

CHAPTER 75**(HB 303)**

AN ACT relating to economic development.

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

➔Section 1. KRS 11.200 is amended to read as follows:

- (1) There is created the Commission on Small Business Innovation and Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).
- (2) It shall be the purpose of the Commission on Small Business Innovation and Advocacy to:
 - (a) Address matters of small business as it relates to government affairs;
 - (b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;
 - (c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;
 - (d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;
 - (e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and
 - (f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.
- (3) The Commission on Small Business Innovation and Advocacy shall consist of thirteen (13) members:
 - (a) Two (2) members representing each congressional district; and
 - (b) One (1) at-large member.
- (4) All members shall be appointed by the Governor for a term of four (4) years, except that the original appointments shall be staggered so that three (3) appointments shall expire at one (1) year, three (3) appointments shall expire at two (2) years, and three (3) appointments shall expire at three (3) years, and four (4) appointments shall expire at four (4) years from the dates of initial appointment.
- (5) The Governor shall appoint the chair and vice chair of the commission from the appointed membership.
- (6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.
- (7) A quorum shall be a majority of the membership of the commission.
- (8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.
- (9) The executive director of the Office of Entrepreneurship and ~~{Small Business}~~ Innovation shall be the administrative head and chief executive officer of the commission. The secretary of the Cabinet for Economic Development shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.
- (10) The Commission on Small Business Innovation and Advocacy shall be administratively attached to the Office of Entrepreneurship and ~~{Small Business}~~ Innovation within the Cabinet for Economic Development.

➔Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they

are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Agricultural Development Board.
 - (c) Kentucky Agricultural Finance Corporation.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 1. Office of Administrative Services.
 - a. Division of Operational Support.
 - b. Division of Management Services.
 2. Office of Operations.
 - a. Division of West Troops.
 - b. Division of East Troops.
 - c. Division of Special Enforcement.
 - d. Division of Commercial Vehicle Enforcement.
 3. Office of Technical Services.
 - a. Division of Forensic Sciences.
 - b. Division of Information Technology.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.

- (g) Office of Legal Services.
- (h) Office of the Kentucky State Medical Examiner.
- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Human Resource Management.
 - 1. Division of Human Resource Administration.
 - 2. Division of Employee Management.
- (m) Department of Public Advocacy.
- (n) Office of Communications.
 - 1. Information Technology Services Division.
- (o) Office of Financial Management Services.
 - 1. Division of Financial Management.
- (p) Grants Management Division.
- (2) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Legal Services.
 - a. Legal Division I.
 - b. Legal Division II.
 - 3. Office of Administrative Hearings.
 - 4. Office of Communication.
 - 5. Mine Safety Review Commission.
 - 6. Office of Kentucky Nature Preserves.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Mine Permits.
 - 3. Division of Mine Reclamation and Enforcement.
 - 4. Division of Abandoned Mine Lands.

5. Division of Oil and Gas.
6. Division of Mine Safety.
7. Division of Forestry.
8. Division of Conservation.
9. Office of the Reclamation Guaranty Fund.
- (d) Office of Energy Policy.
 1. Division of Energy Assistance.
- (e) Office of Administrative Services.
 1. Division of Human Resources Management.
 2. Division of Financial Management.
 3. Division of Information Services.
- (3) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - f. Professional Licensing Legal Division.
 3. Office of Administrative Hearings.
 4. Office of Administrative Services.
 - a. Division of Human Resources.
 - b. Division of Fiscal Responsibility.
 - (b) Office of Claims and Appeals.
 1. Board of Tax Appeals.
 2. Board of Claims.
 3. Crime Victims Compensation Board.
 - (c) Kentucky Boxing and Wrestling Commission.
 - (d) Kentucky Horse Racing Commission.
 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
 - (e) Department of Alcoholic Beverage Control.

1. Division of Distilled Spirits.
2. Division of Malt Beverages.
3. Division of Enforcement.
- (f) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (i) Department of Insurance.
 1. Division of Health and Life Insurance and Managed Care.
 2. Division of Property and Casualty Insurance.
 3. Division of Administrative Services.
 4. Division of Financial Standards and Examination.
 5. Division of Licensing.
 6. Division of Insurance Fraud Investigation.
 7. Division of Consumer Protection.
- (j) Department of Professional Licensing.
 1. Real Estate Authority.
- (4) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.

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2. Office for Civil Rights and Small Business Development.
3. Office of Budget and Fiscal Management.
4. Office of Inspector General.
5. Secretary's Office of Safety.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (5) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business *and Community* Development.
 - a. Development and Retention Division - West Kentucky.*
 - b. Development, Retention, and Administrative Division - Central and East Kentucky.*
 - c. Community and Workforce Development Division.*
 3. Department for Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Finance and Personnel Division.
 - c. IT and Resource Management Division.
 - d. Compliance Division.
 - e. ***Program***~~Incentive~~ Administration Division.
 - f. Bluegrass State Skills Corporation.
 4. Office of ***Strategy***~~Marketing~~ and Public Affairs.
 - a. Marketing and* Communications Division.
 - b. Research and Strategy*~~Graphics Design~~ Division.
 5. ~~Office of Workforce, Community Development, and Research.~~
 6. ~~Office of Entrepreneurship and Small Business Innovation.~~
 - a. Commission on Small Business Innovation and Advocacy.
- (6) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 1. Office of the Ombudsman and Administrative Review.
 2. Office of Public Affairs.
 3. Office of Legal Services.
 4. Office of Inspector General.
 5. Office of Human Resource Management.
 6. Office of Finance and Budget.

7. Office of Legislative and Regulatory Affairs.
8. Office of Administrative Services.
9. Office of Application Technology Services.
10. Office of Data Analytics.
- (b) Department for Public Health.
- (c) Department for Medicaid Services.
- (d) Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (e) Department for Aging and Independent Living.
- (f) Department for Community Based Services.
- (g) Department for Income Support.
- (h) Department for Family Resource Centers and Volunteer Services.
- (i) Office for Children with Special Health Care Needs.
- (7) Finance and Administration Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.
 - (f) Office of Administrative Services.
 - (g) Office of Policy and Audit.
 - (h) Department for Facilities and Support Services.
 - (i) Department of Revenue.
 - (j) Commonwealth Office of Technology.
 - (k) State Property and Buildings Commission.
 - (l) Office of Equal Employment Opportunity and Contract Compliance.
 - (m) Kentucky Employees Retirement Systems.
 - (n) Commonwealth Credit Union.
 - (o) State Investment Commission.
 - (p) Kentucky Housing Corporation.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Higher Education Assistance Authority.
 - (u) Kentucky River Authority.
 - (v) Kentucky Teachers' Retirement System Board of Trustees.
 - (w) Executive Branch Ethics Commission.
 - (x) Office of Fleet Management.
- (8) Tourism, Arts and Heritage Cabinet:

- (a) Kentucky Department of Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Purchasing.
 - 5. Division of Facilities.
 - 6. Division of Park Operations.
 - 7. Division of Sales, Marketing, and Customer Service.
 - 8. Division of Engagement.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
- (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering, Infrastructure, and Technology.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Marketing.
- (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.
 - 7. Division of Venue Services.
 - 8. Division of Personnel Management and Staff Development.
 - 9. Division of Sales.
 - 10. Division of Security and Traffic Control.
 - 11. Division of Information Technology.

- 12. Division of the Louisville Arena.
- 13. Division of Fiscal and Contract Management.
- 14. Division of Access Control.
- (f) Office of the Secretary.
 - 1. Office of Finance.
 - 2. Office of Government Relations and Administration.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Arts and Cultural Heritage.
- (k) Kentucky African-American Heritage Commission.
- (l) Kentucky Foundation for the Arts.
- (m) Kentucky Humanities Council.
- (n) Kentucky Heritage Council.
- (o) Kentucky Arts Council.
- (p) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (q) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (r) Kentucky Artisans Center at Berea.
- (s) Northern Kentucky Convention Center.
- (t) Eastern Kentucky Exposition Center.
- (9) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity, Equality, and Training.
 - (j) Office of Public Affairs.
- (10) Education and Labor Cabinet:
 - (a) Office of the Secretary.

1. Office of Legal Services.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - c. Workforce Development Legal Division.
2. Office of Administrative Services.
 - a. Division of Human Resources Management.
 - b. Division of Fiscal Management.
 - c. Division of Operations and Support Services.
3. Office of Technology Services.
 - a. Division of Information Technology Services.
4. Office of Policy and Audit.
5. Office of Legislative Services.
6. Office of Communications.
7. Office of the Kentucky Center for Statistics.
8. Board of the Kentucky Center for Statistics.
9. Early Childhood Advisory Council.
10. Governors' Scholars Program.
11. Governor's School for Entrepreneurs Program.
12. Foundation for Adult Education.
- (b) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
 3. Education Professional Standards Board.
- (c) Board of Directors for the Center for School Safety.
- (d) Department for Libraries and Archives.
- (e) Kentucky Environmental Education Council.
- (f) Kentucky Educational Television.
- (g) Kentucky Commission on the Deaf and Hard of Hearing.
- (h) Department of Workforce Development.
 1. Career Development Office.
 2. Office of Vocational Rehabilitation.
 - a. Division of Kentucky Business Enterprise.
 - b. Division of the Carl D. Perkins Vocational Training Center.
 - c. Division of Blind Services.
 - d. Division of Field Services.
 - e. Statewide Council for Vocational Rehabilitation.
 - f. Employment First Council.
 3. Office of Employer and Apprenticeship Services.
 - a. Division of Apprenticeship.

4. Kentucky Apprenticeship Council.
5. Division of Technical Assistance.
6. Office of Adult Education.
7. Office of the Kentucky Workforce Innovation Board.
- (i) Department of Workplace Standards.
 1. Division of Occupational Safety and Health Compliance.
 2. Division of Occupational Safety and Health Education and Training.
 3. Division of Wages and Hours.
- (j) Office of Unemployment Insurance.
- (k) Kentucky Unemployment Insurance Commission.
- (l) Department of Workers' Claims.
 1. Division of Workers' Compensation Funds.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Specialist and Medical Services.
 6. Workers' Compensation Board.
- (m) Workers' Compensation Funding Commission.
- (n) Kentucky Occupational Safety and Health Standards Board.
- (o) State Labor Relations Board.
- (p) Employers' Mutual Insurance Authority.
- (q) Kentucky Occupational Safety and Health Review Commission.
- (r) Workers' Compensation Nominating Committee.
- (s) Office of Educational Programs.
- (t) Kentucky Workforce Innovation Board.
- (u) Kentucky Commission on Proprietary Education.
- (v) Kentucky Work Ready Skills Advisory Committee.
- (w) Kentucky Geographic Education Board.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

(10) Kentucky Communications Network Authority.

➔Section 3. KRS 141.310 is amended to read as follows:

- (1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.
- (2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.
- (3) If wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.
- (4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.
- (5) The tables mentioned in subsection (1) of this section shall consider the standard deduction.
- (6) The department may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation produces substantially the same result as set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the department at least thirty (30) days before the first payroll period for which it is to be used.
- (7) The department may, by administrative regulations, authorize employers:
 - (a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;
 - (b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and
 - (c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.
- (8) The department may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.
- (9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.
- (10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.
- (11) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated, the offset shall be one hundred percent (100%) of the assessment fee.
- (12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the ~~wage[job development]~~ assessment fee provided in *Section 20 of this Act* ~~KRS 154.23-055~~ may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee

under this section. The amount of the offset shall be equal to ***the amount of the Kentucky income tax credit authorized for the assessed employee who is entitled to receive a simultaneous adjustment resulting from an approved jobs retention project as provided in Section 20 of this Act***~~the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3)}~~.

- (13) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.32-090 may offset the state portion of the assessment against the Kentucky income tax required to be withheld from the employee under this section.
- (14) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the department. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the department, but shall not exceed fifty thousand dollars (\$50,000).
- (15) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.27-080 may offset the assessment against the Kentucky income tax required to be withheld from the employee under this section.
- (16) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.
- (17) ***An approved company and any associated loan-out entity under Subchapter 61 of KRS Chapter 154 required to withhold Kentucky income tax from employees on all qualified payroll expenditures shall withhold at the maximum rate provided in KRS 141.020, and remit and certify the withheld amount to the department.***

➔Section 4. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 154.22-070(2), ~~154.23-055, 154.24-110, 154.24-150(3) and (4),~~ ***Section 20 of this Act,*** 154.26-100(2), 154.27-080, 154.28-110, or 154.32-090 shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

➔Section 5. KRS 141.383 is amended to read as follows:

- (1) As used in this section:
 - (a) "Above-the-line production crew" has the same meaning as in KRS 154.61-010;
 - (b) "Approved company" has the same meaning as in KRS 154.61-010;
 - (c) "Authority" has the same meaning as in KRS 154.61-010;
 - (d) "Below-the-line production crew" has the same meaning as in KRS 154.61-010;
 - (e) ***"Continuous film production" has the same meaning as in Section 30 of this Act;***
 - (f) ***"Loan-out entity" has the same meaning as in Section 30 of this Act;***
 - (g) "Qualifying expenditure" has the same meaning as in KRS 154.61-010;
 - ~~(h)(f)~~ "Qualifying payroll expenditure" has the same meaning as in KRS 154.61-010;
 - ~~(i)(g)~~ "Secretary" has the same meaning as in KRS 154.61-010; and
 - ~~(j)(h)~~ "Tax incentive agreement" has the same meaning as KRS 154.61-010.
- (2)
 - (a) There is hereby created a tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
 - (b) The incentive available under paragraph (a) of this section is:
 - 1. A refundable credit for applications approved prior to April 27, 2018;
 - 2. A nonrefundable and nontransferable credit for applications approved on or after April 27, 2018, but before January 1, 2022; and

3. A refundable credit for applications approved on or after January 1, 2022, if the provisions of paragraph (c) of this subsection are met.
- (c) 1. The total tax incentive approved under KRS 154.61-020 shall be limited to:
 - a. One hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year through the calendar year 2021;~~and~~
 - b. Seventy-five million dollars (\$75,000,000) for the calendar year 2022 and each calendar year thereafter; **and**
 - c. ***Beginning with calendar year 2024, the amount in subdivision b. of this subparagraph shall be allocated accordingly:***
 - i. ***Twenty-five million dollars (\$25,000,000) shall be allocated for all approved companies with a continuous film production; and***
 - ii. ***On the first day of July of each calendar year, any unused balance allocated under subpart i. of this subdivision for continuous film productions, shall be made available for all approved companies with a motion picture or entertainment production.***
2. ~~Beginning January 1, 2022,~~To qualify for the refundable credit, all applicants shall:
 - a. Begin ***filming or*** production ***in Kentucky*** within six (6) months of ***approval by***~~filing an application with~~ the authority; and
 - b. Complete ***filming or*** production ***in Kentucky*** within two (2) years of their production start date.
- (3) ~~Beginning January 1, 2022,~~An approved company may receive a refundable tax credit if:
 - (a) The department has received notification from the authority that the approved company has satisfied all requirements of KRS 154.61-020 and 154.61-030; and
 - (b) The approved company has provided a detailed cost report and sufficient documentation to the authority, which has been forwarded by the authority to the department, that:
 1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and
 2. The approved company ***or loan-out entity*** has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures, ***and remitted and certified the withheld amount to the department.***
- (4) Interest shall not be allowed or paid on any refundable credits provided under this section.
- (5) The department may promulgate administrative regulations under KRS Chapter 13A to administer this section.
- (6) On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the department shall report to the authority and the Interim Joint Committee on Appropriations and Revenue the names of the approved companies and the amounts of refundable income tax credit claimed.
- (7) No later than September 1, 2021, and by ~~September~~ ***November*** 1 every four (4) years thereafter, the department and the Cabinet for Economic Development shall cooperatively provide historical data related to the tax credit allowed in this section and KRS 154.61-020 and 154.61-030, including data items beginning with tax credits claimed for taxable years beginning on or after January 1, 2018:
 - (a) The name of the taxpayer claiming the tax credit;
 - (b) The date that the application was approved and the date the filming or production was completed;
 - (c) The taxable year in which the taxpayer claimed the tax credit;
 - (d) The total amount of the tax credit, including any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future;
 - (e) Whether the taxpayer is a Kentucky-based company as defined in KRS 154.61-010;
 - (f) Whether the taxpayer films or produces a:

1. Feature-length film, television program, or industrial film;
 2. National touring production of a Broadway show; or
 3. Documentary;
- (g) Whether the filming or production was performed:
1. Entirely in an enhanced county; or
 2. In whole or in part in any Kentucky county other than in an enhanced incentive county;
- (h) The amount of qualifying expenditures incurred by the taxpayer;
- (i) The amount of qualifying payroll expenditures paid to:
1. Resident below-the-line crew; and
 2. Nonresident below-the-line production crew;
- including the number of crew members in each category;
- (j) The amount of qualifying payroll expenditures paid to:
1. Resident above-the-line crew; and
 2. Nonresident above-the-line crew;
- including the number of crew members in each category; and
- (k) A brief description of the type of motion picture or entertainment production project.
- (8) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.
- ➔Section 6. KRS 154.12-2035 is amended to read as follows:
- (1) The cabinet shall maintain a searchable electronic database on its ~~website~~~~[Web site]~~ containing information on the cost and status of the programs listed in subsection (3)(a) of this section. The database shall include all projects approved at any time in the last five (5) years and shall include for each, where applicable, the following information:
- (a) The name of the program, the recipient or participant, the type of project, and its location by county;
 - (b) Total and approved costs of the project or investment, and the amount of incentives or other benefits authorized;
 - (c) For the Kentucky Business Investment Program and the Kentucky Enterprise Initiative Act, the amount of incentives or other benefits actually recovered as self-reported by the recipient;
 - (d) The number of new jobs estimated and, for the Kentucky Business Investment Program, actually created, along with wage information for those jobs;
 - (e) Project status and the date and nature of the most recent activity; and
 - (f) Any other comparable data or information necessary to achieve transparency and accountability for the specified programs.
- (2) In addition to the electronic database required in subsection (1) of this section, the cabinet shall prepare an annual report on the programs listed in subsection (3) of this section and make it available on the Cabinet for Economic Development ~~website~~~~[Web site]~~ by November 1 of each year. The report shall include all projects approved in the preceding fiscal year and shall provide for these projects the information specified in subsection (1) of this section plus aggregate data for each program, summary evaluations of program activity and effectiveness, and anything required by statute to be reported for any particular program. The report shall also list all projects that were approved in prior years but active at any time in the preceding fiscal year, although for these projects the report need not provide further data.
- (3) The following programs shall be subject to the reporting requirements of this section:

- (a) The electronic database required in subsection (1) of this section shall include the Bluegrass State Skills Corporation, grants-in-aid and skills training investment credit; Kentucky Business Investment Program; Kentucky Enterprise Initiative Act; Office of Entrepreneurship and ~~Small Business~~ Innovation programs; Incentives for Energy-related Business Act; Kentucky Economic Development Finance Authority small business and direct loan programs; Kentucky Industrial Revitalization Act; Kentucky Reinvestment Act; Kentucky Small Business Tax Credit; economic development bonds; Kentucky Industrial Development Act; Kentucky Jobs Development Act; Kentucky Jobs Retention Act; the Kentucky Rural Economic Development Act; and
 - (b) The annual report required by subsection (2) of this section shall include all programs listed in paragraph (a) of this subsection plus the Kentucky Investment Fund Act, and tax increment financing, state participation projects.
- (4) The cabinet shall coordinate with any other agency necessary to supply the information required by this section.

➔Section 7. KRS 154.12-204 is amended to read as follows:

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

- (1) "Agribusiness" has the same meaning as in KRS 154.32-010;
- (2) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- (3) "Applicant" means a business or industry that has made application for a grant-in-aid or skills training investment credit as authorized by KRS 154.12-205 to 154.12-208;
- (4) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the corporation to receive grant-in-aid or skills training investment credits as provided by KRS 154.12-205 to 154.12-208;
- (5) "Approved costs" means costs confirmed as eligible by the corporation, including:
 - (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
 - (b) The cost of supplies and materials used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
 - (c) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and
 - (d) All other costs of a nature comparable to those described in this subsection;
- (6) "Board" means the board of directors of the Bluegrass State Skills Corporation;
- (7) "Carbon dioxide *or hydrogen* transmission pipeline" has the same meaning as in KRS 154.32-010;
- (8) "Coal severing and processing" has the same meaning as in KRS 154.32-010;
- (9) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
- (10) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;
- (11) "Employee" means any person:
 - (a) Who is currently a permanent full-time employee of the qualified company;
 - (b) Who is a resident of Kentucky, as that term is defined in KRS 141.010; and
 - (c) Who is paid the minimum base hourly wage plus employee benefits equal to or greater than fifteen percent (15%) of the minimum base hourly wage. If the qualified company does not provide employee benefits equal to at least fifteen percent (15%) of the minimum base hourly wage, the qualified

company may still qualify if it provides the full-time employee total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the minimum base hourly wage through increased hourly wages combined with at least one (1) company-paid employee benefit;

- (12) "Energy-efficient alternative fuel production" has the same meaning as in KRS 154.32-010;
- (13) "Gasification production" has the same meaning as in KRS 154.32-010;
- (14) "Grant-in-aid" means funding that is provided to qualified companies by the BSSC for the development or expansion of a program as provided in this chapter;
- (15) "Headquarters" has the same meaning as in KRS 154.32-010;
- (16) "Hospital" has the same meaning as in KRS 154.32-010;
- (17) "Manufacturing" has the same meaning as in KRS 154.32-010;
- (18) "Minimum base hourly wage" means the minimum wage amount paid to an employee by a qualified company, which shall not be less than one hundred fifty percent (150%) of the federal minimum wage;
- (19) "Nonretail service or technology" means the same as in KRS 154.32-010;
- (20) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;
- (21) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:
 - (a) Classroom instruction;
 - (b) Classroom-related field, shop, factory, office, or laboratory work; and
 - (c) Basic skills, entry level training, job upgrading, retraining, and advance training;
- (22) (a) "Qualified company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other legal entity through which business is conducted that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth:
 - 1. Manufacturing;
 - 2. Agribusiness;
 - 3. Nonretail service or technology;
 - 4. Headquarter operations, regardless of the underlying business activity of the company;
 - 5. Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production;
 - 6. Carbon dioxide *or hydrogen* transmission pipeline;
 - 7. Coal severing and processing; or
 - 8. Hospital operations.
- (b) "Qualified company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, accommodation and food services, or public administration services;
- (23) "Renewable energy production" means the same as in KRS 154.32-010;
- (24) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills, and training that is designed to enhance computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology;

- (25) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, as provided in this subchapter; and
- (26) "Technical assistance" means professional and any other assistance provided by qualified companies to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

➔Section 8. KRS 154.12-207 is amended to read as follows:

- (1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to qualified companies, not in excess of ~~five~~~~two~~ hundred thousand dollars ~~(\$500,000)~~~~(\$200,000)~~ per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.
- (2) The corporation may, in accordance with KRS 154.12-204 to 154.12-208, award a skills training investment credit to an approved company. The amount of the skills training investment credit awarded by the corporation shall be an amount not to exceed fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed two thousand dollars (\$2,000) per trainee and, in the aggregate, not to exceed ~~five~~~~two~~ hundred thousand dollars ~~(\$500,000)~~~~(\$200,000)~~ for each approved company per fiscal year. The corporation shall only approve one (1) application per fiscal year for each approved company.
- (3) To apply for a grant-in-aid or a skills training investment credit, a qualified company shall submit an application to the Bluegrass State Skills Corporation before commencing its program of skills upgrade or occupational upgrade training. Each application shall contain information the corporation requires, including but not limited to:
 - (a) A proposal for a program of skills upgrade training, occupational upgrade training, and education;
 - (b) A description of each component of the proposed training program and the number of employee training hours requested; and
 - (c) A statement of the total anticipated costs and expenses of the program, including a breakdown of the costs associated with equipment, personnel, facilities, and materials.
- (4) Approval of the grant-in-aid and skills training investment credit application by the board shall be based upon the following criteria:
 - (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
 - (b) Participants in the program must qualify as an employee as defined by KRS 154.12-204;
 - (c) The program must involve an area of skills upgrade training, occupational upgrade training, and education which is needed by a qualified company and for which a shortage of qualified individuals exists within the Commonwealth; and
 - (d) The grant-in-aid and skills training investment credit must be essential to the success of the program as the resources are inadequate to attract the technical assistance and financial support necessary from a qualified company.
- (5) After a review of applications for grant-in-aid and skills training investment credits, the corporation may designate the qualified company as an approved company and approve the maximum amount of grants and skills training investment credits the approved company is eligible to receive. The maximum amount of skills training investment credits approved for all qualified companies by the corporation shall not exceed two million five hundred thousand dollars (\$2,500,000) for each fiscal year. Skills training investment credits that remain unallocated by the corporation at the end of its fiscal year shall lapse and shall not be carried forward to a new fiscal year.
- (6) The approved company shall complete all programs of skills upgrade training or occupational upgrade training within one (1) year from the date of approval by the corporation and shall certify the completion of these programs to the corporation. Once they are completed and certified and all required documentation is provided and received by the corporation, the corporation shall disburse the grant funds or notify the approved company of the final authorized skills training investment credit.

➔Section 9. KRS 154.12-223 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the Department for Business *and Community* Development, which shall be headed by a commissioner appointed by the Governor. The department shall work with each Kentucky county *and community* in:
 - (a) Providing customer service and project management with new and existing industries;
 - (b) Overseeing programs and initiatives designed to support new investment, job creation, and retention across the state;
 - (c) Providing sufficient technical resources to create and maintain a database to facilitate sales transactions between Kentucky businesses;~~{and}~~
 - (d) Administering activities related to business site selection; *and*
 - (e) *Collaborating with community partners and other agencies on workforce and economic development opportunities.*
- (2) *The department shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:*
 - (a) *The Development and Retention Division – West Kentucky;*
 - (b) *The Development, Retention, and Administrative Division – Central and East Kentucky; and*
 - (c) *The Community and Workforce Development Division*~~{The following programs shall be attached to the Department for Business Development:~~
 - ~~(a) The Kentucky port and river development program created by KRS 65.510 to 65.530, KRS 139.483, and KRS 154.80-100 to 154.80-130; and~~
 - ~~(b) The Waterway Marina Development Program established by KRS 154.80-310}.~~

➔Section 10. KRS 154.12-224 is amended to read as follows:

- (1) There is created in the Cabinet for Economic Development the Department for Financial Services. The department shall be headed by a commissioner appointed by the secretary pursuant to KRS 154.10-050. The department shall coordinate administration and monitoring of all financial assistance, tax credit, and related programs available for business and industry and shall provide all budgeting, accounting, personnel services, and information technology necessary for proper administration of the cabinet and cabinet programs.
- (2) The department shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:
 - (a) The Finance and Personnel Division, which shall provide financial, personnel, facility, and contract administration services;
 - (b) The Compliance Division, which shall monitor incentives and collect and maintain data on incentives after they are awarded;
 - (c) ~~The *Program*~~~~{Incentive}~~ Administration Division, which shall coordinate necessary documentation and assist the Department for Business *and Community* Development in preparing recommendations and finalizing documents for presentation to the authority or other body for consideration and approval; and
 - (d) The IT and Resource Management Division, which shall coordinate facility services and internal information technology needs.
- (3) The department shall include the Kentucky Economic Development Finance Authority.
- (4) The department shall include the Bluegrass State Skills Corporation established by KRS 154.12-205.

➔Section 11. KRS 154.12-275 is amended to read as follows:

- (1) There is created in the Cabinet for Economic Development the Office of *Strategy*~~{Marketing}~~ and Public Affairs. The office shall be headed by an executive director appointed by the secretary pursuant to KRS 154.10-050. The office shall administer activities related to *research, strategy*, communications, and marketing services.
- (2) The office shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

- (a) The **Marketing and** Communications Division; and
- (b) The **Research and Strategy**~~[Graphics Design]~~ Division.

➔Section 12. KRS 154.12-277 is amended to read as follows:

- (1) There is created in the Cabinet for Economic Development the Office of Entrepreneurship and ~~[Small Business]~~ Innovation. The office shall be headed by an executive director appointed by the secretary pursuant to KRS 154.10-050. The office shall be responsible for various forms of entrepreneurship and **innovation**~~[small-business]~~ assistance, including but not limited to providing customer service and project management with small and minority businesses, assisting export development, administering the innovation assistance set forth in KRS 154.12-278, introducing entrepreneurs to individual investors and to investment capital firms interested in start-up and early-stage financing, and collecting, summarizing, and disseminating information helpful to ~~[small]~~ businesses, including information on market research, federal, state, and local minority business programs, government procurement opportunities, and the availability of managerial assistance.
- (2) The office shall include the Commission on Small Business Innovation and Advocacy established in KRS 11.200.

➔Section 13. KRS 154.12-278 is amended to read as follows:

- (1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.
- (2) The Office of Entrepreneurship and ~~[Small Business]~~ Innovation shall:
 - (a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to 154.12-310;
 - (b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy and prepare an annual report by November 1 of each year. The report shall be available on the Cabinet for Economic Development web page as required by KRS 154.12-2035;
 - (c) Oversee the modernization initiative in KRS 154.12-274;
 - (d) Assist the cabinet in the recruitment of research and development companies;
 - (e) Assist the cabinet in the attraction of high-technology research and development centers;
 - (f) Support growth and creation of knowledge-based, innovative companies;
 - (g) Build the infrastructure for innovative businesses and promote networks of technology-driven clusters and research intensive industries;
 - (h) Administer the high-tech construction pool and the high-tech investment pool;
 - (i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and
 - (j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program. As used in this paragraph, the Science and Technology Funding Program means the Kentucky enterprise fund, the Rural Innovation Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation, Small Business Innovation Research and Small Business Technology Transfer grants, and other government grant programs and funding programs as determined by the executive director of the Office of Entrepreneurship and ~~[Small Business]~~ Innovation.
- (3) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The executive director, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The executive director shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.

- (4) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The executive director, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity or related position.
- (5) The Kentucky Economic Development Finance Authority shall ensure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

➔Section 14. KRS 154.12-310 is amended to read as follows:

- (1) The Kentucky Innovation and Commercialization Centers are private-public partnerships, operating as a cohesive statewide infrastructure to support the implementation of key Kentucky Innovation Act initiatives.
- (2) The organization of the ICCs shall be a statewide network of Kentucky innovative hubs, with the location and services provided for each hub determined by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation.
 - (a) The Office of Entrepreneurship and ~~Small Business~~ Innovation shall be the central headquarters for the Kentucky innovative hubs and has primary responsibility for the following:
 - 1. Managing and administering the ICC Program;
 - 2. Establishing uniform program application, protocol, and operating guidelines when appropriate;
 - 3. Supporting the protocol by creating and funding centralized services to be distributed throughout the network; and
 - 4. Identifying those issues, opportunities, and challenges that have statewide implications.
 - (b) The regional affiliates are responsible for fulfilling the duties as set forth in KRS 154.12-305 relating to the implementation of the region's innovation strategic plan and supporting the implementation of the Kentucky Innovation Act initiatives in the region or subregion;
 - (c) The satellites are responsible for generating technology business development in their assigned geographic area, acting as a bridge between individuals and businesses needing critical early state concept and development work and the affiliate centers that can provide this support.

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

- (3) The executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 154.12-300 to 154.12-310.
- (4) The executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation may, in effectuating the provisions of KRS 154.12-300 to 154.12-310, contract with a science and technology organization as defined in KRS 164.6011 to administer and manage the ICC Program.

➔Section 15. KRS 154.20-190 is amended to read as follows:

- (1) As used in this section:
 - (a) "Authority" means the Kentucky Economic Development Finance Authority;
 - (b) "Qualifying former hospital" means a hospital facility:
 - 1. At a location that closed within thirty-six (36) months prior to an application for a loan; and
 - 2. For which the former owner or new owner has obtained a certificate of need to open a new hospital or other health facility as defined in KRS 216B.015 that provides inpatient care at the closed location; and
 - (c) "Rural hospital" means any hospital or qualifying former hospital located within a county of the Commonwealth having a population of less than fifty thousand (50,000) according to the most recent annual estimates of the resident population issued by the United States Census Bureau.

- (2) (a) The rural hospital operations and facilities revolving loan fund is established. The authority shall provide loans to a rural hospital not to exceed one million dollars (\$1,000,000) for any project within a rural hospital and shall not exceed more than two million dollars (\$2,000,000) every five (5) years.
- (b) Any loan issued by the authority shall not exceed a twenty (20) year term and shall be utilized by the Cabinet for Economic Development to assist a rural hospital in providing needed direct health care services for the citizens of the Commonwealth by:
 - 1. Maintaining or upgrading the hospital's facilities;
 - 2. Maintaining or increasing the current staff of the rural hospital;
 - 3. Reopening a qualifying former hospital; or
 - 4. Providing health care services that are not currently available to citizens.
- (c) The authority shall consider a group with multiple locations eligible under this section as if each separate location is a separate entity for purposes of determining eligibility and applicable loan limits.
- (3) The Cabinet for Economic Development shall:
 - (a) Determine the terms and conditions of each loan, including the repayment to be deposited back in the revolving loan fund for issuance of future loans to other rural hospitals;
 - (b) Monitor the performance of the rural hospital; and
 - (c) By ~~November~~~~October~~ 1, 2023~~2020~~, and by each ~~November~~~~October~~ 1 thereafter, report to the Interim Joint Committee on Appropriations and Revenue information about each outstanding loan issued, including:
 - 1. The name and location of the rural hospital;
 - 2. The amount of principal originally loaned;
 - 3. The terms of the loan and whether the rural hospital is currently meeting those terms; and
 - 4. How the rural hospital used the loan related to facilities, staff, or additional services.
- (4) (a) The fund created in subsection (2) of this section shall be a trust and agency account.
- (b) The Cabinet for Economic Development shall administer the fund.
- (c) The fund shall consist of appropriations, contributions, donations, gifts, or federal funds.
- (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year.
- (e) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (f) Moneys deposited in the fund are hereby appropriated for the sole purpose of providing loans to rural hospitals.

➔Section 16. KRS 154.20-230 is amended to read as follows:

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

- (1) "Application" means a document submitted by small businesses and investors, on a form supplied by the authority, for the purpose of requesting certification to participate in the program and to apply for a credit;
- (2) "Authority" means the Kentucky Economic Development Finance Authority;
- (3) "Commonwealth" means the Commonwealth of Kentucky;
- (4) "Credit" means the nonrefundable angel investor tax credit established by KRS 141.396 and awarded by the authority pursuant to KRS 154.20-236;
- (5) "Department" means the Department of Revenue;
- (6) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;
- (7) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

- (8) "Fee" means a nonrefundable application fee in an amount set by the authority, to be collected by the authority to offset the cost of administering KRS 154.20-230 to 154.20-240;
- (9) "Full-time employee" means a person that is required to work a minimum of thirty-five (35) hours per week and is subject to the tax imposed by KRS 141.020;
- (10) "Knowledge-based" has the same meaning as in KRS 164.6011;
- (11) (a) "Qualified activity" means any knowledge-based activity related to the new economy focus areas of the Office of Entrepreneurship and ~~Small Business~~ Innovation, including but not limited to:
 - 1. Bioscience;
 - 2. Environmental and energy technology;
 - 3. Health and human development;
 - 4. Information technology and communications; and
 - 5. Materials science and advanced manufacturing.
- (b) A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any activity that the authority determines in its discretion to be against the public interest, against the purposes of KRS 154.20-230 to 154.20-240, or in violation of any law. Notwithstanding this paragraph, an entity involved in other technological advances may be deemed to be engaged in qualified activity, as determined by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation;
- (12) "Qualified investment" means an investment meeting the requirements of KRS 154.20-234 for qualified investments, and certified pursuant to KRS 154.20-236;
- (13) "Qualified investor" means an individual investor meeting the requirements of KRS 154.20-234 for qualified investors, and certified pursuant to KRS 154.20-236; and
- (14) "Qualified small business" means an entity meeting the requirements of KRS 154.20-234 for qualified small businesses, and certified pursuant to KRS 154.20-236.

➔Section 17. KRS 154.20-583 is amended to read as follows:

- (1) A qualified lender of a commercial loan to an eligible company shall not be eligible to apply for inducements until final approval has been made by the qualified lender and funding has been completed in accordance with the commercial loan.
- (2) Commercial loan proceeds shall be spent by the eligible company on approved costs within three (3) years of final approval, unless an extension is required by the qualified lender or necessitated by circumstances beyond the control of the eligible company or the qualified lender.
- (3) The eligible company shall submit all documentation, including documentation evidencing expenditures, as required by the qualified lender.
- (4) Qualified lenders may provide applications to an eligible company and then decide, regardless of further processing or underwriting results, to not provide final approval so long as the decision is not prohibited by state or federal law. If the qualified lender decides not to proceed, the qualified lender shall provide the application to a cooperative lender for further review and **possible** assignment to one (1) or more other qualified lenders.
- (5) A qualified lender that is unable to fund the entire amount requested in an application shall submit all or any portion of the requested amount to a cooperative lender for further review and **possible** assignment of the unfunded portion to one (1) or more qualified lenders.

➔Section 18. KRS 154.20-586 is amended to read as follows:

- (1) The eligible company shall:

- (a) Apply for all other available assistance that is not a commercial loan, including disaster relief assistance and insurance proceeds;
- (b) Notify the qualified lenders immediately upon application of other assistance; and
- (c) Provide an update on the status of that assistance when requested by the qualified lenders.
- (2) The eligible company may assign any other available assistance to the qualified lender.
- (3) The qualified lender shall use the other available assistance to first pay any fees or other amounts outstanding to reduce the principal balance of the commercial loan.
- (4) ***The eligible company may apply for other programs administered by the Cabinet for Economic Development for which it meets the relevant program specific eligibility.***

➔Section 19. KRS 154.20-589 is amended to read as follows:

- (1)
 - (a) There is hereby established in the State Treasury a trust and agency account to be known as the western Kentucky risk assistance fund.
 - (b) The fund shall be maintained by the Cabinet for Economic Development.
 - (c) Amounts deposited in the fund shall be used as required under subsection (2) of this section.
 - (d) Notwithstanding KRS 45.229, moneys not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
 - (e) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
 - (f) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section.
- (2) The fund shall be used to pay a qualified lender on the unpaid principal balance of a commercial loan in an amount up to the lesser of the first twenty-five percent (25%) of the loss suffered on the unpaid principal balance on a commercial loan or one million dollars (\$1,000,000), as evidenced by the loss being determined by the following method:
 - (a) The amount of loan loss reserve the lending institution establishes based on the current expected credit losses methodology for estimating allowances for credit losses, as reflected in an official, filed call report which reflects the changes in the allowance for credit loss relating to the loan originated under this section; or
 - (b) The amount of the estimated loss as documented by an updated appraisal of the underlying collateral, or a change in economic value of the loan based on expected cash flows.
- (3) The western Kentucky risk assistance fund shall be used to provide ***loan loss support payments to qualified lenders for commercial loans that, in the aggregate, have outstanding principal balances not exceeding one hundred million dollars (\$100,000,000) and have been approved for enrollment in the program following the application process set forth in subsections (4) and (5) of this section. The one hundred million dollar (\$100,000,000) maximum amount for eligible loans shall be proportionally reduced as the loss payments are disbursed***~~[inducement on the first two hundred million dollars (\$200,000,000) of commercial loans made and applications submitted under subsection (4) of this section].~~
- (4) The cabinet shall accept applications for inducements on a form created by the cabinet, which shall include the following:
 - (a) The name of the qualified lender;
 - (b) The qualified lender's status of good standing by the Department of Financial Institutions;
 - (c) The Kentucky address of the physical location of the qualified lender;
 - (d) The name, e-mail address, and phone number of an employee of the qualified lender who can be contacted regarding questions about the application; and
 - (e) The amount of the commercial loan.
- (5)
 - (a) The cabinet shall accept applications for access to the western Kentucky risk assistance fund only for a commercial loan that originated before December 31, 2027.

- (b) Applications from qualified lenders shall be approved in the order in which the applications are received, with each qualified lender being limited to a maximum of applications totaling ten million dollars (\$10,000,000) in commercial loans.
- (6) Once a loss has been suffered by a qualified lender, the cabinet shall accept requests for loss payments from the western Kentucky risk assistance fund on a form created by the cabinet that provides the following:
 - (a) The name of the qualified lender;
 - (b) The qualified lender's status of good standing by the Department of Financial Institutions;
 - (c) The Kentucky address of the physical location of the qualified lender;
 - (d) The name, e-mail address, and phone number of an employee of the qualified lender, who can be contacted regarding questions about the application;
 - (e) The amount of the commercial loan;
 - (f) The requested loss payment amount calculated in accordance with subsection (2) of this section; and
 - (g) Documentation of the suffered loss.
- (7)
 - (a) An application for a loss payment may only be submitted for losses suffered within five (5) years from the origination of the loan.
 - (b) Once ~~a complete~~*a complete* the loss application has been submitted to the cabinet, a decision to approve or deny the application shall be made within thirty (30) days of submission.
 - (c) Within sixty (60) days of *a complete* submission:
 - 1. If approved, the amount due shall be issued to the qualified lender; or
 - 2. If denied, an explanation shall be sent to the qualified lender for the denial.
- (8) Should the qualified lender, at any time after the receipt of a loss payment from the western Kentucky risk assistance fund, collect more than seventy-five percent (75%) of the previously considered uncollectable balance, any portion over seventy-five percent (75%) shall be repaid to the cabinet for deposit into western Kentucky risk assistance fund, however, no more than one million dollars (\$1,000,000) shall be recovered.
- (9) Inducements shall be paid *in the order that requests for loss payments are received in accordance with subsection (6) of this section*, as long as moneys are available in the fund from the initial funding or subsequent loss collection by qualified lenders on commercial loans originating before December 31, 2027.
- (10) *An administrative fee equal to one percent (1%) of the approved inducement amount shall be applied to the loss payment and may be deducted from the approved inducement amount.*

➔Section 20. KRS 154.25-040 is amended to read as follows:

- (1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment *up to one hundred percent (100%) of the individual income tax rate imposed by KRS 141.020 for*, ~~not to exceed five percent (5%) of the gross wages of~~ each employee subject to the income tax imposed by KRS 141.020. *The Commonwealth's wage assessment shall be equal to the following:*
 - (a) *Up to eighty percent (80%) of the individual income tax rate imposed by KRS 141.020 if the project is located in a local jurisdiction where:*
 - 1. *No local occupational license fee is imposed;*
 - 2.
 - a. *A local occupational fee greater than or equal to twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*
 - b. *The local jurisdiction agrees to forgo the local wage assessment of at least twenty percent (20%) of the individual income tax rate imposed by KRS 141.020 via credits against the local occupational license fee for the affected employees; or*
 - 3.
 - a. *A local occupational license fee less than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*

- b. *The local jurisdiction agrees to forgo the total amount of the local occupational license fee as the local wage assessment; or*
- (b) *Up to four (4) times the forgone local wage assessment rate if the project is located in a local jurisdiction where:*
1. a. *A local occupational license fee greater than or equal to twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*
- b. *The local jurisdiction agrees to forgo an amount of the local occupational license fee that is less than twenty percent (20%) of the individual income tax rate imposed by KRS 141.020 as the local wage assessment; or*
2. a. *A local occupational license fee less than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*
- b. *The local jurisdiction agrees to forgo only a portion of the total amount of the local occupational license fee as the local wage assessment*~~unless:~~
- (a) ~~The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee;~~
- (b) ~~The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forego a portion of their local occupational license fee, in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four (4) times the percentage the local government or governments agree to forego;~~
- (c) ~~The local government or governments in which the project is located have a local occupational license fee equal to or greater than one percent (1%), and the local government or governments agree to forego an amount less than one percent (1%), in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four (4) times the percentage the local government or governments agree to forego; or~~
- (d) ~~The local government or governments in which the project is located have no local occupational license fee, in which case the assessment shall equal four percent (4%).~~
- (2) Each assessed employee shall be entitled to a credit against the Kentucky income tax required to be withheld under KRS 141.310 in the form of a simultaneous adjustment equal to *the Commonwealth's assessment outlined in subsection (1) of this section*~~four fifths (4/5) of the assessment, unless:~~
- (a) ~~The assessment is calculated under subsection (1)(a) of this section, in which case the credit shall be equal to the total assessment less the occupational license fee; or~~
- (b) ~~The assessment is calculated under subsection (1)(d) of this section, in which case the credit shall be equal to one hundred percent (100%) of the assessment.~~
- (3) Each employee assessed under subsection (1) of this section also shall be entitled to a credit against the local occupational license fee in the form of a simultaneous adjustment of the local occupational license fee withholding equal to *the local wage assessment outlined in subsection (1) of this section*~~one fifth (1/5) of the assessment, unless the wage assessment is calculated under subsection (1)(a) of this section, in which case the credit shall equal the same amount as the local occupational license fee.~~
- (4) If an approved company elects to impose the assessment as a condition of employment or the retention of employment, the approved company shall deduct the assessment from each paycheck of each employee subject to the provisions of subsections (2) and (3) of this section.
- (5) Any approved company collecting an assessment shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority the documentation respecting the assessment the authority may require.
- (6) Any assessment of the wages of the employees of an approved company shall permanently lapse upon expiration or termination of the agreement unless the agreement has been amended to extend the termination as a result of a supplemental project.

- (7) By October 1 of each year, the Department of Revenue shall certify to the authority, in the form of an annual report, aggregate tax credits claimed on tax returns filed during the taxable year ending June 30 of that year and wage assessment fees taken during the prior calendar year by approved companies with respect to their jobs retention projects under this subchapter, and shall certify to the authority, within one hundred eighty (180) days from the date an approved company has filed its state tax return, when an approved company has taken tax credits equal to its total inducements.

➔Section 21. KRS 154.31-010 is amended to read as follows:

As used in this subchapter:

- (1) "Agreement" means an agreement entered into pursuant to KRS 154.31-030 between the authority and an approved company;
- (2) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- (3) "Approved company" means an eligible company that has received approval from the authority for a sales and use tax incentive under this subchapter;
- (4) "Approved recovery amount" means the maximum sales and use tax incentive recoverable by an approved company as established in the agreement;
- (5) "Authority" means the Kentucky Economic Development Finance Authority;
- (6) "Carbon dioxide *or hydrogen* transmission pipeline" has the same meaning as in KRS 154.32-010;
- (7) "Coal severing and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;
- (8) "Department" means the Department of Revenue;
- (9) "Economic development project" means:
 - (a) 1. The acquisition or construction of a new facility; or
 2. The expansion or rehabilitation of an existing facility; or
 - (b) The installation and equipping of a facility;

by an eligible company at a specific site in the Commonwealth to be used in an activity conducted by the approved company;
- (10) "Electronic processing" means the use of technology having electronic, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, now in existence or later developed to perform a service or technology activity;
- (11) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or other legal entity with a proposed economic development project that is primarily engaged in or planning to be engaged in one (1) or more of the following activities within the Commonwealth:
 1. Manufacturing;
 2. Nonretail service or technology activities;
 3. Agribusiness;
 4. Headquarters operations;
 5. Alternative fuel, gasification, energy-efficient alternative fuel or renewable energy production;
 6. Carbon dioxide *or hydrogen* transmission pipelines;
 7. Coal severing and processing;
 8. Hospital operations; or
 9. In operating or developing a tourism attraction.

- (b) "Eligible company" does not include any company whose primary activity to be conducted within the Commonwealth is forestry, fishing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, food services, or public administration services;
- (12) "Eligible expenses" means the amount expended for:
 - (a) Building and construction materials permanently incorporated as an improvement to real property as part of an economic development project; or
 - (b) Equipment used for research and development or electronic processing at an economic development project;

if the Kentucky sales and use tax imposed by KRS Chapter 139 is paid on the purchase of the materials or equipment at the time of purchase;
- (13) "Energy-efficient alternative fuel production" has the same meaning as in KRS 154.32-010;
- (14) (a) "Equipment" means tangible personal property which is subject to depreciation under Sections 167 and 168 of the Internal Revenue Code, including assets which are expensed under Section 179 of the Internal Revenue Code, and that is used in the operation of a business.
- (b) "Equipment" does not include any tangible personal property used to maintain, restore, mend, or repair machinery or equipment, consumable operating supplies, office supplies, or maintenance supplies;
- (15) "Gasification process" has the same meaning as in KRS 154.32-010;
- (16) "Headquarters" means the principal office where the principal executives of the entity are located and from which other personnel, branches, affiliates, offices, or entities are controlled;
- (17) "Hospital" has the same meaning as in KRS 154.32-010;
- (18) "Manufacturing" has the same meaning as in KRS 154.32-010;
- (19) "Nonretail service and technology" has the same meaning as in KRS 154.32-010;
- (20) "Project term" means the time for which an agreement shall be in effect. The project term shall be established in the agreement and shall not exceed seven (7) years;
- (21) "Renewable energy production" has the same meaning as in KRS 154.32-010;~~and~~
- (22) (a) "Research and development" means experimental or laboratory activity that has as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products.
- (b) "Research and development" does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literary, historical, or similar projects; *and*
- (23) ***"Tourism attraction" has the same meaning as tourism attraction project in KRS 148.851.***

➔Section 22. KRS 154.32-010 is amended to read as follows:

 - (1) "Activation date" means the date established in the tax incentive agreement that is within two (2) years of final approval;
 - (2) "Affiliate" means the following:
 - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
 - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
 - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
 - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
 - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
 - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
 - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
 - (g) A fiduciary of a trust and a beneficiary of that trust;
 - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
 - (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
 - (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
 - (k) A corporation, a partnership, or a limited partnership if the same persons own:
 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;
 - (l) A corporation and a limited liability company if the same persons own:
 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
 - (m) A partnership or limited partnership and a limited liability company if the same persons own:
 1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and
 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
 - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended;
 - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended; or

- (p) Two (2) or more limited liability companies, if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;
- (3) "Agribusiness" means the processing of raw agricultural products, including but not limited to timber and industrial hemp, or the performance of value-added functions with regard to raw agricultural products;
- (4) "Alternative fuel production" means a Kentucky operation that primarily produces alternative transportation fuels for sale. The alternative fuel production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels;
- (5) "Alternative transportation fuels" has the same meaning as in KRS 152.715;
- (6) "Approved company" means an eligible company that has received final approval to receive incentives under this subchapter;
- (7) "Approved costs" means the amount of eligible costs approved by the authority at final approval;
- (8) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
- (9) "Biomass resources" has the same meaning as in KRS 152.715;
- (10) "Capital lease" means a lease classified as a capital lease by the Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976, as amended;
- (11) "Carbon dioxide *or hydrogen* transmission pipeline" means the in-state portion of a pipeline, including appurtenant facilities, property rights, and easements, that is used exclusively for the purpose of transporting carbon dioxide *or hydrogen* to the point of sale, storage, or other carbon *or hydrogen* management applications;
- (12) "Coal severing and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;
- (13) "Commonwealth" means the Commonwealth of Kentucky;
- (14) "Confirmed approved costs" means:
 - (a) For owned economic development projects, the documented eligible costs incurred on or before the activation date; or
 - (b) For leased economic development projects:
 - 1. The documented eligible costs incurred on or before the activation date; and
 - 2. Estimated rent to be incurred by the approved company throughout the term of the tax incentive agreement.

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

- (15) "Department" means the Department of Revenue;
- (16) "Economic development project" means:
 - (a) The acquisition, leasing, or construction of a new facility;
 - (b) The acquisition, leasing, rehabilitation, or expansion of an existing facility; or
 - (c) The installation and equipping of a facility;

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

- (17) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity with a proposed economic development project that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth:
 - 1. Manufacturing;

2. Agribusiness;
 3. Nonretail service or technology;
 4. Headquarters operations, regardless of the underlying business activity of the company;
 5. Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production;
 6. Carbon dioxide *or hydrogen* transmission pipeline;
 7. Coal severing and processing; or
 8. Hospital operations.
- (b) "Eligible company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services, or public administration services;
- (18) "Eligible costs" means:
- (a) For owned economic development projects:
 1. Start-up costs;
 2. Nonrecurring obligations incurred for labor and nonrecurring payments to contractors, subcontractors, builders, and materialmen in connection with the economic development project;
 3. The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
 4. The cost of contract bonds and of insurance of all kinds that may be required or necessary for completion of an economic development project which is not paid by a contractor or otherwise provided for;
 5. All costs of architectural and engineering services, including test borings, surveys, estimated plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required for construction of the economic development project;
 6. All costs which are required to be paid under the terms of any contract for the economic development project;
 7. All costs incurred for construction activities, including site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation of railroad spurs as needed to connect the economic development project to existing railways; or similar activities as the authority may determine necessary for construction of the economic development project; and
 8. All other costs of a nature comparable to those described above; and
 - (b) For leased economic development projects:
 1. Start-up costs;
 2. Building/leasehold improvements; and
 3. Fifty percent (50%) of the estimated annual rent for each year of the tax incentive agreement.

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

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

- (20) "Energy-efficient alternative fuel production" means a Kentucky operation that produces for sale energy-efficient alternative fuels;
- (21) "Energy-efficient alternative fuels" means homogeneous fuels that:
 - (a) Are produced from processes designed to densify feedstock coal, waste coal, or biomass resources; and
 - (b) Have an energy content that is greater than the feedstock coal, waste coal, or biomass resource;
- (22) "Enhanced incentive counties" means counties certified by the authority pursuant to KRS 154.32-050;
- (23) "Final approval" means the action taken by the authority authorizing the eligible company to receive incentives under this subchapter;
- (24) (a) "Full-time job" means a job held by a person who:
 - 1. Is required to work a minimum of thirty-five (35) hours per week; and
 - 2.
 - a. Is subject to the Kentucky individual income tax imposed by KRS 141.020; or
 - b. Works remotely away from the economic development project if the job meets all of the following conditions:
 - i. Is held by a Kentucky resident;
 - ii. Was created as a result of the economic development project; and
 - iii. The payroll of this job is expensed to the economic development project.
- (b) "Full-time job" does not include a job held by a resident of any state with a reciprocal agreement between the Commonwealth and the other state as described in KRS 141.070;
- (25) "Gasification process" means a process that converts any carbon-containing material into a synthesis gas composed primarily of carbon monoxide and hydrogen;
- (26) "Gasification production" means a Kentucky operation that primarily produces for sale:
 - (a) Alternative transportation fuels;
 - (b) Synthetic natural gas;
 - (c) Chemicals;
 - (d) Chemical feedstocks; or
 - (e) Liquid fuels;from coal, waste coal, coal-processing waste, or biomass resources, through a gasification process. The gasification production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or liquid fuels;
- (27) "Headquarters" means the principal office where the principal executives of the entity are located and from which other personnel, branches, affiliates, offices, or entities are controlled;
- (28) "Hospital" means a facility licensed by the Cabinet for Health and Family Services under KRS Chapter 216B for the operation of a hospital and the basic services provided by a hospital;
- (29) "Incentives" means the incentives available under this subchapter, as listed in KRS 154.32-020(3);
- (30) "Job target" means the annual average number of new full-time jobs that the approved company commits to create and maintain at the economic development project, which shall not be less than ten (10) new full-time jobs;
- (31) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (32) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- (33) "Lease agreement" means an agreement between an approved company and an unrelated entity conveying the right to use a facility, the terms of which reflect an arms' length transaction. "Lease agreement" does not include a capital lease;

- (34) "Leased project" means an economic development project site occupied by an approved company pursuant to a lease agreement;
- (35) "Manufacturing" means any activity involving:
 - (a) Processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to the processing, assembling, or production of property, together with the storage, warehousing, distribution, and related office facilities; or
 - (b) Production of vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment;
- (36) (a) "Nonretail service or technology" means any activity where service or technology is provided predominantly outside the Commonwealth and designed to serve a multistate, national, or international market.
 - (b) "Nonretail service or technology" includes but is not limited to call centers, centralized administrative or processing centers, telephone or Internet sales order or processing centers, distribution or fulfillment centers, data processing centers, research and development facilities, and other similar activities;
- (37) "Owned project" means an economic development project owned in fee simple by the approved company or an affiliate, or possessed by the approved company or an affiliate pursuant to a capital lease;
- (38) "Personal protective equipment" means protective clothing, helmets, gloves, face shields, goggles, face masks, respirators, and other equipment designed to protect the user from injury or the spread of infection or illness;
- (39) "Preliminary approval" means the action taken by the authority preliminarily approving an eligible company for incentives under this subchapter;
- (40) "Renewable energy production" means a Kentucky operation that utilizes wind power, biomass resources, landfill methane gas, hydropower, solar power, or other similar renewable resources to generate electricity for sale to unrelated entities;
- (41) "Rent" means the actual annual rent or fee paid by an approved company under a lease agreement;
- (42) "Start-up costs" means nonrecurring costs incurred to furnish and equip a facility for an economic development project, including costs incurred for:
 - (a) Computers, furnishings, office equipment, manufacturing equipment, and fixtures;
 - (b) The relocation of out-of-state equipment; and
 - (c) Cost of fixed telecommunications equipment;as certified to the authority in accordance with KRS 154.32-030;
- (43) "Synthetic natural gas" means the same thing as in KRS 152.715;
- (44) "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.32-040 between the authority and an approved company;
- (45) "Term" means the period of time for which a tax incentive agreement may be in effect, which shall not exceed fifteen (15) years for an economic development project located in an enhanced incentive county, or ten (10) years for an economic development project not located in any other county;
- (46) "Vital medications" means any drug or biologic used to prevent or treat a serious life-threatening disease or medical condition for which there is no other available source with sufficient supply of that drug or biologic or alternative drug or biologic;
- (47) "Wage" means the per hour earnings of a full-time employee, including wages, tips, overtime, bonuses, and commissions, as reflected on the employee's federal form W-2 wage and tax statement, but excludes employee benefits; and
- (48) "Wage target" means the average total hourly compensation amount, including the minimum wage and employee benefits, that the approved company commits to meet for all new full-time jobs created and maintained as a result of the economic development project, which shall not be less than:
 - (a) One hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties; or

- (b) One hundred fifty percent (150%) of the federal minimum wage in all other counties.

➔Section 23. KRS 154.32-020 is amended to read as follows:

- (1) The purposes of this subchapter are:

- (a) To provide incentives for eligible companies and to encourage the location or expansion of manufacturing facilities, agribusiness operations, nonretail service or technology facilities, headquarters operations, alternative fuel production facilities, gasification production facilities, energy-efficient alternative fuel production facilities, renewable energy production facilities, carbon dioxide *or hydrogen* transmission pipelines, coal severing and processing, and hospital operations in the Commonwealth to advance the public purposes of:
 - 1. Creation of new jobs that, but for the incentives offered by the authority, would not exist within the Commonwealth;
 - 2. Creation of new sources of tax revenues for the support of public services provided by the Commonwealth;
 - 3. Improvement in the quality of life for Kentucky citizens through the creation of sustainable jobs with higher salaries; and
 - 4. Providing an economic stimulus to bolster in-state production of vital medications and personal protective equipment; and
- (b) To provide enhanced incentives for companies that locate in enhanced incentive counties in recognition of the depressed economic conditions in those counties and the increased need for the growth and development caused by the depressed economic conditions.

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

- (a) Incur eligible costs of at least one hundred thousand dollars (\$100,000);
- (b) Create at least ten (10) new full-time jobs and maintain an annual average number of at least ten (10) new full-time jobs; and
- (c)
 - 1. Pay at least ninety percent (90%) of all new full-time employees whose jobs were created as a result of the economic development project a minimum wage of at least one hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties, and one hundred fifty percent (150%) of the federal minimum wage in other counties throughout the term of the economic development project; and
 - 2. Provide employee benefits for all new full-time jobs equal to at least fifteen percent (15%) of the minimum wage requirement established by subparagraph 1. of this paragraph. If the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the minimum wage requirement established by subparagraph 1. of this paragraph, the eligible company may still qualify for incentives if it provides the full-time employees hired as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the minimum wage requirement established in subparagraph 1. of this paragraph through increased hourly wages combined with employee benefits; or
- (d) Produce vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment.

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

- (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040 and the limited liability entity tax imposed under KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project, as set forth in KRS 141.415 and 154.32-070;
- (b) Authorization for the approved company to impose a wage assessment against the gross wages of each new employee subject to the Kentucky income tax as provided in KRS 154.32-090; and
- (c) Notwithstanding any provision of law to the contrary, for any economic development project with an eligible investment of more than two hundred million dollars (\$200,000,000), the authority may authorize approval to the economic development project based upon terms and incentives applicable to economic development project locating in an enhanced incentive county.

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

➔Section 24. KRS 154.32-050 is amended to read as follows:

- (1) The authority shall identify and certify or decertify enhanced incentive counties on an annual basis as provided in this section.
- (2) Each fiscal year, the authority shall:
 - (a) Obtain from the Department of Workforce Development in the Education and Labor Cabinet, the final unemployment figures for the prior calendar year for each county and for the Commonwealth as a whole;
 - (b) Identify those counties which have had:
 1. A countywide unemployment rate that exceeds the statewide unemployment rate in the most recent five (5) consecutive calendar years; or
 2. An average countywide rate of unemployment exceeding the statewide unemployment rate by two hundred percent (200%) in the most recent calendar year; and
 - (c) Certify the counties identified in paragraph (b) of this subsection as enhanced incentive counties.
- (3) A county not certified under subsection (2) of this section may also be certified by the authority as an enhanced incentive county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:
 - (a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, using the information obtained under subsection (2)(a) of this section;
 - (b) The percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and
 - (c) The quality of the roads in the county. Quality of roads shall be determined by the access within a county to roads, ranked in descending order from best quality to worst quality, as certified to the authority by the Kentucky Transportation Cabinet as follows:
 1. Two (2) or more interstate highways;
 2. One (1) interstate highway;
 3. A state four (4) lane parkway;
 4. A four (4) lane principal arterial access to an interstate highway;
 5. A state two (2) lane parkway; and
 6. None of the preceding road types.
- (4)
 - (a) If the authority determines that an enhanced incentive county no longer meets the criteria to be certified as an enhanced incentive county under this section, the authority shall decertify that county.
 - (b) Any economic development project located in an enhanced incentive county that was decertified by the authority after May 1, 2009, shall have until July 1 of the third year following the fiscal year in which the county was decertified to obtain final approval from the authority.
- (5)
 - (a) As used in this subsection, "industrial park" means a regional industrial park as defined in KRS 42.4588, or an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.210 to 65.300.
 - (b) An economic development project undertaken in an industrial park that is located in two (2) or more counties, one (1) of which is an enhanced incentive county, may be approved for the enhanced incentive county incentives set forth in this subchapter.

- (6) *A county not certified under subsection (2) or (3) of this section may be certified by the authority as an enhanced incentive county if the county has been declared a disaster relief area by any state or federal agency on or after December 1, 2021. The enhanced county certification shall be effective for a period of two (2) years from the date of certification by the authority. Following the two (2) year period, if a county certified under this subsection does not meet the criteria under subsections (2) and (3) of this section to be certified as an enhanced incentive county, the county shall be decertified in accordance with subsection (4) of this section.*

➔Section 25. KRS 154.32-090 is amended to read as follows:

- (1) An approved company or, with the authority's consent, an affiliate of an approved company may impose wage assessments against employees as provided in this section if a wage assessment is included in the incentives awarded to the approved company in the tax incentive agreement. The level of wage assessment shall be negotiated as part of the tax incentive agreement.
 - (2) If an economic development project is located in an enhanced incentive county, the approved company or, with the authority's consent, an affiliate of the approved company may require that each employee subject to the tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to an assessment of up to **one hundred percent (100%) of the individual income tax rate imposed by KRS 141.020, and that assessment shall operate as the Commonwealth's wage assessment. Although not required for an economic development project located in an enhanced incentive county, a local jurisdiction may agree to forgo all or a portion of its local occupational license fee as a local wage assessment**~~[five percent (5%) of taxable wages]~~.
 - (3) (a) If the economic development project is not located in an enhanced incentive county, and is located in a local jurisdiction where:
 1. No local occupational license fee is imposed;~~[or]~~
 2. a. A local occupational license fee greater than or equal to **twenty percent (20%) of the individual income tax rate in KRS 141.020**~~[one percent (1%)]~~ is imposed; and
 - b. The local jurisdiction agrees to forgo, **as the local wage assessment, at least twenty percent (20%) of the individual income tax rate imposed by KRS 141.020**~~[one percent (1%)]~~ via credits against the local occupational license fee for the affected employees; **or**
 3. a. **A local occupational license fee less than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and**
 - b. **The local jurisdiction agrees to forgo the total amount of the local occupational license fee as the local wage assessment; then**
 - (b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment of up to **sixty percent (60%) of the individual income tax rate imposed by KRS 141.020 and that assessment shall operate as the Commonwealth's wage assessment**~~[four percent (4%) of taxable wages]~~.
 - (4) (a) **If the economic development project is not located in an enhanced incentive county, and is located in a local jurisdiction where:**
 1. a. **A local occupational license fee greater than or equal to twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and**
 - b. **The local jurisdiction agrees to forgo an amount of the local occupational license fee that is less than twenty percent (20%) of the individual income tax rate in KRS 141.020 as the local wage assessment; or**
 2. a. **A local occupational license fee of lesser than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and**
 - b. **The local jurisdiction agrees to forgo only a portion of the total amount of the local occupational license fee as the local wage assessment**~~[If:~~
- ~~1. The economic development project is not located in an enhanced incentive county, and is located in a jurisdiction where the local occupational license fee is less than one percent (1%); and~~

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

- (b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment *equal to three (3) times the forgone local wage assessment rate and that assessment shall operate as the Commonwealth's wage assessment*~~[of up to three percent (3%) of taxable wages, plus a percentage equal to the amount of the local occupational license fee the local jurisdiction agrees to forgo].~~

(5) ~~[(a) If:~~

~~1. The project is not located in an enhanced incentive county and is located in a county where the jurisdiction imposes a local occupational license fee of less than one percent (1%); and~~

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

~~(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment to be determined as follows:~~

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

~~2. Multiply the result determined under subparagraph 1. of this paragraph by three percent (3%); and~~

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

~~(6) (a) If:~~

~~1. The project is not located in an enhanced incentive county, and is located in a county where the jurisdiction imposes a local occupational license fee equal to or greater than one percent (1%); and~~

~~2. The local jurisdiction agrees to forgo the local occupational license fee in an amount of less than one percent (1%); then~~

~~(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment to be determined as follows:~~

~~1. Divide the local occupational license fee that the local jurisdiction has agreed to forgo by one percent (1%);~~

~~2. Multiply the result determined under subparagraph 1. of this paragraph by three percent (3%); and~~

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

~~(7) If the project is not located in an enhanced incentive county, and:~~

(a) Is located in a local jurisdiction that does not impose a local occupational license fee, the local jurisdiction shall be required to provide some alternative inducement satisfactory to the authority at the local level in order for a preliminarily approved company to receive final approval. However, the authority may waive this requirement if there are reasonable circumstances that prevent the local jurisdiction from providing a reasonable inducement; or

(b) Is located in a local jurisdiction that does impose a local occupational license fee, the jurisdiction may request that the authority waive the local occupational license fee requirements established by subsection (3) ~~or~~ (4) ~~[(5), or (6)]~~ of this section if the local jurisdiction offers alternative inducements of similar value satisfactory to the authority. The authority shall review all requests for a waiver, and may waive the local occupational license fee requirements and instead require the local jurisdiction to provide alternative inducements of similar value if the authority determines that the circumstances warrant an alternative contribution by the local jurisdiction.

- ~~(6)~~~~(8)~~ Each employee paying the assessment shall simultaneously be entitled to a credit against the Kentucky individual income tax required to be withheld under KRS 141.310 equal to the state portion of the assessment and shall be entitled to a credit against the local occupational license tax equal to the local portion of the assessment.
- ~~(7)~~~~(9)~~ If more than one (1) local jurisdiction imposes an occupational license fee, the local jurisdiction portion of the assessment shall be prorated proportionately among the taxes imposed by the local jurisdictions unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the local jurisdiction portion of the wage assessment, in which case no proration shall be made.
- ~~(8)~~~~(10)~~ If a full-time employee subject to state tax imposed by KRS 141.020 is already employed by the approved company at a site other than the site of the economic development project, that full-time employee's job shall be deemed to have been created when the full-time employee is transferred to the site of the economic development project if the full-time employee's existing job is filled with a new full-time employee.
- ~~(9)~~~~(11)~~ If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee.
- ~~(10)~~~~(12)~~ Notwithstanding any other provision of the Kentucky Revised Statutes, if an approved company elects not to deduct the assessment from each payment of wages to the employee, but rather requests a reimbursement of state tax imposed by KRS 141.020 or local occupational tax in the aggregate after they have been paid to the state or local jurisdiction, no interest shall be paid by the state or by the local jurisdiction on that reimbursement.
- ~~(11)~~~~(13)~~ No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.
- ~~(12)~~~~(14)~~ An approved company imposing an assessment shall make its payroll, books, and records available to the authority or the department upon request, and shall file with the authority or department documentation pertaining to the assessment as the authority or department may require.
- ~~(13)~~~~(15)~~ Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the tax incentive agreement.

➔Section 26. KRS 154.34-010 is amended to read as follows:

As used in this subchapter:

- (1) "Affiliate" has the same meaning as in KRS 154.32-010;
- (2) "Agribusiness" has the same meaning as in KRS 154.32-010;
- (3) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- (4) "Approved company" means an eligible company approved under KRS 154.34-070 for a reinvestment project;
- (5) "Approved costs" means the eligible equipment and related costs approved by the authority that may be recovered by an approved company through the incentives authorized by this subchapter;
- (6) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (7) "Capital lease" has the same meaning as in KRS 154.32-010;
- (8) "Carbon dioxide *or hydrogen* transmission pipeline" has the same meaning as in KRS 154.32-010;
- (9) "Coal severing and processing" means activities resulting in an eligible company being subject to the tax imposed by KRS Chapter 143;
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11) "Department" means the Department of Revenue;
- (12) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity:
 1. Employing or intending to employ a minimum of twenty-five (25) persons on a full-time bases; and
 2. Engaged in or planning to engage in one (1) or more of the following activities:

- a. Headquarter operations;
- b. Manufacturing;
- c. Agribusiness;
- d. Nonretail service or technology;
- e. Coal severing and processing;
- f. Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production;
- g. Carbon dioxide *or hydrogen* transmission pipeline operations; or
- h. Hospital operations;

at the same facility located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval of a reinvestment project by the authority, including facilities where operations have been temporarily suspended and which meet the standards under KRS 154.34-070 and related administrative regulations promulgated by the authority.

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

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

- (13) (a) "Eligible equipment and related costs" means:

- 1. Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
- 2. The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
- 3. All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
- 4. All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
- 5. All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities paid for by the approved company; and

6. All other costs of a nature comparable to those described in this paragraph.
- (b) "Eligible equipment and related costs" does not include costs related to the replacement or repair of existing machinery or equipment resulting from normal wear and usage of the machinery or equipment;
- (14) "Energy-efficient alternative fuel production" has the same meaning as in KRS 154.32-010;
- (15) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;
- (16) "Equipment" means manufacturing machinery equipment, computers, furnishings, fixtures, and other assets installed by the approved company as part of the reinvestment project;
- (17) "Final approval" means the action taken by the authority designating a preliminarily approved eligible company as an approved company to receive incentives under this subchapter;
- (18) "Full-time employee" means a person who:
- (a) Is required to work a minimum of thirty-five (35) hours per week; or
 - (b) Works remotely away from the reinvestment project if all the following conditions are met:
 1. Is a Kentucky resident;
 2. Whose job was created or retained as a result of the reinvestment project; and
 3. Whose payroll is expensed to the reinvestment project;
- (19) "Gasification production" has the same meaning as in KRS 154.32-010;
- (20) "Headquarters" has the same meaning as in KRS 154.32-010;
- (21) "Hospital" has the same meaning as in KRS 154.32-010;
- (22) "Incentives" means the Kentucky tax credit as prescribed in this subchapter;
- (23) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- (24) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (25) "Leased project" has the same meaning as in KRS 154.32-010;
- (26) "Manufacturing" has the same meaning as in KRS 154.32-010;
- (27) "Nonretail service or technology" has the same meaning as in KRS 154.32-010;
- (28) "Personal protective equipment" has the same meaning as in KRS 154.32-010;
- (29) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company;
- (30) "Reinvestment agreement" means the agreement entered into pursuant to KRS 154.34-080 between the authority and an approved company with respect to a reinvestment project;
- (31) "Reinvestment project" means:
- (a) A reinvestment in the facility of an eligible company and in the full-time employees of an eligible company through the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; or off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located;
 - (b) The expenditure of at least one million dollars (\$1,000,000) in eligible equipment and related costs for leased projects and at least two million five hundred thousand dollars (\$2,500,000) in eligible equipment and related costs for all other reinvestment projects; and
 - (c) A reinvestment in a facility in order to allow for the production of vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment;
- (32) "Renewable energy production" has the same meaning as in KRS 154.32-010; and
- (33) "Vital medications" has the same meaning as in KRS 154.32-010.

➔Section 27. KRS 154.47-005 is amended to read as follows:

As used in this subchapter, unless the context clearly indicates otherwise:

- (1) ~~["Approved network" means a flexible manufacturing network approved by the cabinet in accordance with KRS 154.47-040;~~
- ~~(2) "Cabinet" means the Cabinet for Economic Development;~~
- ~~(3) "Center" means the Quicksand Wood Utilization Center located in Breathitt County, Kentucky;~~
- (2) ~~(4)~~ "Certified tree farmer" means a person whose tree farm is certified by the Kentucky Tree Farm Committee and approved by the American Forest Foundation;
- ~~(3) (5) "Flexible manufacturing network" or "network" means an affiliation of secondary wood products businesses as provided by KRS 154.47-040;~~
- ~~(6)~~ "Forest steward" means a person whose forest property is certified as a stewardship forest and approved by the Division of Forestry of the Department for Natural Resources;
- ~~(4) (7)~~ "Procurement area" means an area specified by the applicant in a radius of miles from the applicant's site of operations from which the applicant acquires raw wood products;
- ~~(5) (8)~~ "Secondary wood products industry" means businesses that compose that segment of the forest products industry that manufacture, assemble, process, or produce wood into a finished or semifinished product; however, the "secondary wood products industry" does not include primary wood products operations such as logging, sawmilling, chip milling, veneer milling, or pulp milling. Businesses that include both primary and secondary wood products operations are deemed to be within the secondary wood products industry only in regard to their secondary wood products operations; and
- ~~(6) (9)~~ "Wood industry hub" or "hub" means a system in which the technical and workforce training needs of the secondary wood products industry are integrated.

➔Section 28. KRS 154.60-010 is amended to read as follows:

As used in this subchapter:

- (1) "Authority" means the Kentucky Economic Development Finance Authority;
- (2) (a) "Average hourly wage" means the per-hour wage earned by a full-time employee, including wages, tips, overtime, bonuses, and commissions, as reflected on the employee's federal form W-2 wage and tax statement.
- (b) "Average hourly wage" does not include employee benefits as defined in KRS 154.32-010, including health insurance and reimbursements;
- (3) "Base employment" means:
 - (a) For the first application for which credits are approved, the number of full-time employees employed on the day prior to the work start date of the new employee filling the earliest eligible position identified on the application;
 - (b) For subsequent applications, the number of full-time employees employed on the day prior to the work start date of the new employee filling the earliest eligible position identified on the initial approved application plus each eligible position for which a credit has been approved; and
 - (c) For applications from businesses involved in mergers, acquisitions, or federal tax identification number changes, base employment may be adjusted by the Cabinet for Economic Development;
- (4) "Eligible position" means each position that:
 - (a) Is filled by a full-time employee and that increases the total employment of the small business above its base employment; and
 - (b) Carries an average hourly wage of no less than one hundred fifty percent (150%) of the federal minimum wage;
- (5) "Full-time employee" means a person employed by a small business for at least an average of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;

- (6) "Qualifying equipment or technology" means equipment or technology that has been approved by the Office of Entrepreneurship and ~~Small Business~~ Innovation; and
- (7) "Small business" means any business entity organized for profit that has been approved by the Office of Entrepreneurship and ~~Small Business~~ Innovation, including a sole proprietorship, partnership, limited partnership, corporation, limited liability company, joint venture, association, or cooperative, that has fifty (50) or fewer employees working more than thirty-five (35) hours per week, whether within or outside the Commonwealth, at the time it applies.

➔Section 29. KRS 154.60-020 is amended to read as follows:

- (1) The authority shall develop a Small Business Development Credit Program in consultation with the Office of Entrepreneurship and ~~Small Business~~ Innovation to assist new or existing small businesses operating in the Commonwealth. The nonrefundable credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall be as provided in KRS 141.0205.
- (2) The authority shall determine the terms, conditions, and requirements for application for the credit, in consultation with the Office of Entrepreneurship and ~~Small Business~~ Innovation, subject to the provisions of subsection (3) of this section. The application shall contain identification information about the number of eligible positions created and filled, a calculation of the base employment of the small business, verification of investment of five thousand dollars (\$5,000) or more in qualifying equipment or technology, and other information the authority may specify to determine eligibility for the credit.
- (3)
 - (a) The maximum amount of credits that may be committed in each fiscal year by the authority and shared between the small business tax credit program and the Selling Farmer Tax Credit Program shall be capped at three million dollars (\$3,000,000).
 - (b) In order to be eligible to receive final approval for a credit, a small business shall, within the twenty-four (24) month period immediately preceding the application submission date:
 - 1. Create and fill one (1) or more eligible positions over the base employment; and
 - 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or technology.
 - (c) Each eligible position that is created and filled shall be maintained for twelve (12) months. If a full-time employee filling a newly created eligible position ceases to be employed by the small business for any reason, that employee shall be replaced within forty-five (45) days in order for the eligible position to maintain its eligible status, in addition to meeting all other applicable requirements.
 - (d) The small business shall submit all information necessary for the authority to determine credit eligibility for each year, and the amount of credit for which the small business is eligible.
 - (e) The maximum amount of credit for each small business for each year shall not exceed twenty-five thousand dollars (\$25,000).
 - (f) The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

➔Section 30. KRS 154.61-010 is amended to read as follows:

As used in this subchapter:

- (1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;
- (2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;
- (3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 154.61-020;
- (4) "Authority" means the Kentucky Economic Development Finance Authority created in KRS 154.20-010;
- (5) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:

- (a) Casting assistants;
 - (b) Costume design;
 - (c) Extras;
 - (d) Gaffers;
 - (e) Grips;
 - (f) Location managers;
 - (g) Production assistants;
 - (h) Set construction staff; and
 - (i) Set design staff;
- (6) ***"Cabinet" means the Cabinet for Economic Development;***
- (7) ***"Commonwealth" means the Commonwealth of Kentucky;***
- (8)~~(7)~~ ***"Compensation" means compensation included in adjusted gross income as defined in KRS 141.010;***
- (9) ***"Continuous film production" means a motion picture or entertainment production that:***
- (a) ***1. Has a projected budget of a minimum of ten million dollars (\$10,000,000) per calendar year for qualifying expenditures and qualifying payroll expenditures allocated to all qualifying motion picture or entertainment productions to be filmed or produced in Kentucky, with a minimum of one million five hundred thousand dollars (\$1,500,000) per production in Kentucky; and***
 - 2. Has a minimum of fifty percent (50%) of the funds available and the ability to raise the remaining funds necessary to complete the filming and production, which may be verified by:***
 - a. Bank statements or other financial documents; or***
 - b. A fundraising plan at the request of the authority;***
 - (b) ***Demonstrates a distribution contract for each motion or entertainment production;***
 - (c) ***Films and produces a minimum of twelve (12) or more days per production within the Commonwealth; and***
 - (d) ***Maintains:***
 - 1. An apprenticeship program or on-the-job training program as defined in KRS 343.010; or***
 - 2. Partners with a film studies program with an accredited institution of postsecondary education located in the Commonwealth;***
- (10)~~(8)~~ ***"Documentary" means a production based upon factual information and not subjective interjections;***
- (11)~~(9)~~ ***"Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;***
- (12)~~(10)~~ ***"Employee" has the same meaning as in KRS 141.010, and, for purposes of this subchapter, also may include the employees or independent contractors of an approved company or the employees of a loan-out entity engaged by an approved company if they meet the requirements of KRS 141.310;***
- (13)~~(11)~~ ***"Enhanced incentive county" has the same meaning as in KRS 154.32-010;***
- (14)~~(12)~~ ***"Feature-length film" means a live-action or animated production that is:***
- (a) ***More than thirty (30) minutes in length; and***
 - (b) ***Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;***
- (15)~~(13)~~ ***"Industrial film" means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;***

~~(16)~~~~(14)~~ "Kentucky-based company" has the same meaning as in KRS 164.6011;

~~(17)~~ *"Loan-out entity" means a corporation, partnership, limited liability company, or other entity through which an artist or other person is loaned out to perform services for the approved company. A loan-out entity shall be registered and in good standing with the Kentucky Secretary of State. Notwithstanding the business organization, the loan-out entity and all employees of and other persons performing services for the loan-out entity shall be subject to all applicable provisions of the Kentucky personal income tax and any applicable payroll or other tax provisions;*

~~(18)~~~~(15)~~ (a) "Motion picture or entertainment production" means:

1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:
 - a. A feature-length film;
 - b. A television program;
 - c. An industrial film; or
 - d. A documentary; or
2. A national touring production of a Broadway show produced in Kentucky.

(b) "Motion picture or entertainment production" does not include the filming or production of obscene material or television coverage of news or athletic events;

~~(19)~~~~(16)~~ "Obscene" has the same meaning as in KRS 531.010;

~~(20)~~~~(17)~~ "Person" has the same meaning as in KRS 141.010;

~~(21)~~~~(18)~~ (a) "Qualifying expenditure" means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:

1. The production script and synopsis;
2. Set construction and operations, wardrobe, accessories, and related services;
3. Lease or rental of real property in Kentucky as a set location;
4. Photography, sound synchronization, lighting, and related services;
5. Editing and related services;
6. Rental of facilities and equipment;
7. Vehicle leases;
8. Food; and
9. Accommodations.

(b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;

~~(22)~~~~(19)~~ "Qualifying payroll expenditure" means compensation paid to above-the-line crew and below-the line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;

~~(23)~~~~(20)~~ "Resident" has the same meaning as in KRS 141.010;

~~(24)~~~~(21)~~ "Secretary" means the secretary of the Cabinet for Economic Development;

~~(25)~~~~(22)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.61-030 between the authority and the approved company; and

~~(26)~~~~(23)~~ "Television program" means any live-action or animated production or documentary, including but not limited to:

- (a) An episodic series;
- (b) A miniseries;
- (c) A television movie; or

- (d) A television pilot;

that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices.

➔Section 31. KRS 154.61-020 is amended to read as follows:

- (1) The purposes of KRS 141.383 and this subchapter are to encourage:
 - (a) The film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;
 - (b) The development of a film and entertainment industry in Kentucky;
 - (c) Increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and
 - (d) The development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.
- (2) The authority, together with the Department of Revenue, shall administer the tax credit established by KRS 141.383, this section, and KRS 154.61-030.
- (3) To qualify for the tax incentive provided in subsection (5) of this section, the following requirements shall be met:
 - (a) For an approved company that is also a Kentucky-based company that:
 - 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);
 - 2. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or
 - 3. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and
 - (b) For an approved company that is not a Kentucky-based company that:
 - 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); or
 - 2. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).
- (4) (a) Beginning on January 1, 2022, the total tax incentive approved under KRS 141.383 and this subchapter shall be limited to seventy-five million dollars (\$75,000,000) for calendar year 2022 and each calendar year thereafter; **and**
 - (b) **Beginning with calendar year 2024:**
 - 1. ***Twenty-five million dollars (\$25,000,000) shall be allocated for all approved companies with a continuous film production; and***
 - 2. ***On the first day of July of each calendar year, any unused balance of the amount allocated under subparagraph 1. of this paragraph for continuous film productions, shall be made available for all approved companies with motion picture or entertainment productions.***
- (5) (a) To qualify for the tax incentive available under KRS 141.383 and this subchapter all applicants shall:
 - 1. Begin filming or production ***in Kentucky*** within six (6) months of ***approval by***~~filming an application with~~ the authority; and

2. Complete filming or production *in Kentucky* within two (2) years of the filming or production start date.
- (b) The tax credit shall be against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, and shall be refundable as provided in KRS 141.383.
- (c)
 1. For a motion picture or entertainment production *or continuous film production* filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and
 - c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
 2.
 - a. To the extent the approved company films or produces a motion picture or entertainment production *or continuous film production* in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (d) of this subsection.
 - b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.
- (d) For a motion picture or entertainment production *or continuous film production* filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:
 1. Thirty percent (30%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
 - c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and
 2. Thirty-five percent (35%) of the approved company's:
 - a. Qualifying payroll expenditures paid to resident below-the-line production crew; and
 - b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.

➔Section 32. KRS 154.61-030 is amended to read as follows:

- (1) An eligible company shall, at least thirty (30) days prior to incurring any expenditure for which recovery will be sought, file an application for tax incentives with the authority. The application shall include:
 - (a) The name and address of the applicant;
 - (b) Verification that the applicant is a Kentucky-based company;
 - (c) The *preliminary* production script or a detailed synopsis of the script;
 - (d) The locations where the filming or production will occur;
 - (e) The anticipated date on which filming or production shall begin *in Kentucky*;

- (f) The anticipated date on which the *applicant will complete incurring expenditures in Kentucky*~~[production will be completed]~~;
 - (g) The total anticipated qualifying expenditures;
 - (h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;
 - (i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;
 - (j) The address of a Kentucky location at which records of the production will be kept;
 - (k) An affirmation that if not for the incentive offered under this subchapter, the eligible company would not film or produce the production in the Commonwealth; and
 - (l) Any other information the authority may require.
- (2) The authority shall notify the eligible company within thirty (30) days after receiving the application of its status.
- (3) Upon receipt of the application and any additional information submitted, the authority shall consider all submitted information and, if appropriate, authorize the execution of a tax incentive agreement between the authority and the approved company, if the amount of anticipated tax credit from the application would not make the total tax credit approved for the calendar year exceed the annual tax credit cap under KRS 154.61-020(4).
- (4) The tax incentive agreement shall include the following provisions:
- (a) The duties and responsibilities of the parties;
 - (b) A detailed description of the motion picture or entertainment production for which incentives are requested;
 - (c) The anticipated qualifying expenditures and qualifying payroll expenditures for resident and nonresident above-the-line and below-the-line crews by county;
 - (d) The minimum combined total of qualifying expenditures and qualifying payroll expenditures necessary for the approved company to qualify for incentives;
 - (e) That the approved company shall:
 - 1. Begin *filming or* production *in Kentucky* within six (6) months of *approval by*~~[filing an application with]~~ the authority; and
 - 2. Complete production *in Kentucky* within two (2) years of their production start date;
 - (f) That the motion picture or entertainment production shall not include obscene materials and shall not negatively impact the economy or the tourism industry of the Commonwealth;
 - (g) That the execution of the agreement is not a guarantee of tax incentives and that actual receipt of the incentives shall be contingent upon the approved company meeting the requirements established by the tax incentive agreement;
 - (h) That the approved company shall submit to the authority within one hundred eighty (180) days of the completion of *production in Kentucky for* the motion picture or entertainment production a detailed cost report of the qualifying expenditures, qualifying payroll expenditures, and *the latest version of the production script at the time of cost report submission*~~[final script]~~;
 - (i) That the approved company shall provide the authority with documentation that the approved company *or the associated loan-out entity* has withheld income tax as required by KRS 141.310 *or the individual income tax rate imposed by KRS 141.020* on all qualified payroll expenditures for which an incentive under this subchapter is sought;
 - (j) That, if the authority determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:
 - 1. The authority may deny the incentives available to the approved company;

2. Both the authority and the Department of Revenue may pursue any remedy provided under the tax incentive agreement;
 3. The authority may terminate the tax incentive agreement; and
 4. Both the authority and the Department of Revenue may pursue any other remedy at law to which it may be entitled;
- (k) That the authority and the Department of Revenue shall monitor the tax incentive agreement;
 - (l) That the approved company shall provide to the authority and the Department of Revenue all information necessary to monitor the tax incentive agreement;
 - (m) That the authority may share information with the Department of Revenue and the Interim Joint Committee on Appropriations and Revenue or any other entity the authority determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement;
 - (n) That the motion picture or entertainment production shall contain an acknowledgment that the motion picture or entertainment production was produced or filmed in the Commonwealth of Kentucky;
 - (o) That the approved company shall include screen credits in its final production, indicating the approved company received tax incentives from the Commonwealth of Kentucky;
 - (p) Terms of default;
 - (q) The method and procedures by which the approved company shall request and receive the incentive provided under KRS 141.383 and 154.61-020;
 - (r) That the approved company may be required to pay an administrative fee as authorized under subsection (5) of this section; and
 - (s) Any other provisions deemed necessary or appropriate by the parties to the tax incentive agreement.
- (5) The authority may require the approved company to pay an administrative fee, the amount of which shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A. The administrative fee shall not exceed one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars (\$500), whichever is greater.
 - (6) Prior to commencement of activity as provided in a tax incentive agreement, the tax incentive agreement shall be **approved by the authority. Following approval by the authority, the tax incentive agreement shall be** submitted to the Government Contract Review Committee established by KRS 45A.705 for review, as provided in KRS 45A.695, 45A.705, and 45A.725.
 - (7) The authority shall notify the Department of Revenue **following**~~upon~~ approval of an approved company. The notification shall include the name of the approved company, the name of the motion picture or entertainment production, the estimated amount of qualifying expenditures, the estimated date on which the approved company will complete filming or production **in Kentucky**, and any other information required by the department.
 - (8) Within one hundred eighty days (180) days of completion of **production in Kentucky for** the motion picture or entertainment production, the approved company shall submit to the authority a detailed cost report of:
 - (a) Qualifying expenditures;
 - (b) Qualifying payroll expenditures for resident and nonresident above-the-line crew by county;
 - (c) Qualifying payroll expenditures for resident and nonresident below-the-line crew by county; and
 - (d) The **latest version of the production script available at the time of cost report submission**~~[final script]~~.
 - (9) ~~(a) **Cabinet staff**[The authority, together with the secretary,] shall review all information submitted for accuracy and shall confirm that all relevant provisions of the tax incentive agreement have been met.~~
 - (b) Upon confirmation that all requirements of the tax incentive agreement have been met, ~~cabinet staff~~**the authority and the secretary** shall review the **latest version of the production script available at the time of cost report submission**~~[final script]~~, and if they determine that the motion picture or entertainment production does not:
 1. Contain visual or implied scenes that are obscene; or

2. Negatively impact the economy or the tourism industry of the Commonwealth;

the authority shall forward the detailed cost report to the Department of Revenue for calculation of the refundable credit.

(10) The Department of Revenue shall:

- (a) Verify that the approved company withheld the proper amount of income tax on qualifying payroll expenditures; and
- (b) Notify the authority of the total amount of refundable credit available on qualifying expenditures and qualifying payroll expenditures.

➔Section 33. KRS 164.6017 is amended to read as follows:

(1) The cabinets shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 164.6019 to 164.6029, including but not limited to:

- (a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and
- (b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to general fund appropriations of the Commonwealth, grants, or contributions of money, property, labor, or other things of value to be used to carry out the programs' operations, functions, and responsibilities; and
- (c) Notwithstanding the provisions in paragraph (a) of this subsection, the executive director of the Office of Entrepreneurship and ~~{Small Business }~~Innovation shall approve the contracts issued by the cabinet regarding the structure of programs and funding levels in those programs administered by a science and technology organization and created in KRS 154.12-320.

(2) The cabinet may expend money in the funds created in KRS 164.6019 and 164.6027 for reasonable administrative expenses directly incurred in carrying out the requirements of KRS 164.6019 to 164.6029. It is the intent of the General Assembly that the funds created in KRS 164.6019 and 164.6027 be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that the first priority of expenditures of any excess revenues generated from the funds created in KRS 164.6019 and 164.6027 is to replenish general fund appropriations for those same purposes.

(3) The cabinet shall contract with a science and technology organization to administer the programs created in KRS 164.6021 and 164.6029. The cabinet shall work with the science and technology organization to adopt best practices for state investment funds, and shall oversee and approve the application criteria, the process for submission of an application, the types of equity investments permitted, the amount of investments that should be made in each fiscal year, the category or categories of investments that shall be made consistent with the cabinet's strategic plans, and the structure and type of outside expertise or peer review used in the application review process for the programs created in KRS 164.6021 and 164.6029.

(4) No member of the cabinet or the science and technology organization or other administering entity, or their employees or outside experts or their closely related family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the programs.

(5) The cabinet shall submit an annual report prior to November 1 to the Governor and the General Assembly detailing its work related to the programs created in KRS 164.6021 and 164.6029. The annual report shall indicate progress made through investments, and shall include but not be limited to reporting on the progress made in achieving each program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, and funding amounts invested in each project or program, as appropriate, and findings and recommendations to increase each program's effectiveness in achieving its purposes.

(6) All records related to the administration of the programs created in KRS 164.6021 and 164.6029 shall be deemed property of the cabinet and shall be deemed open records and subject to public inspection under KRS 61.870 to 61.884. Any research that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until such time as the intellectual property rights have been fully protected.

➔Section 34. KRS 164.6021 is amended to read as follows:

- (1) The Cabinet for Economic Development shall manage the Kentucky enterprise fund to provide capital to small and medium-size, Kentucky-based companies to undertake feasibility, concept development, research and development, or commercialization work.
- (2) The purpose of the Kentucky enterprise fund is to:
 - (a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;
 - (b) Support feasibility, concept development, research and development, or commercialization activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;
 - (c) Stimulate growth-oriented enterprises within the Commonwealth;
 - (d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's colleges and universities, and research organizations;
 - (e) Promote research and development and commercialization activities that are market-oriented; and
 - (f) Support small and medium-sized companies.
- (3) The Kentucky enterprise fund shall be used to fund qualified companies in accordance with this section as follows:
 - (a) Grants of up to fifty thousand dollars (\$50,000) for companies exploring the feasibility of technology commercialization or projects related to feasibility studies, such as incubator and accelerator programs;
 - (b) Funding of up to two hundred fifty thousand dollars (\$250,000) for companies in the concept development phase of technology commercialization;
 - (c) Funding of up to five hundred thousand dollars (\$500,000) for companies advancing and promoting the program goals, as outlined in subsection (2) of this section; and
 - (d) For new investments made on or after July 1, 2021, no qualified company can receive a total investment from the fund in excess of up to five hundred thousand dollars (\$500,000).
- (4) Beginning July 1, 2021, the cabinet shall allocate at least twenty percent (20%) of the annual allotment of funds for the Kentucky enterprise fund to qualified companies located in rural or enhanced incentive counties, as certified under KRS 154.32-050, and at least twenty percent (20%) of the annual allotment of funds to qualified companies located in Opportunity Zones, as designated by the Commonwealth and certified by the Secretary of the United States Treasury.
- (5) For all funding totaling more than thirty thousand dollars (\$30,000), the science and technology organization or any entity designated by the executive director of the Office of Entrepreneurship and ~~{Small Business }~~Innovation shall receive an equity interest in the qualified company, such as a general or limited partnership interest, limited liability company interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached, a near equity interest such as a simple agreement for future equity or "SAFE agreement", or other convertible debt instruments that are determined to qualify as an adequate investment interest by the executive director of the Office of Entrepreneurship and ~~{Small Business }~~Innovation.

➔Section 35. KRS 164.6023 is amended to read as follows:

- (1) The science and technology organization shall have the authority, upon approval by the cabinet, to review applications, qualify companies, and certify qualified companies to receive funding from the Kentucky enterprise fund.
- (2) The science and technology organization shall develop application criteria and an application process subject to the following limitations. The proposed project shall be likely to:
 - (a) Produce a measurable result and be technically sound;
 - (b) Lead to innovative technology or new knowledge;
 - (c) Lead to commercially successful products, processes, or services within a reasonable period of time; or

- (d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.
- (3) The applicant shall provide to the science and technology organization an application that shall include but not be limited to the following information:
 - (a) Verification that the applicant is an eligible company that meets the definition of a Kentucky-based company and medium-size company or small company;
 - (b) A technology description and plan that is sufficient for outside expert review;
 - (c) A detailed financial analysis that includes the commitment of resources by the applicant and others;
 - (d) Sufficient detail concerning proposed project partners, type and amount of work to be performed and financing to be contributed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and
 - (e) A statement of the economic development potential of the project.
- (4) The science and technology organization shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the science and technology organization shall make a determination of the application and may determine that the applicant is a qualified company as defined in KRS 164.6011.
- (5) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section, the science and technology organization shall present the qualified company, the project partners, if any, and the college or university in the Commonwealth, if any, with a certification authorizing funding.
- (6) Prior to receiving certification authorizing funding from the science and technology organization, the qualified company shall:
 - (a) Negotiate an agreement and funding contract with a college or university in the Commonwealth, if any, and with a project partner, if any, that is satisfactory to the science and technology organization, to undertake the commercialization work; and
 - (b) Provide assurance to the science and technology organization that the college or university and the qualified company have negotiated the ownership and disposition of patents, royalties, all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and the college or university;

unless the requirement to partner with a college or university is recommended to be waived by the science and technology organization.
- (7) Prior to certifying a qualified company, the science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity, near equity such as a simple agreement for future equity or "SAFE agreement", convertible debt, or similar investment format that is approved by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation on behalf of the Kentucky enterprise fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of KRS 164.6021 and 164.6023.
- (8) The science and technology organization, upon approval by the cabinet, shall set forth guidelines as to when and how all areas of the state will be notified about the program's availability and a program schedule, including but not limited to the following:
 - (a) A review cycle including:
 - 1. A deadline for submission of applications at least biannually; and
 - 2. A deadline for reviewing applications of no more than one hundred twenty (120) days after the application submission deadline; and
 - (b) A deadline, from the date an applicant is determined to be a qualified company, by which certification shall be made. If certification is not made by that deadline the funding voucher award is made void.

➔Section 36. KRS 174.205 is amended to read as follows:

The Water Transportation Advisory Board shall:

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- (1) Advise the Transportation Cabinet, the Cabinet for Economic Development, the Governor's Office, and the General Assembly on matters relating to water transportation;
- (2) Recommend action to enable the Commonwealth to make best use of its waterways and riverports for future economic growth;
- (3) Assist in defining the duties and functions of positions within state government responsible for water transportation;
- (4) Recommend criteria for setting priorities for funding riverport marketing initiatives~~[under the riverport marketing assistance trust fund established in KRS 154.80-140];~~
- (5) Evaluate applications submitted by riverports for grants under the riverport marketing assistance trust fund and make recommendations to the granting authority on the disbursement of those funds;
- (6) Recommend criteria for setting priorities for funding riverport improvements under the riverport financial assistance trust fund established in KRS 174.210; and
- (7) Evaluate applications submitted by riverports for grants under the riverport financial assistance trust fund and make recommendations to the granting authority on the disbursement of those funds.

➔Section 37. KRS 141.0205 is amended to read as follows:

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

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, ~~[141.401,]~~141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (s) The Endow Kentucky credit permitted by KRS 141.438;
 - (t) The New Markets Development Program credit permitted by KRS 141.434;
 - (u) The distilled spirits credit permitted by KRS 141.389;

- (v) The angel investor credit permitted by KRS 141.396;
 - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (x) The inventory credit permitted by KRS 141.408; and
 - (y) The renewable chemical production credit permitted by KRS 141.4231.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067;
 - (e) The income gap credit permitted by KRS 141.066; and
 - (f) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;
 - (e) The development area tax credit permitted by KRS 141.398; and
 - (f) The decontamination tax credit permitted by KRS 141.419.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, ~~141.401~~, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;

- (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (t) The railroad expansion credit permitted by KRS 141.386;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The distilled spirits credit permitted by KRS 141.389;
 - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (y) The inventory credit permitted by KRS 141.408;
 - (z) The renewable chemical production tax credit permitted by KRS 141.4231; and
 - (aa) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022; and
 - (d) The decontamination tax credit permitted by KRS 141.419.

➔Section 38. KRS 154.20-170 is amended to read as follows:

- (1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.1-010 and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(5)~~+(8)~~, shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department of Workforce Development in the Education and Labor Cabinet.

➔Section 39. The following KRS sections are repealed:

- 141.401 Tax credit and income tax for companies with economic development projects in qualified zones -- Computation of net income -- Administrative regulations.
- 154.12-276 Office of Workforce, Community Development, and Research -- Executive director -- Duties of office.
- 154.23-005 Legislative findings for KRS 154.23-005 to 154.23-079.
- 154.23-010 Definitions for KRS 154.23-005 to 154.23-079.
- 154.23-015 Certification of qualified zones -- Use of census tracts -- Decertification of census tracts -- Replacement of decertified noncontiguous tract with other qualifying census tract.

- 154.23-020 Amendment of boundaries of qualified zones.
- 154.23-025 Standards for approval of companies and economic development projects -- Commitments to be made by eligible companies.
- 154.23-030 Preliminary approval of eligible companies -- Designation of approved companies.
- 154.23-035 Tax incentive agreements between authority and approved companies -- Time limits -- Tax credits and assessments as inducements for approved companies -- Assignment of tax incentive agreement -- Documentation of expenditures -- Suspension of inducements -- Authority's remedies in case of failure to comply -- Activation date -- Costs of counsel.
- 154.23-040 Service and technology agreements -- Time limits for meeting minimum investment and employment requirements -- Inducements during term of agreements -- Suspension or termination of inducements -- Approved costs -- Reduction of inducements.
- 154.23-045 Application of eligible company to become approved company and expand existing business -- Base levels for eligible credits -- Exemption of employees from assessment -- Increase in number of employees at site -- Tax -- Additional agreements.
- 154.23-050 Tax credit for approved company engaged in manufacturing, service, or technology activities -- Reports by Department of Revenue to authority.
- 154.23-055 Assessment based on employee's gross wages -- Amount -- Credits against taxes and fees -- Prorating of credits and assessments against occupational license fees -- Availability of records -- Approval of assessment by local government -- Cessation of assessments.
- 154.23-060 Applications for grant funds -- Approved company may apply inducements toward purchase price of property and improvements.
- 154.23-065 Wage subsidies for recipients of Kentucky Transitional Assistance Program.
- 154.23-070 Administrative regulations.
- 154.23-075 Exemption from personal liability for directors and officers of authority.
- 154.23-079 Short title.
- 154.23-080 Deadline for new applications -- Governing law for outstanding approved projects.
- 154.47-040 Flexible manufacturing networks.
- 154.47-065 Cabinet may establish benchmarks for performance measurement -- Monitoring by Division of Forestry.
- 154.80-140 Riverport marketing assistance trust fund -- Contributions -- Purpose -- Grants -- Semiannual report.
- 154.80-310 Kentucky Waterway Marina Development Program -- Powers of cabinet.

Signed by Governor March 23, 2023.