior to the hire date of the new employee filling the earliest eligible
27 position identified on the initial approved application plus each eligible

1 position for which a credit has been approved;

2 (4) "Eligible position" means each position that:

3 (a) Is filled by a full-time employee and that increases the total employment of the
4 small business above its base employment; and

5 (b) Carries an average hourly wage of no less than one hundred fifty percent
6 (150%) of the federal minimum wage;

7 (5) "Full-time employee" means a person employed by a small business for at least an
8 average of thirty-five (35) hours per week and subject to the state tax imposed by
9 KRS 141.020;

10 (6) "Qualifying equipment or technology" means equipment or technology that has
11 been approved by the Office of Entrepreneurship~~[Division of Small Business~~
12 ~~Services]~~; and

13 (7) "Small business" means any business entity organized for profit that has been
14 approved by the Office of Entrepreneurship, including a sole proprietorship,
15 partnership, limited partnership, corporation, limited liability company, joint
16 venture, association, or cooperative, that has fifty (50) or fewer full-time employees
17 at the time it applies.

18 ➔Section 36. KRS 154.60-020 is amended to read as follows:

19 (1) The authority shall develop a small business development credit program in
20 consultation with the Office of Entrepreneurship~~[Division of Small Business~~
21 ~~Services]~~ to assist new or existing small businesses operating in the
22 Commonwealth. The nonrefundable credit shall be allowed against the taxes
23 imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall
24 be as provided in KRS 141.0205.

25 (2) The authority shall determine the terms, conditions, and requirements for
26 application for the credit, in consultation with the Office of Entrepreneurship~~[~~
27 ~~Division of Small Business Services]~~, subject to the provisions of subsection (3) of

1 this section. The application shall contain identification information about the
 2 number of eligible positions created and filled, a calculation of the base
 3 employment of the small business, verification of investment of five thousand
 4 dollars (\$5,000) or more in qualifying equipment or technology, and other
 5 information the authority may specify to determine eligibility for the credit.

6 (3) (a) The maximum amount of credits that may be committed in each fiscal year by
 7 the authority shall be capped at three million dollars (\$3,000,000).

8 (b) In order to be eligible to receive final approval for a credit, a small business
 9 shall, within the twenty-four (24)~~[a six (6)]~~ month period immediately
 10 preceding the application submission date:

11 1. Create and fill one (1) or more eligible positions over the base
 12 employment; and

13 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or
 14 technology.

15 (c) Each eligible position that is created and filled shall be maintained for twelve
 16 (12) months. If a full-time employee filling a newly created eligible position
 17 ceases to be employed by the small business for any reason, that employee
 18 shall be replaced within forty-five (45) days in order for the eligible position
 19 to maintain its eligible status, in addition to meeting all other applicable
 20 requirements.

21 ~~[(d) A small business shall apply for credits within twenty-four (24) months after~~
 22 ~~meeting the earlier of:~~

23 1. ~~The employment requirement of paragraph (b)1. of this subsection; or~~

24 2. ~~The investment requirement of paragraph (b)2. of this subsection.]~~

25 (d)~~(e)~~ The small business shall submit all information necessary for the
 26 authority to determine credit eligibility for each year, and the amount of credit
 27 for which the small business is eligible.

1 ~~(e)~~~~(f)~~ The maximum amount of credit for each small business for each year
2 shall not exceed twenty-five thousand dollars (\$25,000).

3 ~~(f)~~~~(g)~~ The credit shall be claimed on the tax return for the year during which
4 the credit was approved. Unused credits may be carried forward for up to five
5 (5) years.

6 ➔Section 37. The following KRS sections are repealed:

7 141.430 Calculation of income tax credit for approved companies --
8 Administrative regulations.

9 154.10-100 Statewide network for information transfer and assistance --
10 Purpose.

11 154.10-120 Preparation of state strategic plan for economic development.

12 154.10-125 Content and effect of strategic economic development plan.

13 154.10-140 Benchmarks to measure performance of economy and progress --
14 Periodic evaluations of projects and programs.

15 154.30-052 Signature project loan support program – Program requirements.

16 154.48-010 Definitions for KRS 154.010 to 154.48-035

17 154.48-015 Findings of General Assembly regarding provisions of KRS
18 154.48-010-154.48-035

19 154.48-020 Administrative regulations establishing standards for preliminary
20 approval of eligible companies and projects – Review by authority and final approval of
21 companies and projects – Authority's meetings to be governed by provision of Open
22 Meetings Act.

23 154.48-025 Environmental stewardship agreements – Final approval of
24 application – Tax credits – Sum of total inducements – Limitation on use of recycling
25 credit – Consent of authority required for transfer of agreement.

26 154.48-030 Department to make annual report on income tax credits and
27 returns to authority.

- 1 154.48-035 Short title for KRS 154.48-010-154.48-035 – Kentucky
- 2 Environmental Stewardship Act.
- 3 224.01-020 Agricultural warehousing sites cleanup fund.