GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

HOUSE BILL NO. 272

AS ENACTED

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to revenue and taxation and making an appropriation therefor and declaring an emergency.

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

1 SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
2 READ AS FOLLOWS:
3 ***(1) The tax imposed by KRS 136.070 shall not apply to tax periods ending on or after***
4 ***December 31, 2005.***
5 ***(2) For all tax periods ending prior to December 31, 2005, returns shall be filed and***
6 ***reports made in accordance with the provisions of KRS 136.090 and 136.100.***
7 ***(3) Any outstanding tax liability, penalty, interest, or other obligation attributable to***
8 ***the tax imposed by KRS 136.070 relating to tax periods ending prior to December***
9 ***31, 2005, shall not be affected by subsection (1) of this section.***
10 Section 2. KRS 136.071 is amended to read as follows:
11 (1) ***(a)*** Notwithstanding ***the***~~[any other]~~ provisions of ***KRS 136.070***~~[this chapter]~~, a
12 bank holding company as defined in KRS 287.900 that holds directly or
13 indirectly stock or securities in financial institutions subject to the tax imposed
14 by KRS 136.500 to 136.570 equal to or greater than fifty percent (50%) of its
15 total assets may, at the option of the taxpayer, compute its "capital" under
16 KRS 136.070(2) as follows:
17 ***1.***~~[(a)]~~ Determine the corporation's total capital as provided in KRS
18 136.070(2).
19 ***2.***~~[(b)]~~ Deduct from the amount determined in subsection (a) of this
20 section, the book value of its investment in the stock and securities of
21 any financial institutions subject to the tax imposed by KRS 136.500 to
22 136.570 in which it owns more than fifty percent (50%) of the
23 outstanding stock.
24 ***(b) Notwithstanding the provisions of KRS 136.070, a corporation other than a***

1 ***bank holding company that holds directly or indirectly stock or securities in***
2 ***other corporations equal to or greater than fifty percent (50%) of its total***
3 ***assets may, at the option of the taxpayer, compute capital employed in the***
4 ***business using one (1) of the following options:***
5 ***1. The corporation and its subsidiaries may file a consolidated license***
6 ***tax return that computes capital employed in the business under KRS***
7 ***136.070 and includes the parent corporation and all subsidiary***
8 ***corporations in which the parent corporation owns more than fifty***
9 ***percent (50%) of the outstanding stock; or***
10 ***2. The corporation may file a separate license tax return and deduct***
11 ***from capital, determined in accordance with KRS 136.070(2), the book***
12 ***value of its investment in the stock and securities of any corporation in***
13 ***which it owns more than fifty percent (50%) of the outstanding stock.***
14 (2) For purposes of determining the ratio of stock and securities to total assets, ***as it***
15 ***relates to subsection (1) of this section,*** the value shall be the value of the accounts
16 as reflected on financial statements prepared for book purposes as of the last day of
17 the calendar or fiscal year. The term "stock and securities" as used in this section
18 means shares of stock in any corporation, certificates of stock or interest in any
19 corporation, notes, bonds, debentures, and evidences of indebtedness. The term
20 "book value" means the value as shown on financial statements prepared for book
21 purposes as of the last day of the calendar or fiscal year.
22 Section 3. KRS 141.010 is amended to read as follows:
23 As used in this chapter, unless the context requires otherwise:
24 (1) "Secretary" means the secretary of revenue;
25 (2) "Cabinet" means the Revenue Cabinet;
26 (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December
27 31, ***2004***~~[2001]~~, exclusive of any amendments made subsequent to that date, other

1 than amendments that extend provisions in effect on December 31, ***2004***[~~2001~~], that
2 would otherwise terminate, and as modified by KRS 141.0101***, except that for***
3 ***property placed in service after September 10, 2001, only the depreciation and***
4 ***expense deductions allowed under Sections 168 and 179 of the Internal Revenue***
5 ***Code in effect on December 31, 2001, exclusive of any amendments made***
6 ***subsequent to that date, shall be allowed, and including the provisions of the***
7 ***Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the***
8 ***dates specified in that Act***;
9 (4) "Dependent" means those persons defined as dependents in the Internal Revenue
10 Code;
11 (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal
12 Revenue Code;
13 (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal
14 Revenue Code;
15 (7) "Individual" means a natural person;
16 (8) ***"Modified gross income" means adjusted gross income as defined in Section 62***
17 ***of the Internal Revenue Code of 1986, including any subsequent amendments in***
18 ***effect on December 31 of the taxable year, and adjusted as follows:***
19 ***(a) Include interest income derived from obligations of sister states and***
20 ***political subdivisions thereof; and***
21 ***(b) Include lump-sum pension distributions taxed under the special transition***
22 ***rules of Pub. L. 104-188, sec. 1401(c)(2)***[~~For taxable years beginning on or~~
23 ~~after January 1, 1974, "federal income tax" means the amount of federal~~
24 ~~income tax actually paid or accrued for the taxable year on taxable income as~~
25 ~~defined in Section 63 of the Internal Revenue Code, and taxed under the~~
26 ~~provisions of this chapter, minus any federal tax credits actually utilized by~~
27 ~~the taxpayer~~];

1 (9) "Gross income" in the case of taxpayers other than corporations means "gross
2 income" as defined in Section 61 of the Internal Revenue Code;
3 (10) "Adjusted gross income" in the case of taxpayers other than corporations means
4 gross income as defined in subsection (9) of this section minus the deductions
5 allowed individuals by Section 62 of the Internal Revenue Code and as modified by
6 KRS 141.0101 and adjusted as follows, except that deductions shall be limited to
7 amounts allocable to income subject to taxation under the provisions of this chapter,
8 and except that nothing in this chapter shall be construed to permit the same item to
9 be deducted more than once:
10 (a) Exclude income that is exempt from state taxation by the Kentucky
11 Constitution and the Constitution and statutory laws of the United States and
12 Kentucky;
13 (b) Exclude income from supplemental annuities provided by the Railroad
14 Retirement Act of 1937 as amended and which are subject to federal income
15 tax by Public Law 89-699;
16 (c) Include interest income derived from obligations of sister states and political
17 subdivisions thereof;
18 (d) Exclude employee pension contributions picked up as provided for in KRS
19 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and
20 161.540 upon a ruling by the Internal Revenue Service or the federal courts
21 that these contributions shall not be included as gross income until such time
22 as the contributions are distributed or made available to the employee;
23 (e) Exclude Social Security and railroad retirement benefits subject to federal
24 income tax;
25 (f) Include, for taxable years ending before January 1, 1991, all overpayments of
26 federal income tax refunded or credited for taxable years;
27 (g) Deduct, for taxable years ending before January 1, 1991, federal income tax

paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. ***For taxable years ending prior to December 31, 2005,*** exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

~~[2.]~~ The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars ($41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

1 3. As used in this paragraph:
2 a. "Distributions" includes, but is not limited to, any lump-sum
3 distribution from pension or profit-sharing plans qualifying for the
4 income tax averaging provisions of Section 402 of the Internal
5 Revenue Code; any distribution from an individual retirement
6 account as defined in Section 408 of the Internal Revenue Code;
7 and any disability pension distribution;
8 b. "Annuity contract" has the same meaning as set forth in Section
9 1035 of the Internal Revenue Code; and
10 c. "Pension plans, profit-sharing plans, retirement plans, or employee
11 savings plans" means any trust or other entity created or organized
12 under a written retirement plan and forming part of a stock bonus,
13 pension, or profit-sharing plan of a public or private employer for
14 the exclusive benefit of employees or their beneficiaries and
15 includes plans qualified or unqualified under Section 401 of the
16 Internal Revenue Code and individual retirement accounts as
17 defined in Section 408 of the Internal Revenue Code;
18 (j) 1. a. Exclude ***the portion of*** the distributive share of a shareholder's net
19 income from an S corporation subject to the franchise tax imposed
20 under KRS 136.505 or the capital stock tax imposed under KRS
21 136.300; and
22 b. Exclude the portion of the distributive share of a shareholder's net
23 income from an S corporation related to a qualified subchapter S
24 subsidiary subject to the franchise tax imposed under KRS
25 136.505 or the capital stock tax imposed under KRS 136.300.
26 2. The shareholder's basis of stock held in a S corporation where the S
27 corporation or its qualified subchapter S subsidiary is subject to the

1 franchise tax imposed under KRS 136.505 or the capital stock tax
2 imposed under KRS 136.300 shall be the same as the basis for federal
3 income tax purposes;
4 (k) Exclude for taxable years beginning after December 31, 1998, to the extent
5 not already excluded from gross income, any amounts paid for health
6 insurance, or the value of any voucher or similar instrument used to provide
7 health insurance, which constitutes medical care coverage for the taxpayer, the
8 taxpayer's spouse, and dependents during the taxable year. Any amounts paid
9 by the taxpayer for health insurance that are excluded pursuant to this
10 paragraph shall not be allowed as a deduction in computing the taxpayer's net
11 income under subsection (11) of this section;
12 (l) Exclude income received for services performed as a precinct worker for
13 election training or for working at election booths in state, county, and local
14 primary, regular, or special elections;
15 (m) Exclude any amount paid during the taxable year for insurance for long-term
16 care as defined in KRS 304.14-600;
17 (n) Exclude any capital gains income attributable to property taken by eminent
18 domain;
19 (o) Exclude any amount received by a producer of tobacco or a tobacco quota
20 owner from the multistate settlement with the tobacco industry, known as the
21 Master Settlement Agreement, signed on November 22, 1998;
22 (p) Exclude any amount received from the secondary settlement fund, referred to
23 as "Phase II," established by tobacco companies to compensate tobacco
24 farmers and quota owners for anticipated financial losses caused by the
25 national tobacco settlement;
26 (q) Exclude any amount received from funds of the Commodity Credit
27 Corporation for the Tobacco Loss Assistance Program as a result of a

1 reduction in the quantity of tobacco quota allotted;~~[and]~~
2 (r) Exclude any amount received as a result of a tobacco quota buydown program
3 that all quota owners and growers are eligible to participate in; ***and***
4 ***(s) Exclude state Phase II payments received by a producer of tobacco or a***
5 ***tobacco quota owner;***
6 (11) "Net income" in the case of taxpayers other than corporations means adjusted gross
7 income as defined in subsection (10) of this section, minus the standard deduction
8 allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction
9 allowed by KRS 141.0202, minus any amount paid for vouchers or similar
10 instruments that provide health insurance coverage to employees or their families,
11 and minus all the deductions allowed individuals by Chapter 1 of the Internal
12 Revenue Code as modified by KRS 141.0101 except those listed below, except that
13 deductions shall be limited to amounts allocable to income subject to taxation under
14 the provisions of this chapter and that nothing in this chapter shall be construed to
15 permit the same item to be deducted more than once:
16 (a) Any deduction allowed by the Internal Revenue Code for state taxes measured
17 by gross or net income, ***including state and local general sales taxes allowed***
18 ***in lieu of state and local income taxes under the provisions of Section***
19 ***164(b)(5) of the Internal Revenue Code,*** except that such taxes paid to
20 foreign countries may be deducted;
21 (b) Any deduction allowed by the Internal Revenue Code for amounts allowable
22 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
23 the estate of a decedent, unless there is filed with the income return a
24 statement that such deduction has not been claimed under KRS 140.090(1)(h);
25 (c) The deduction for personal exemptions allowed under Section 151 of the
26 Internal Revenue Code and any other deductions in lieu thereof; and
27 (d) Any deduction for amounts paid to any club, organization, or establishment

1 which has been determined by the courts or an agency established by the
2 General Assembly and charged with enforcing the civil rights laws of the
3 Commonwealth, not to afford full and equal membership and full and equal
4 enjoyment of its goods, services, facilities, privileges, advantages, or
5 accommodations to any person because of race, color, religion, national
6 origin, or sex, except nothing shall be construed to deny a deduction for
7 amounts paid to any religious or denominational club, group, or establishment
8 or any organization operated solely for charitable or educational purposes
9 which restricts membership to persons of the same religion or denomination in
10 order to promote the religious principles for which it is established and
11 maintained;
12 (12) "Gross income," in the case of corporations, means "gross income" as defined in
13 Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and
14 adjusted as follows:
15 (a) Exclude income that is exempt from state taxation by the Kentucky
16 Constitution and the Constitution and statutory laws of the United States;
17 (b) Exclude all dividend income received after December 31, 1969;
18 (c) Include interest income derived from obligations of sister states and political
19 subdivisions thereof;
20 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
21 covered by Section 631(c) of the Internal Revenue Code if the corporation
22 does not claim any deduction for percentage depletion, or for expenditures
23 attributable to the making and administering of the contract under which such
24 disposition occurs or to the preservation of the economic interests retained
25 under such contract;
26 (e) Include in the gross income of lessors income tax payments made by lessees
27 to lessors, under the provisions of Section 110 of the Internal Revenue Code,

1 and exclude such payments from the gross income of lessees;
2 (f) Include the amount calculated under KRS 141.205;
3 (g) Ignore the provisions of Section 281 of the Internal Revenue Code in
4 computing gross income;
5 (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal
6 Revenue Code);
7 (i) Exclude any amount received by a producer of tobacco or a tobacco quota
8 owner from the multistate settlement with the tobacco industry, known as the
9 Master Settlement Agreement, signed on November 22, 1998;
10 (j) Exclude any amount received from the secondary settlement fund, referred to
11 as "Phase II," established by tobacco companies to compensate tobacco
12 farmers and quota owners for anticipated financial losses caused by the
13 national tobacco settlement;
14 (k) Exclude any amount received from funds of the Commodity Credit
15 Corporation for the Tobacco Loss Assistance Program as a result of a
16 reduction in the quantity of tobacco quota allotted;~~[and]~~
17 (l) Exclude any amount received as a result of a tobacco quota buydown program
18 that all quota owners and growers are eligible to participate in;
19 ***(m) Exclude the distributive share income or loss received from a corporation***
20 ***subject to the tax imposed by KRS 141.040 ; and***
21 ***(n) Exclude state Phase II payments received by a producer of tobacco or a***
22 ***tobacco quota owner;***
23 (13) "Net income," in the case of corporations, means "gross income" as defined in
24 subsection (12) of this section minus the deduction allowed by KRS 141.0202,
25 minus any amount paid for vouchers or similar instruments that provide health
26 insurance coverage to employees or their families, and minus all the deductions
27 from gross income allowed corporations by Chapter 1 of the Internal Revenue Code

1 and as modified by KRS 141.0101, except the following:
2 (a) Any deduction for a state tax which is computed, in whole or in part, by
3 reference to gross or net income and which is paid or accrued to any state of
4 the United States, the District of Columbia, the Commonwealth of Puerto
5 Rico, any territory or possession of the United States, or to any foreign
6 country or political subdivision thereof;
7 (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal
8 Revenue Code;
9 (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored
10 in computing net income;
11 (d) Any deduction directly or indirectly allocable to income which is either
12 exempt from taxation or otherwise not taxed under the provisions of this
13 chapter, and nothing in this chapter shall be construed to permit the same item
14 to be deducted more than once;
15 (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the
16 Internal Revenue Code);~~[and]~~
17 (f) Any deduction for amounts paid to any club, organization, or establishment
18 which has been determined by the courts or an agency established by the
19 General Assembly and charged with enforcing the civil rights laws of the
20 Commonwealth, not to afford full and equal membership and full and equal
21 enjoyment of its goods, services, facilities, privileges, advantages, or
22 accommodations to any person because of race, color, religion, national
23 origin, or sex, except nothing shall be construed to deny a deduction for
24 amounts paid to any religious or denominational club, group, or establishment
25 or any organization operated solely for charitable or educational purposes
26 which restricts membership to persons of the same religion or denomination in
27 order to promote the religious principles for which it is established and

1 maintained; ***and***

2 ***(g) Any deduction prohibited by the provisions of KRS 141.205;***

3 (14) (a) "Taxable net income," in the case of corporations ***that are taxable***[~~having~~

4 ~~property or payroll only~~] in this state, means "net income" as defined in

5 subsection (13) of this section;

6 (b) "Taxable net income," in the case of corporations ***that are taxable in this state***

7 ***and taxable in another***[~~having property or payroll both within and without~~

8 ~~this~~] state, means "net income" as defined in subsection (13) of this section

9 and as allocated and apportioned under KRS 141.120. ***A corporation is***

10 ***taxable in another state if, in any state other than Kentucky, the corporation***

11 ***is required to file a return for or pay a net income tax, franchise tax***

12 ***measured by net income, franchise tax for the privilege of doing business,***

13 ***or corporate stock tax***;

14 (c)[~~"Property" means either real property or tangible personal property which is~~

15 ~~either owned or leased. "Payroll" means compensation paid to one (1) or more~~

16 ~~individuals, as described in KRS 141.120(8)(b). Property and payroll are~~

17 ~~deemed to be entirely within this state if all other states are prohibited by~~

18 ~~Public Law 86-272, as it existed on December 31, 1975, from enforcing~~

19 ~~income tax jurisdiction;~~

20 ~~(d)~~] "Taxable net income" in the case of homeowners' associations as defined in

21 Section 528(c) of the Internal Revenue Code, means "taxable income" as

22 defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the

23 provisions of subsection (3) of this section, the Internal Revenue Code

24 sections referred to in this paragraph shall be those code sections in effect for

25 the applicable tax year; and

26 ***(d)***[~~(e)~~] "Taxable net income" in the case of a corporation that meets the

27 requirements established under Section 856 of the Internal Revenue Code to

1 be a real estate investment trust, means "real estate investment trust taxable
2 income" as defined in Section 857(b)(2) of the Internal Revenue Code;
3 (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue
4 Code;
5 (16) "Taxable year" means the calendar year or fiscal year ending during such calendar
6 year, upon the basis of which net income is computed, and in the case of a return
7 made for a fractional part of a year under the provisions of this chapter or under
8 regulations prescribed by the secretary, "taxable year" means the period for which
9 ***the***[~~such~~] return is made;
10 (17) "Resident" means an individual domiciled within this state or an individual who is
11 not domiciled in this state, but maintains a place of abode in this state and spends in
12 the aggregate more than one hundred eighty-three (183) days of the taxable year in
13 this state;
14 (18) "Nonresident" means any individual not a resident of this state;
15 (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal
16 Revenue Code;
17 (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal
18 Revenue Code;
19 (21) "Number of withholding exemptions claimed" means the number of withholding
20 exemptions claimed in a withholding exemption certificate in effect under KRS
21 141.325, except that if no such certificate is in effect, the number of withholding
22 exemptions claimed shall be considered to be zero;
23 (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue
24 Code and includes other income subject to withholding as provided in Section
25 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
26 (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the
27 Internal Revenue Code;

1 (24) "Corporations" means:

2 *(a)* "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

3 *(b) S corporations as defined in Section 1361(a) of the Internal Revenue Code;*

4 *(c) A foreign limited liability company as defined in KRS 275.015(6);*

5 *(d) A limited liability company as defined in KRS 275.015(8);*

6 *(e) A professional limited liability company as defined in KRS 275.015(19);*

7 *(f) A foreign limited partnership as defined in KRS 362.401(4);*

8 *(g) A limited partnership as defined in KRS 362.401(7);*

9 *(h) A registered limited liability partnership as defined in KRS 362.155(7);*

10 *(i) A real estate investment trust as defined in Section 856 of the Internal*

11 *Revenue Code;*

12 *(j) A regulated investment company as defined in Section 851 of the Internal*

13 *Revenue Code;*

14 *(k) A real estate mortgage investment conduit as defined in Section 860D of the*

15 *Internal Revenue Code;*

16 *(l) A financial asset securitization investment trust as defined in Section 860L*

17 *of the Internal Revenue Code; and*

18 *(m) Other similar entities created with limited liability for their partners,*

19 *members, or shareholders.*

20 *"Corporation" shall not include any publicly traded partnership as defined by*

21 *Section 7704(b) of the Internal Revenue Code that is treated as a partnership for*

22 *federal tax purposes under Section 7704(c) of the Internal Revenue Code or its*

23 *publicly traded partnership affiliates. "Publicly traded partnership affiliates"*

24 *shall include any limited liability company or limited partnership for which at*

25 *least eighty percent (80%) of the limited liability company member interests or*

26 *limited partner interests are owned directly or indirectly by the publicly traded*

27 *partnership;*

1 *(25) "Doing business in this state" includes, but is not limited to:*
2 *(a) Being organized under the laws of this state;*
3 *(b) Having a commercial domicile in this state;*
4 *(c) Owning or leasing property in this state;*
5 *(d) Having one (1) or more individuals performing services in this state;*
6 *(e) Maintaining an interest in a general partnership doing business in this*
7 *state;*
8 *(f) Deriving income from or attributable to sources within this state, including*
9 *deriving income directly or indirectly from a trust doing business in this*
10 *state; or*
11 *(g) Directing activities at Kentucky customers for the purpose of selling them*
12 *goods or services.*
13 *Nothing in this subsection shall be interpreted in a manner that goes beyond the*
14 *limitations imposed and protections provided by the United States Constitution or*
15 *Pub. L. No. 86-272;*
16 *(26) "Cost of goods sold" means the cost of goods sold calculated using the same*
17 *method specified by the Internal Revenue Service for the purpose of computing*
18 *federal income tax. In determining cost of goods sold:*
19 *(a) Labor costs shall be limited to direct labor costs as defined in subsection*
20 *(28) of this section; and*
21 *(b) Bulk delivery costs as defined in subsection (29) of this section may be*
22 *included;*
23 *(27) "Kentucky gross profits" means Kentucky gross receipts reduced by returns and*
24 *allowances attributable to Kentucky gross receipts, less the cost of goods sold*
25 *attributable to Kentucky gross receipts;*
26 *(28) "Direct labor" means labor that is incorporated into the product sold or is an*
27 *integral part of the manufacturing process; and*

1 *(29) "Bulk delivery costs" means the cost of delivering the product to the consumer if*
2 *the product is delivered in bulk and requires specialized equipment that generally*
3 *precludes commercial shipping and is taxable under KRS 138.220*
4 ~~[(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the~~
5 ~~Internal Revenue Code. Stockholders of a corporation qualifying as an "S~~
6 ~~corporation" under this chapter may elect to treat such qualification as an initial~~
7 ~~qualification under Subchapter S of the Internal Revenue Code Sections]~~.
8 Section 4. KRS 141.011 is amended to read as follows:
9 *(1)* Notwithstanding any other provision of this chapter, the net operating loss
10 carryback-carryforward deduction, including casualty loss, allowed under Section
11 172 of the Internal Revenue Code shall apply only to such losses incurred in taxable
12 years beginning after December 31, 1979 and no such loss shall be carried back to
13 taxable years beginning before January 1, 1980. Any casualty loss carryforward
14 authorized by this section as it existed before January 1, 1980, may be carried
15 forward as an itemized deduction until it has been fully deducted.
16 *(2) The net operating loss carryback deduction shall not be allowed for losses*
17 *incurred for taxable years beginning on or after January 1, 2005.*
18 *(3) For taxable years when the tax due under KRS 141.040 is based on the*
19 *alternative minimum calculation provided in paragraph (b) of subsection (5) of*
20 *KRS 141.040, any net operating loss carryforward deduction that is utilized for*
21 *the taxable year shall be the amount of taxable net income that exceeds the*
22 *taxable net income equivalent of the alternative minimum calculation. For*
23 *purposes of this subsection, "taxable net income equivalent" means the taxable*
24 *net income that would generate an income tax equal to the alternative minimum*
25 *calculation liability computed under the provisions of paragraph (b) of subsection*
26 *(5) of KRS 141.040.*
27 *(4) For taxable years beginning on or after January 1, 2005, the net operating loss*

1 ***carryforward deduction of a corporation shall be reduced by the amount of***
2 ***distributive share income, loss, and deduction distributed to an individual or***
3 ***general partnership as defined in KRS 141.206.***
4 ***(5) The portion of a net operating loss that is not used to offset the income of an***
5 ***affiliate according to the limits in KRS 141.200(11) shall be available for***
6 ***carryforward, subject to the limitations contained in this section.***
7 Section 5. KRS 141.020 is amended to read as follows:
8 (1) An annual tax shall be paid for each taxable year by every resident individual of this
9 state upon his entire net income as defined in this chapter. The tax shall be
10 determined by applying the rates in subsection (2) ***of this section*** to net income and
11 subtracting allowable tax credits provided in subsection (3) ***of this section***.
12 (2) ***(a) For taxable years beginning before January 1, 2005, the tax shall be***
13 ***determined by applying*** the following rates[~~ shall be applied~~] to net income:
14 ***1.***[~~(a)~~] Two percent (2%) of the amount of net income ***up to***[~~not~~
15 ~~exceeding~~] three thousand dollars ($3,000);
16 ***2.***[~~(b)~~] Three percent (3%) of the amount of net income ***over***[~~in excess of~~]
17 three thousand dollars ($3,000) ***and up to***[~~but not in excess of~~] four
18 thousand dollars ($4,000);
19 ***3.***[~~(c)~~] Four percent (4%) of the amount of net income ***over***[~~in excess of~~]
20 four thousand dollars ($4,000) ***and up to***[~~but not in excess of~~] five
21 thousand dollars ($5,000);
22 ***4.***[~~(d)~~] Five percent (5%) of the amount of net income ***over***[~~in excess of~~]
23 five thousand dollars ($5,000) ***and up to***[~~but not in excess of~~] eight
24 thousand dollars ($8,000); ***and***
25 ***5.***[~~(e)~~] Six percent (6%) of the amount of net income ***over***[~~in excess of~~]
26 eight thousand dollars ($8,000).
27 ***(b) For taxable years beginning after December 31, 2004, the tax shall be***

1 ***determined by applying the following rates to net income:***

2 ***1. Two percent (2%) of the amount of net income up to three thousand***

3 ***dollars ($3,000);***

4 ***2. Three percent (3%) of the amount of net income over three thousand***

5 ***dollars ($3,000) and up to four thousand dollars ($4,000);***

6 ***3. Four percent (4%) of the amount of net income over four thousand***

7 ***dollars ($4,000) and up to five thousand dollars ($5,000);***

8 ***4. Five percent (5%) of the amount of net income over five thousand***

9 ***dollars ($5,000) and up to eight thousand dollars ($8,000);***

10 ***5. Five and eight-tenths percent (5.8%) of the amount of net income over***

11 ***eight thousand dollars ($8,000) and up to seventy-five thousand***

12 ***dollars ($75,000); and***

13 ***6. Six percent (6%) of the amount of net income over seventy-five***

14 ***thousand dollars ($75,000).***

15 (3) The following tax credits, when applicable, shall be deducted from the result

16 obtained under subsection (2) to arrive at the annual tax:

17 (a) Twenty dollars ($20) for an unmarried individual;

18 (b) Twenty dollars ($20) for a married individual filing a separate return and an

19 additional twenty dollars ($20) for the spouse of taxpayer if a separate return

20 is made by the taxpayer and if the spouse, for the calendar year in which the

21 taxable year of the taxpayer begins, had no Kentucky gross income and is not

22 the dependent of another taxpayer; or forty dollars ($40) for married persons

23 filing a joint return, provided neither spouse is the dependent of another

24 taxpayer. The determination of marital status for the purpose of this section

25 shall be made in the manner prescribed in Section 153 of the Internal Revenue

26 Code;

27 (c) Twenty dollars ($20) credit for each dependent. No credit shall be allowed for

any dependent who has made a joint return with his spouse;

(d) An additional forty dollars ($40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;

(e) An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(f) An additional forty dollars ($40) credit if the taxpayer is blind at the close of the taxable year;

(g) An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(h) In the case of nonresidents, the tax credits allowable under this subsection shall be ***the portion***[~~that proportion~~] of ***the credits***[~~those permitted therein~~] that ***are***[~~is~~] represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to ***the taxpayer's***[~~his~~] adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to ***the taxpayer's***[~~his~~] tax credit(s), excluding credits for a spouse and dependents;[~~,~~] or

2. Prorating ***the taxpayer's***[~~his~~] tax credit(s) plus the tax credits for ***the taxpayer's***[~~his~~] spouse and dependents by the ratio of ***the***

1 ***taxpayer's***~~[his]~~ Kentucky adjusted gross income as determined by KRS
2 141.010(10), without the adjustments contained in (f) and (g) of that
3 subsection, to the total joint federal adjusted gross income of the
4 taxpayer and ***the taxpayer's***~~[his]~~ spouse;
5 (i) In the case of an individual who becomes a resident of Kentucky during the
6 taxable year, the tax credits allowable under this subsection shall be ***the***~~[that]~~
7 portion of ***the credits***~~[those permitted therein that is]~~ represented by the ratio
8 of the taxpayer's Kentucky adjusted gross income as determined by subsection
9 (10) of KRS 141.010, without the adjustments contained in paragraphs (f) and
10 (g) of that subsection, to ***the taxpayer's***~~[his]~~ adjusted gross income as defined
11 in Section 62 of the Internal Revenue Code;
12 (j) In the case of a fiduciary, other than an estate, the allowable tax credit shall be
13 two dollars ($2);
14 (k) In the case of an estate, the allowable tax credit shall be twenty dollars ($20);
15 (l) An additional twenty dollars ($20) credit ***shall be allowed*** if the taxpayer is a
16 member of the Kentucky National Guard at the close of the taxable year.
17 (4) An annual tax shall be paid for each taxable year as specified in this section upon
18 the entire net income except as herein provided, from all tangible property located
19 in this state, from all intangible property that has acquired a business situs in this
20 state, and from business, trade, profession, occupation, or other activities carried on
21 in this state, by natural persons not residents of this state. A nonresident individual
22 shall be taxable only upon the amount of income received by ***the individual***~~[him]~~
23 from labor performed, business done, or from other activities in this state, from
24 tangible property located in this state, and from intangible property which has
25 acquired a business situs in this state; provided, however, that the situs of intangible
26 personal property shall be at the residence of the real or beneficial owner and not at
27 the residence of a trustee having custody or possession thereof. The remainder of

1 the income received by such nonresident shall be deemed nontaxable by this state.
2 (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the
3 annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
4 (6) An individual who becomes a resident of Kentucky during the taxable year is
5 subject to taxation as prescribed in subsection (4) of this section prior to
6 establishing such residence and as prescribed in subsection (1) of this section
7 following the establishment of such residence.
8 (7) An individual who becomes a nonresident of Kentucky during the taxable year is
9 subject to taxation, as prescribed in subsection (1) of this section, during that
10 portion of the taxable year that ***the individual***[~~he~~] is a resident and, as prescribed in
11 subsection (4) of this section, during that portion of the taxable year when ***the***
12 ***individual***[~~he~~] is a nonresident.
13 Section 6. KRS 141.0205 is amended to read as follows:
14 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
15 imposed by KRS 141.020 or 141.040, the priority of application and use of the credits
16 shall be determined as follows:
17 (1) The nonrefundable ***business incentive*** credits against the tax imposed by KRS
18 141.020 shall be taken in the following order:
19 (a) The ***corporation income tax credit permitted by subsection (3)(a) of Section***
20 ***18 of this Act***[~~individual credits permitted by KRS 141.020(3)~~];
21 (b) The economic development credits computed under KRS 141.347, 141.400,
22 141.403, 141.407, and 154.12-2088;
23 (c) ***The certified rehabilitation credit permitted by Section 151 of this Act;***
24 ***(d)*** The health insurance credit permitted by KRS 141.062;
25 ***(e)***[~~(d)~~] The tax paid to other states credit permitted by KRS 141.070;
26 ***(f)***[~~(e)~~] The credit for hiring the unemployed permitted by KRS 141.065;
27 ***(g)***[~~(f)~~] The recycling or composting equipment credit permitted by KRS

1 141.390;

2 *(h)*[~~(g)~~] The tax credit for cash contributions in investment funds permitted by

3 KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by

4 KRS 154.20-258;

5 [~~(h) The low income credit permitted by KRS 141.066;~~]

6 (i)[~~ The household and dependent care credit permitted by KRS 141.067;~~

7 ~~(j)~~] The coal incentive credit permitted under KRS 141.0405;[~~ and~~]

8 *(j)*[~~(k)~~] The research facilities credit permitted under KRS 141.395*;*

9 ***(k) The employer GED incentive credit permitted under KRS 151B.127;***

10 ***(l) The voluntary environmental remediation credit permitted by Section 140 of***

11 ***this Act;***

12 ***(m) The biodiesel credit permitted by Section 137 of this Act;***

13 ***(n) The environmental stewardship credit permitted by Section 146 of this Act;***

14 ***and***

15 ***(o) The clean coal incentive credit permitted by Section 142 of this Act.***

16 (2) After the application of the nonrefundable credits in subsection (1) of this section,

17 the ***nonrefundable personal tax***[~~refundable~~] credits against the tax imposed by

18 KRS 141.020 shall be taken in the following order:

19 ***(a) The individual credits permitted by KRS 141.020(3);***

20 ***(b) The credit permitted by KRS 141.066;***

21 ***(c) The tuition credit permitted by Section 8 of this Act; and***

22 ***(d) The household and dependent care credit permitted by KRS 141.067.***

23 ***(3) After the application of the nonrefundable credits provided for in subsection (2)***

24 ***of this section, the refundable credits against the tax imposed by KRS 141.020***

25 ***shall be taken in the following order:***

26 (a) The individual withholding tax credit permitted by KRS 141.350;[~~ and~~]

27 (b) The individual estimated tax payment credit permitted by KRS 141.305***; and***

1 ***(c) The corporation income tax credit permitted by paragraph (c) of subsection***
2 ***(3) of Section 18 of this Act.***
3 ***(4)***[~~(3)~~] The nonrefundable credits against the tax imposed by KRS 141.040 shall be
4 taken in the following order:
5 (a) The economic development credits computed under KRS 141.347, 141.400,
6 141.403, 141.407, and 154.12-2088;
7 (b) ***The certified rehabilitation credit permitted by Section 151 of this Act;***
8 ***(c)*** The health insurance credit permitted by KRS 141.062;
9 ***(d)***[~~(c)~~] The unemployment credit permitted by KRS 141.065;
10 ***(e)***[~~(d)~~] The recycling or composting equipment credit permitted by KRS
11 141.390;
12 ***(f)***[~~(e)~~] The coal conversion credit permitted by KRS 141.041;
13 ***(g)***[~~(f)~~] The enterprise zone credit permitted by KRS 154.45-090***, for taxable***
14 ***periods ending prior to January 1, 2008***;
15 ***(h)***[~~(g)~~] The tax credit for cash contributions to investment funds permitted by
16 KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by
17 KRS 154.20-258;
18 ***(i)***[~~(h)~~] The coal incentive credit permitted under KRS 141.0405;[~~ and~~]
19 ***(j)***[~~(i)~~] The research facilities credit permitted under KRS 141.395***;***
20 ***(k) The employer GED incentive credit permitted under KRS 151B.127;***
21 ***(l) The voluntary environmental remediation credit permitted by Section 140 of***
22 ***this Act;***
23 ***(m) The biodiesel credit permitted by Section 137 of this Act;***
24 ***(n) The environmental stewardship credit permitted by Section 146 of this Act;***
25 ***and***
26 ***(o) The clean coal incentive credit permitted by Section 142 of this Act.***
27 ***(5)***[~~(4)~~] After the application of the nonrefundable credits in subsection (3) of this

1 section, the refundable corporation estimated tax payment credit permitted by KRS
2 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.
3 Section 7. KRS 141.040 is amended to read as follows:
4 (1) Every corporation ***doing business in***[~~organized under the laws of~~] this state[~~, every~~
5 ~~corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this~~
6 ~~state, and every foreign corporation owning or leasing property located in this state~~
7 ~~or having one (1) or more individuals receiving compensation as defined in KRS~~
8 ~~141.120(8)(b) in this state~~], except those corporations listed in paragraphs (a) to
9 ***(h)***[~~(i)~~] of this subsection, shall pay for each taxable year a tax to be computed by
10 the taxpayer on taxable net income ***or the alternative minimum calculation***
11 ***computed under this section*** at the rates specified in[~~ subsections (2), (3), and (4)~~
12 ~~of~~] this section:
13 (a)[~~ S corporations;~~
14 ~~(b)~~] Financial institutions, as defined in KRS 136.500, except bankers banks
15 organized under KRS 287.135;
16 ***(b)***[~~(c)~~] Savings and loan associations organized under the laws of this state and
17 under the laws of the United States and making loans to members only;
18 ***(c)***[~~(d)~~] Banks for cooperatives;
19 ***(d)***[~~(e)~~] Production credit associations;
20 ***(e)***[~~(f)~~] Insurance companies, including farmers or other mutual hail, cyclone,
21 windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
22 ***(f)***[~~(g)~~] Corporations ***or other entities*** exempt under Section 501 of the Internal
23 Revenue Code;
24 ***(g)***[~~(h)~~] Religious, educational, charitable, or like corporations not organized or
25 conducted for pecuniary profit; and
26 ***(h)***[~~(i)~~] Corporations ***whose only owned or leased property located in this state***
27 ***is located at the premises of a printer with which it has contracted for***

1 ***printing, provided that:***

2 ***1. The property consists of the final printed product, or copy from which***

3 ***the printed product is produced; and***

4 ***2. The corporation has no individuals receiving compensation in this***

5 ***state as provided in KRS 141.120(8)(b)***[~~having no individuals receiving~~

6 ~~compensation as defined in KRS 141.120(8)(b) in this state, and whose~~

7 ~~only owned or leased property located in this state is located at the~~

8 ~~premises of a printer with which it has contracted for printing, if such~~

9 ~~property consists of the final printed product, property which becomes a~~

10 ~~part of the final printed product, or copy from which the printed product~~

11 ~~is produced~~].

12 (2) For tax years ending before January 1, 1990, the following rates shall apply:

13 (a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of

14 taxable net income;

15 (b) Four percent (4%) of the amount of taxable net income in excess of twenty-

16 five thousand dollars ($25,000), but not in excess of fifty thousand dollars

17 ($50,000);

18 (c) Five percent (5%) of the amount of taxable net income in excess of fifty

19 thousand dollars ($50,000), but not in excess of one hundred thousand dollars

20 ($100,000);

21 (d) Six percent (6%) of the amount of taxable net income in excess of one

22 hundred thousand dollars ($100,000), but not in excess of two hundred fifty

23 thousand dollars ($250,000); and

24 (e) Seven and twenty-five one hundredths percent (7.25%) of the amount of

25 taxable net income in excess of two hundred fifty thousand dollars

26 ($250,000).

27 (3) For tax years beginning after December 31, 1989, ***and before January 1, 2005,*** the

following rates shall apply:

(a) Four percent (4%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

1 (5) *For taxable years beginning on or after January 1, 2005, corporations subject to*
2 *the tax imposed by this section shall pay the greater of the tax computed under*
3 *paragraph (a) of this subsection, the tax computed under subparagraph 1. or 2. of*
4 *paragraph (b) of this subsection, or the minimum tax imposed by subsection (6)*
5 *of this section. The tax computed under this subsection is as follows:*
6 *(a) 1. Four percent (4%) of the first fifty thousand dollars ($50,000) of*
7 *taxable net income;*
8 *2. Five percent (5%) of taxable net income over fifty thousand dollars*
9 *($50,000) up to one hundred thousand dollars ($100,000);*
10 *3. Seven percent (7%) of taxable net income over one hundred thousand*
11 *dollars ($100,000) for taxable years beginning on or after January 1,*
12 *2005, and prior to January 1, 2007; and*
13 *4. For taxable years beginning on or after January 1, 2007, six percent*
14 *(6%) of taxable net income over one hundred thousand dollars*
15 *($100,000); or*
16 *(b) An alternative minimum calculation of an amount equal to the lesser of the*
17 *amount computed under subparagraph 1. or 2. of this paragraph:*
18 *1. Nine and one-half cents ($0.095) per one hundred dollars ($100) of*
19 *the corporation's gross receipts. For purposes of this paragraph,*
20 *"gross receipts" means the numerator of the sales factor under the*
21 *provisions of KRS 141.120(8)(c); or*
22 *2. Seventy-five cents ($0.75) per one hundred dollars ($100) of the*
23 *corporation's Kentucky gross profits.*
24 *(6) A minimum of one hundred seventy-five dollars ($175) shall be due for the*
25 *taxable year from each corporation subject to the tax imposed by this section,*
26 *regardless of the application of any tax credits provided under this chapter or any*
27 *other provision of the Kentucky Revised Statutes for which the business entity*

1 *may qualify.*

2 *(7) The alternative minimum calculation portion of the tax computation provided in*

3 *subsection (5) of this section shall not apply to:*

4 *(a) Public service corporations subject to tax under KRS 136.120;*

5 *(b) Open-end registered investment companies organized under the laws of this*

6 *state and registered under the Investment Company Act of 1940;*

7 *(c) Any property or facility which has been certified as a fluidized bed energy*

8 *production facility as defined in KRS 211.390; and*

9 *(d) An alcohol production facility as defined in KRS 247.910.*

10 *(8) (a) As used in this subsection, "qualified exempt organization" means an entity*

11 *listed in paragraphs (a) to (h) of subsection (1) of this section and shall not*

12 *include any entity whose exempt status has been disallowed by the Internal*

13 *Revenue Service.*

14 *(b) Notwithstanding any other provisions of this section or KRS 141.010, any*

15 *corporation of the type listed in KRS 141.010(24)(b) to (h) that is owned in*

16 *whole or in part by a qualified exempt organization shall, in calculating its*

17 *taxable net income, gross receipts, or Kentucky gross profits, exclude the*

18 *proportionate share of its taxable net income, gross receipts, or Kentucky*

19 *gross profits attributable to the ownership interest of the qualified exempt*

20 *organization.*

21 *(c) Any corporation that reduces taxable net income, gross receipts, or*

22 *Kentucky gross profits in accordance with paragraph (b) of this subsection*

23 *shall disregard the ownership interest of the qualified exempt organization*

24 *in determining the amount of credit available under Section 18 of this Act.*

25 *(d) The Revenue Cabinet may promulgate an administrative regulation to*

26 *further define "qualified exempt organization" to include an entity for*

27 *which exemption is constitutionally or legally required, or to exclude any*

1 ***entity created primarily for tax avoidance purposes with no legitimate***
2 ***business purpose.***
3 ***(9) (a) To the extent that a corporation identified in KRS 141.010(24)(b) to (h) is***
4 ***doing business in this state, any member, shareholder or partner of the***
5 ***corporation may elect to pay, on behalf of the corporation, his, her or its***
6 ***proportionate share of the tax imposed by this section against the***
7 ***corporation. If an election is made, the electing member, shareholder or***
8 ***partner shall be treated in the same manner as the corporation regarding***
9 ***the proportionate part of the tax paid by the member, shareholder or***
10 ***partner. An election made pursuant to this subsection shall not:***
11 ***1. Be used by the Revenue Cabinet or the taxpayer to assert that the party***
12 ***making the election is doing business in Kentucky;***
13 ***2. Result in an increase of the amount of credit allowable under Section***
14 ***18 of this Act; or***
15 ***3. Apply to any corporation that is required to be included in a***
16 ***consolidated return under the provisions of subsections (2) to (5) and***
17 ***(9) to (12) of KRS 141.200.***
18 ***(b) The Revenue Cabinet shall prescribe forms and promulgate regulations to***
19 ***execute and administer the provisions of this subsection***[~~Every S corporation~~
20 ~~shall pay the tax imposed under subsection (1) of this section whenever the~~
21 ~~net capital gain of such corporation exceeds twenty-five thousand dollars~~
22 ~~($25,000), and exceeds fifty percent (50%) of its taxable income for the~~
23 ~~taxable year and its taxable income for such year exceeds twenty-five~~
24 ~~thousand dollars ($25,000). The tax imposed by this subsection shall be the~~
25 ~~lower of:~~
26 ~~(a) The tax determined by applying the rates in this section to the capital gains, in~~
27 ~~excess of twenty-five thousand dollars ($25,000), determined under the~~

1 ~~Internal Revenue Code; or~~

2 ~~(b) The tax determined by applying the rates in this section to the taxable income,~~

3 ~~in excess of twenty-five thousand dollars ($25,000);~~

4 ~~In no event shall the tax levied by this subsection apply if Section 1374 of the~~

5 ~~Internal Revenue Code would exempt such capital gains from federal income tax~~].

6 SECTION 8. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO

7 READ AS FOLLOWS:

8 ***(1) As used in this section, "eligible Kentucky education institution" means an***

9 ***institution as defined by Section 25A of the Internal Revenue Code that is located***

10 ***within the Commonwealth of Kentucky.***

11 ***(2) For taxable years beginning after December 31, 2004, an individual may deduct***

12 ***from the tax computed under the provisions of KRS 141.020 a nonrefundable***

13 ***credit for qualified tuition and related expenses required for enrollment or***

14 ***attendance of the taxpayer, taxpayer's spouse or any dependent at an eligible***

15 ***Kentucky educational institution. The credit shall be twenty-five percent (25%) of***

16 ***the federal credit allowable under Section 25A of the Internal Revenue Code.***

17 ***(3) The credit allowed in subsection (2) of this section shall not be allowed for***

18 ***expenses for graduate level course study.***

19 ***(4) If the taxpayer is a married individual within the meaning of Section 7703 of the***

20 ***Internal Revenue Code, the credit shall apply only if the taxpayer and the***

21 ***taxpayer's spouse file a joint return or file separately on a combined form. The***

22 ***credit shall not be allowed if the taxpayer and the taxpayer's spouse file separate***

23 ***returns.***

24 ***(5) Any unused credit may be carried forward five (5) years.***

25 Section 9. KRS 141.066 is amended to read as follows:

26 (1) ***As used in this section:***

27 ***(a) "Federal poverty level" means the Health and Human Services poverty***

1 *guidelines updated periodically in the Federal Register by the United States*
2 *Department of Health and Human Services under the authority of 42*
3 *U.S.C. 9902(2) and available on June 30 of the taxable year.*
4 *(b) "Qualifying dependent" means a qualifying child as defined in the Internal*
5 *Revenue Code, Section 152(c), and includes a child who lives in the*
6 *household but cannot be claimed as a dependent if the provisions of*
7 *Internal Revenue Code Section 152(e)(2) and 152(e)(4) apply.*
8 *(c) "Qualifying individual" means an individual whose filing status is single or*
9 *married filing separately if during the taxable year the individual's spouse*
10 *is not a member of the household.*
11 *(d) "Qualifying married couple" means a husband and wife living together*
12 *who file a joint return or separately on a combined return. "Marital status"*
13 *shall have the same meaning as defined in Section 7703 of the Internal*
14 *Revenue Code.*
15 *(e) "Threshold amount" means:*
16 *1. For a qualifying individual with no qualifying dependent children, the*
17 *federal poverty level established for a family unit size of one (1):*
18 *2. For a qualifying individual with one (1) qualifying dependent child or*
19 *a qualifying married couple with no qualifying dependent children,*
20 *the federal poverty level established for a family unit size of two (2);*
21 *3. For a qualifying individual with two (2) qualifying dependent children*
22 *or a qualifying married couple with one (1) qualifying dependent*
23 *child, the federal poverty level established for a family unit size of*
24 *three (3);*
25 *4. For a qualifying individual with (3) or more qualifying dependent*
26 *children or a qualifying married couple with two (2) or more*
27 *qualifying dependent children, the federal poverty level established for*

1 ***a family unit size of four (4).***

2 ***(2) (a) For taxable years beginning before January 1, 2005,*** a resident individual
3 whose adjusted gross income does not exceed the amounts set out in
4 ***paragraph (c) of this*** subsection[~~ (3) of this section,~~] shall be eligible for a
5 nonrefundable "low income" tax credit. The credit shall be applied against the
6 taxpayer's tax liability calculated under KRS 141.020, and shall be taken in
7 the order established by KRS 141.0205.

8 ***(b)***[~~(2)~~] For a husband and wife filing jointly, the "low income" tax credit shall
9 be computed on the basis of their joint adjusted gross income and shall be
10 ***applied against***[~~deductible from~~] their joint tax liability. For a husband and
11 wife living together, whether filing separate returns or ***filing*** separately on a
12 combined return, the "low income" credit shall be computed on the basis of
13 their combined adjusted gross income, except that a separately computed[~~
14 adjusted~~] gross income of less than zero shall be treated as zero, and shall be
15 ***applied against***[~~deductible from~~] their combined tax liability.

16 ***(c)***[~~(3)~~] The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

26 ***(3) (a) For taxable years beginning after December 31, 2004, qualifying taxpayers***
27 ***whose modified gross income is below one hundred thirty-three percent***

1 *(133%) of the threshold amount shall be entitled to a nonrefundable family*
2 *size tax credit. The family size tax credit shall be applied against the*
3 *taxpayer's tax liability calculated under KRS 141.020. The family size tax*
4 *credit shall not reduce the taxpayer's tax liability below zero.*
5 *(b) For qualifying taxpayers whose modified gross income is equal to or below*
6 *one hundred percent (100%) of the threshold amount, the family size tax*
7 *credit shall be equal to the taxpayer's tax liability.*
8 *(c) For qualifying taxpayers whose modified gross income exceeds the*
9 *threshold amount but is below one hundred thirty-three percent (133%) of*
10 *the threshold amount, the family size tax credit shall be equal to the amount*
11 *of the taxpayer's individual income tax liability multiplied by a percentage*
12 *as follows:*
13 *1. If modified gross income is above one hundred percent (100%) but*
14 *less than or equal to one hundred four percent (104%) of the*
15 *threshold amount, the credit percentage shall be ninety percent (90%);*
16 *2. If modified gross income is above one hundred four percent (104%)*
17 *but less than or equal to one hundred eight percent (108%) of the*
18 *threshold amount, the credit percentage shall be eighty percent (80%);*
19 *3. If modified gross income is above one hundred eight percent (108%)*
20 *but less than or equal to one hundred twelve percent (112%) of the*
21 *threshold amount, the credit percentage shall be seventy percent*
22 *(70%);*
23 *4. If modified gross income is above one hundred twelve percent (112%)*
24 *but less than or equal to one hundred sixteen percent (116%) of the*
25 *threshold amount, the credit percentage shall be sixty percent (60%);*
26 *5. If modified gross income is above one hundred sixteen percent (116%)*
27 *but less than or equal to one hundred twenty percent (120%) of the*

1 *threshold amount, the credit percentage shall be fifty percent (50%);*
2 *6. If modified gross income is above one hundred twenty percent (120%)*
3 *but less than or equal to one hundred twenty-four percent (124%) of*
4 *the threshold amount, the credit percentage shall be forty percent*
5 *(40%);*
6 *7. If modified gross income is above one hundred twenty-four percent*
7 *(124%) but less than or equal to one hundred twenty-seven percent*
8 *(127%) of the threshold amount, the credit percentage shall be thirty*
9 *percent (30%);*
10 *8. If modified gross income is above one hundred twenty-seven percent*
11 *(127%) but less than or equal to one hundred thirty percent (130%) of*
12 *the threshold amount, the credit percentage shall be twenty percent*
13 *(20%);*
14 *9. If modified gross income is above one hundred thirty percent (130%)*
15 *but less than or equal to one hundred thirty-three percent (133%) of*
16 *the threshold amount, the credit percentage shall be ten percent*
17 *(10%);*
18 *10. If modified gross income is above one hundred thirty-three percent*
19 *(133%) of the threshold amount, the credit percentage shall be zero.*
20 *(4) For a qualifying married couple filing jointly, the family size tax credit shall be*
21 *computed on the basis of their joint modified gross income and shall be applied*
22 *against their joint tax liability. For a qualifying married couple living together,*
23 *whether filing separate returns or filing separately on a combined return, the*
24 *family size tax credit shall be computed on the basis of their combined modified*
25 *gross income, except that a separately computed modified gross income of less*
26 *than zero shall be treated as zero, and shall be applied against their combined tax*
27 *liability.*

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

1 (4) (a) In the case of an investor that is a trust ***not subject to the tax imposed by KRS***
2 ***141.040***, the amount of the tax credit certified by the authority under KRS
3 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis
4 of the income of the trust allocable to each for the tax year during which the
5 tax credit is certified by the authority.
6 (b) The amount of tax credit apportioned to each trust or beneficiary that may be
7 claimed in any tax year of the trust or beneficiary shall be determined in
8 accordance with the provisions of KRS 154.20-258.
9 (5) The Revenue Cabinet shall promulgate administrative regulations under KRS
10 Chapter 13A adopting forms and procedures for the reporting and administration of
11 credits authorized by KRS 154.20-258.
12 Section 11. KRS 141.120 is amended to read as follows:
13 (1) As used in this section, unless the context requires otherwise:
14 (a) "Business income" means income arising from transactions and activity in the
15 regular course of a trade or business of the corporation and includes income
16 from tangible and intangible property if the acquisition, management, or
17 disposition of the property constitutes integral parts of the corporation's
18 regular trade or business operations;
19 (b) "Commercial domicile" means the principal place from which the trade or
20 business of the corporation is managed;
21 (c) "Compensation" means wages, salaries, commissions, and any other form of
22 remuneration paid or payable to employees for personal services;
23 (d) "Financial organization" means any bank, trust company, savings bank,
24 industrial bank, land bank, safe deposit company, private banker, savings and
25 loan association, credit union, cooperative bank, investment company, or any
26 type of insurance company;
27 (e) "Nonbusiness income" means all income other than business income;

1 (f) "Public service company" means any business entity subject to taxation under
2 KRS 136.120;
3 (g) "Sales" means all gross receipts of the corporation not allocated under
4 subsections (3) through (7) of this section;
5 (h) "State" means any state of the United States, the District of Columbia, the
6 Commonwealth of Puerto Rico, any territory or possession of the United
7 States, and any foreign country or political subdivision thereof.
8 (2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion
9 its net income shall allocate and apportion its net income as provided in this section.
10 (3) Rents and royalties from real, intangible or tangible personal property, capital gains
11 and losses, interest, or patent or copyright royalties, to the extent that they constitute
12 nonbusiness income, shall be allocated as provided in subsections (4) through (7) of
13 this section.
14 (4) (a) Net rents and royalties from real property located in this state are allocable to
15 this state.
16 (b) Net rents and royalties from tangible personal property are allocable to this
17 state if and to the extent that the property is utilized in this state; or in their
18 entirety if the corporation's commercial domicile is in this state and the
19 corporation is not organized under the laws of or taxable in the state in which
20 the property is utilized.
21 (c) The extent of utilization of tangible personal property in a state is determined
22 by multiplying the rents and royalties by a fraction, the numerator of which is
23 the number of days of physical location of the property in the state during the
24 rental or royalty period in the taxable year and the denominator of which is the
25 number of days of physical location of the property everywhere during all
26 rental or royalty periods in the taxable year. If the physical location of the
27 property during the rental or royalty period is unknown or unascertainable by

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

do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided~~[for]~~ in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor***, representing twenty-five percent (25%) of the fraction,*** plus the payroll factor***, representing twenty-five percent (25%) of the fraction,*** plus the sales factor, ***representing fifty percent (50%) of the fraction,*** and the denominator of which is ***four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2)***~~[three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used]~~.

(a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in

1 KRS 224.01-300 shall be excluded from the property factor.

2 1. Property owned is valued at its original cost. If the original cost of any
3 property is not determinable or is nominal or zero (0) the property shall
4 be valued by the cabinet pursuant to administrative regulations
5 promulgated by the cabinet. Property rented is valued at eight (8) times
6 the net annual rental rate. Net annual rental rate is the annual rental rate
7 paid by the corporation less any annual rental rate received by the
8 corporation from subrentals, provided that the rental and subrentals are
9 reasonable. If the cabinet determines that the annual rental or subrental
10 rate is unreasonable, or if a nominal or zero (0) rate is charged, the
11 cabinet may determine and apply the rental rate as will reasonably reflect
12 the value of the property rented by the corporation.

13 2. The average value of property shall be determined by averaging the
14 values at the beginning and ending of the tax period but the cabinet may
15 require the averaging of monthly values during the tax period if
16 reasonably required to reflect properly the average value of the property.

17 (b) The payroll factor is a fraction, the numerator of which is the total amount
18 paid or payable in this state during the tax period by the corporation for
19 compensation, and the denominator of which is the total compensation paid or
20 payable by the corporation everywhere during the tax period. Compensation is
21 paid or payable in this state if:

22 1. The individual's service is performed entirely within the state;

23 2. The individual's service is performed both within and without the state,
24 but the service performed without the state is incidental to the
25 individual's service within the state; or

26 3. Some of the service is performed in the state and the base of operations
27 or, if there is no base of operations, the place from which the service is

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

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

1 year, and the denominator of the fraction shall be the average of
2 the number of the shares owned by the investment company
3 shareholders everywhere at the beginning of and at the end of the
4 investment company's taxable year.
5 c. Nonbusiness income shall be allocated to this state as provided in
6 subsections (4) through (7) of this section.
7 2. All business income derived directly or indirectly from the sale of
8 securities brokerage services by a business which operates within the
9 boundaries of any area of the Commonwealth, which on June 30, 1992,
10 was designated as a Kentucky Enterprise Zone, as defined in KRS
11 154.655(2), shall be apportioned to this state only to the extent that
12 customers of the securities brokerage firm are domiciled in this state.
13 The portion of business income apportioned to Kentucky shall be
14 determined by multiplying the total business income from the sale of
15 these services by a fraction determined in the following manner:
16 a. The numerator of the fraction shall be the brokerage commissions
17 and total margin interest paid in respect of brokerage accounts
18 owned by customers domiciled in Kentucky for the brokerage
19 firm's taxable year; and
20 b. The denominator of the fraction shall be the brokerage
21 commissions and total margin interest paid in respect of brokerage
22 accounts owned by all of the brokerage firm's customers for that
23 year.
24 c. Nonbusiness income shall be allocated to this state as provided in
25 subsections (4) through (7) of this section.
26 (10) Public service companies and financial organizations required by KRS
27 141.010(14)(b) to allocate and apportion net income shall allocate and apportion

1 such income as follows:

2 (a) Nonbusiness income shall be allocated to this state as provided in subsections
3 (4) through (7) of this section.

4 (b) Business income shall be apportioned to this state by multiplying the business
5 income by a fraction, the numerator of which is the property factor***,***
6 ***representing twenty-five percent (25%) of the fraction,*** plus the payroll
7 factor***, representing twenty-five percent (25%) of the fraction,*** plus the sales
8 factor***, representing fifty percent (50%) of the fraction,*** and the denominator
9 of which is ***four (4), reduced by the number of factors, if any, having no***
10 ***denominator, provided that if the sales factor has no denominator, then the***
11 ***denominator shall be reduced by two (2)***[~~three (3); provided, however, that~~
12 ~~effective with taxable years beginning after July 31, 1985, in lieu of the~~
13 ~~equally weighted three (3) factor apportionment fraction based on property,~~
14 ~~payroll, and sales, an apportionment fraction composed of a sales factor~~
15 ~~representing fifty percent (50%) of the fraction, a property factor representing~~
16 ~~twenty-five percent (25%) of the fraction, and a payroll factor representing~~
17 ~~twenty-five percent (25%) of the fraction shall be used~~]. The payroll factor
18 shall be determined as provided in subsection (8)(b) of this section. The
19 property factor and sales factor shall be determined as provided by
20 administrative regulations promulgated by the cabinet.

21 (c) An affiliated group electing to file a consolidated return under KRS
22 141.200***(4)***[~~(3)~~] ***or required to file a consolidated return under subsection***
23 ***KRS 141.200(11)*** that includes a public service company***, a provider of***
24 ***communications services or a multichannel video programming services as***
25 ***defined in Section 89 of this Act,*** or financial organization shall determine the
26 amount of payroll to be included in the apportionment factor as provided in
27 subsection (8)(b) of this section. The amount of property and sales of the

1 public service company, ***provider of communications services or***
2 ***multichannel video programming services as defined in Section 89 of this***
3 ***Act,*** or financial organization to be included in the apportionment factors of
4 the affiliated group shall be determined in accordance with administrative
5 regulations promulgated by the cabinet under paragraph (b) of this subsection.
6 Section 12. KRS 141.130 is amended to read as follows:
7 If any corporation or ***general*** partnership dissolves or withdraws from this state during
8 any taxable year, or if any corporation in any manner surrenders or loses its charter during
9 any taxable year, the dissolution, withdrawal or loss or surrender of charter shall not
10 defeat the filing of returns and the assessment and collection of income taxes for the
11 period of that taxable year during which the corporation or ***general*** partnership had an
12 income in this state.
13 Section 13. KRS 141.140 is amended to read as follows:
14 (1) If the taxpayer makes, or is required to make, a federal income tax return, ***the***
15 ***taxpayer's***[~~his~~] income shall be computed for the purposes of this chapter on the
16 basis of the same calendar or fiscal year required by the federal government, and ***the***
17 ***taxpayer***[~~he~~] shall employ the same methods of accounting required for federal
18 income tax purposes.
19 (2) If a return is made by an individual for a period of less than one (1) year, the net
20 income, computed on the basis of the period for which a separate return is made,
21 shall be placed on an annual basis by multiplying the amount thereof by the number
22 of days in the year and dividing by the number of days included in the period for
23 which the separate return is made. The tax payable shall be such part of the tax
24 computed on the annual basis as the number of days in the period is of the number
25 of days in the year.
26 (3) If a return is made by a corporation for a period of less than one (1) year, the taxable
27 net income, computed on the basis of the period for which a[~~separate~~] return is

1 made, shall be placed on an annual basis by multiplying the amount thereof by the
2 number of days in the year and dividing by the number of days included in the
3 period for which the[~~ separate~~] return is made. The tax payable shall be such part of
4 the tax computed on the annual basis as the number of days in the period is of the
5 number of days in the year.
6 Section 14. KRS 141.180 is amended to read as follows:
7 (1) ***For taxable years beginning before January 1, 2005:***
8 ***(a)*** Every individual, except as otherwise provided in this ***subsection***[~~section~~],
9 having for the taxable year an adjusted gross income which exceeds five
10 thousand dollars ($5,000), if single, or if married and not living with husband
11 or wife and every married individual living with husband or wife whose
12 adjusted gross income combined with the adjusted gross income of his or her
13 spouse exceeds five thousand dollars ($5,000) shall make to the cabinet a
14 return stating specifically the items which he claims as deductions and tax
15 credits allowed by this chapter.
16 ***(b)***[~~(2)~~] Any individual who is blind or who has attained the age of sixty-five
17 (65) before the close of ***the***[~~his~~] taxable year shall be required to make a return
18 only if ***the taxpayer***[~~he~~] has for the taxable year an adjusted gross income
19 which exceeds five thousand dollars ($5,000). Every married individual living
20 with husband or wife shall, if both spouses have attained the age of sixty-five
21 (65), be required to make a return if the combined adjusted gross income of
22 both spouses exceeds five thousand four hundred dollars ($5,400). If the
23 individual is unable to make his ***or her*** own return, the return shall be made by
24 a duly authorized agent.
25 ***(c)***[~~(3)~~] Any individual, who is both sixty-five (65) or over and blind before the
26 close of the taxable year, shall make a return if ***the taxpayer***[~~he~~] has for the
27 taxable year an adjusted gross income which exceeds five thousand dollars

1 ($5,000).

2 *(d)*[(4)] Notwithstanding any other provision of this ***subsection***[section], an
3 individual, having for the taxable year gross income from self-employment of
4 five thousand dollars ($5,000) or more, shall make a return.

5 *(e)*[(5)] Any nonresident individual with gross income from Kentucky sources
6 and a total gross income of five thousand dollars ($5,000) or over shall make a
7 return.

8 ***(2) For taxable years beginning after December 31, 2004:***

9 ***(a) Except as otherwise provided in this subsection, every individual having for***
10 ***the taxable year a modified gross income exceeding the threshold amount***
11 ***determined under KRS 141.066, and every married couple living together***
12 ***with a combined modified gross income exceeding the threshold amount***
13 ***determined under KRS 141.066, shall file a return with the cabinet stating***
14 ***specifically the items claimed as deductions and tax credits allowed by this***
15 ***chapter. If the individual is unable to file a return, the return shall be made***
16 ***by a duly authorized agent.***

17 ***(b) Notwithstanding any other provision of this subsection, an individual***
18 ***having, for the taxable year, gross income from self-employment exceeding***
19 ***the threshold amount determined under KRS 141.066 shall file a return.***

20 ***(c) Any nonresident individual with gross income from Kentucky sources and a***
21 ***total gross income exceeding the threshold amount determined under KRS***
22 ***141.066 shall file a return.***

23 *(3)*[(6)] A husband and wife not living together shall make separate returns. A
24 husband and wife living together may make a joint return, or may make separate
25 returns. However, ***if***[in the event] separate returns are made, neither spouse shall
26 report income nor claim deductions properly attributable to the other.

27 *(4)*[(7)] Notwithstanding any other provisions of KRS Chapters 131 and 141, a

husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.

(5)[~~(8)~~] Any relief granted pursuant to paragraphs (a) and (b) of subsection *(4)*[~~(7)~~] of this section shall not result in a tax overpayment to the spouse requesting relief.

(6)[~~(9)~~] Each individual return shall be verified by a[~~ written~~] declaration that it is made under the penalties of perjury.

Section 15. KRS 141.200 is amended to read as follows:

(1) ***Subsections (2) to (7) of this section shall apply for taxable periods ending before January 1, 2005, and election periods beginning prior to January 1, 2005.***

(2) As used in ***subsections (2) to (7) of*** this section, unless the context requires otherwise:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;

(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;

1 (c) "Separate return" means a Kentucky corporation income tax return in which
2 only the transactions and activities of a single corporation are considered in
3 making all determinations and computations necessary to calculate taxable net
4 income, tax due, and credits allowed in accordance with the provisions of this
5 chapter;
6 *(d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the*
7 *Internal Revenue Code; and*
8 *(e) "Election period" means the ninety-six (96) month period provided for in*
9 *paragraph (d) of subsection (4) of this section*.
10 *(3)*[~~(2)~~] Every corporation doing business in this state, except those exempt from
11 taxation under KRS 141.040, shall, for each taxable year, file a separate return
12 unless the corporation was, for any part of the taxable year, a member of an
13 affiliated group electing to file a consolidated return in accordance with subsection
14 *(4)*[~~(3)~~] of this section.
15 *(4)*[~~(3)~~] (a) An affiliated group, whether or not filing a federal consolidated return,
16 may elect to file a consolidated return which includes all members of the
17 affiliated group.
18 (b) An affiliated group electing to file a consolidated return under paragraph (a) of
19 this subsection shall be treated for all purposes as a single corporation under
20 the provisions of this chapter. All transactions between corporations included
21 in the consolidated return shall be eliminated in computing net income in
22 accordance with KRS 141.010(13), and in determining the property, payroll,
23 and sales factors in accordance with KRS 141.120. *The gross receipts*
24 *received by a public service company that is a member of an affiliated group*
25 *shall be excluded from the calculation of the alternative minimum*
26 *calculation under the provisions of KRS 141.040(5)(b). For purposes of this*
27 *paragraph, "public service company" has the same meaning as provided in*

1 ***KRS 136.120.***

2 (c) Any election made in accordance with paragraph (a) of this subsection shall be
3 made on a form prescribed by the cabinet and shall be submitted to the cabinet
4 on or before the due date of the return including extensions for the first
5 taxable year for which the election is made.

6 (d) ***Notwithstanding the provisions of subsections (9) to (15) of this section,*** any
7 election to file a consolidated return pursuant to paragraph (a) of this
8 subsection shall be binding on both the cabinet and the affiliated group for a
9 period beginning with the first month of the first taxable year for which the
10 election is made and ending with the conclusion of the taxable year in which
11 the ninety-sixth consecutive calendar month expires.

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

15 *(5)*[~~(4)~~] Each corporation included as part of an affiliated group filing a consolidated
16 return shall be jointly and severally liable for the income tax liability computed on
17 the consolidated return, except that any corporation which was not a member of the
18 affiliated group for the entire taxable year shall be jointly and severally liable only
19 for that portion of the Kentucky consolidated income tax liability attributable to that
20 portion of the year that the corporation was a member of the affiliated group.

21 *(6)*[~~(5)~~] Every corporation return or report required by this chapter shall be executed
22 by one (1) of the following officers of the corporation: the president, vice president,
23 secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting
24 officer. The Revenue Cabinet may require a further or supplemental report of
25 further information and data necessary for computation of the tax.

26 *(7)*[~~(6)~~] In the case of a corporation doing business in this state that carries on
27 transactions with stockholders or with other corporations related by stock

1 ownership, by interlocking directorates, or by some other method, the cabinet shall
2 require information necessary to make possible accurate assessment of the income
3 derived by the corporation from sources within this state. To make possible such
4 assessment, the cabinet may require the corporation to file supplementary returns
5 showing information respecting the business of any or all individuals and
6 corporations related by one (1) or more of these methods to the corporation. The
7 cabinet may require the return to show in detail the record of transactions between
8 the corporation and any or all other related corporations or individuals.
9 ***(8) The provisions of subsections (9) to (14) of this section shall apply for taxable***
10 ***years beginning on or after January 1, 2005.***
11 ***(9) As used in subsections (9) to (14) of this section:***
12 ***(a) 1. "Affiliated group" means one (1) or more chains of includible***
13 ***corporations connected through stock ownership, membership***
14 ***interest, or partnership interest with a common parent corporation if:***
15 ***a. The common parent owns directly an ownership interest meeting***
16 ***the requirements of subparagraph 2. of this paragraph in at least***
17 ***one (1) other includible corporation; and***
18 ***b. An ownership interest meeting the requirements of***
19 ***subparagraph 2. of this paragraph in each of the includible***
20 ***corporations, excluding the common parent, is owned directly by***
21 ***one (1) or more of the other corporations.***
22 ***2. The ownership interest of any corporation meets the requirements of***
23 ***this paragraph if the ownership interest encompasses at least eighty***
24 ***percent (80%) of the voting power of all classes of ownership interests***
25 ***and has a value equal to at least eighty percent (80%) of the total value***
26 ***of all ownership interests;***
27 ***(b) "Common parent corporation" means the member of an affiliated group***

1 *that meets the ownership requirement of subparagraph 1. of paragraph (a)*
2 *of this subsection;*
3 *(c) "Foreign corporation" means a corporation that is organized under the*
4 *laws of a country other than the United States and is related to a member of*
5 *an affiliated group through stock ownership;*
6 *(d) "Includible corporation" means any corporation that is doing business in*
7 *this state except:*
8 *1. Corporations exempt from corporation income tax under KRS*
9 *141.040(1)(a) to (h);*
10 *2. Foreign corporations;*
11 *3. Corporations with respect to which an election under Section 936 of*
12 *the Internal Revenue Code is in effect for the taxable year;*
13 *4. Real estate investment trusts as defined in Section 856 of the Internal*
14 *Revenue Code;*
15 *5. Regulated investment companies as defined in Section 851 of the*
16 *Internal Revenue Code;*
17 *6. A domestic international sales company as defined in Section*
18 *992(a)(1) of the Internal Revenue Code;*
19 *7. An S corporation as defined in Section 1361(a) of the Internal*
20 *Revenue Code;*
21 *8. Any corporation that realizes a net operating loss whose Kentucky*
22 *property, payroll, and sales factors pursuant to subsection (8) of KRS*
23 *141.120 are de minimis; and*
24 *9. Any corporation for which the sum of the property, payroll and sales*
25 *factors described in subsection (8) of KRS 141.120 is zero;*
26 *(e) "Ownership interest" means stock, a membership interest in a limited*
27 *liability company, or a partnership interest in a limited partnership or*

1 *limited liability partnership;*
2 *(f) "Consolidated return" means a Kentucky corporation income tax return*
3 *filed by members of an affiliated group in accordance with this section. The*
4 *determinations and computations required by this chapter shall be made in*
5 *accordance with the provisions of the Internal Revenue Code and related*
6 *regulations, except as required by differences between this chapter and the*
7 *Internal Revenue Code; and*
8 *(g) "Separate return" means a Kentucky corporation income tax return in*
9 *which only the transactions and activities of a single corporation are*
10 *considered in making all determinations and computations necessary to*
11 *calculate taxable net income, tax due, and credits allowed in accordance*
12 *with the provisions of this chapter.*
13 *(10) Every corporation doing business in this state except those exempt from taxation*
14 *under KRS 141.040(1)(a) to (h) shall, for each taxable year, file a separate return*
15 *unless the corporation was, for any part of the taxable year:*
16 *(a) An includible corporation in an affiliated group;*
17 *(b) A common parent corporation doing business in this state;*
18 *(c) A qualified subchapter S Subsidiary that is included in the return filed by*
19 *the Subchapter S parent corporation; or*
20 *(d) A qualified real estate investment trust subsidiary that is included in the*
21 *return filed by the real estate investment trust parent.*
22 *(11) (a) An affiliated group, whether or not filing a federal consolidated return,*
23 *shall file a consolidated return which includes all includible corporations.*
24 *(b) An affiliated group required to file a consolidated return under this*
25 *subsection shall be treated for all purposes as a single corporation under*
26 *the provisions of this chapter. All transactions between corporations*
27 *included in the consolidated return shall be eliminated in computing net*

1 *income in accordance with KRS 141.010(13), and in determining the*
2 *property, payroll, and sales factors in accordance with KRS 141.120.*
3 *Includible corporations that have incurred a net operating loss shall not*
4 *deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the*
5 *income realized by the remaining includible corporations that did not*
6 *realize a net operating loss. The portion of any net operating loss limited by*
7 *the application of this subsection shall be available for carryforward in*
8 *accordance with the provisions of KRS 141.011. The Revenue Cabinet shall*
9 *promulgate administrative regulations to establish the manner and extent to*
10 *which net operating losses attributable to tax periods ending prior to*
11 *January 1, 2005, may offset income of affiliated groups. The gross receipts*
12 *received by a public service company that is a member of an affiliated group*
13 *shall be excluded from the calculation of the alternative minimum*
14 *calculation under the provisions of KRS 141.040(5)(b). For purposes of this*
15 *paragraph, "public service company" has the same meaning as provided in*
16 *KRS 136.120.*
17 *(12) Each includible corporation included as part of an affiliated group filing a*
18 *consolidated return shall be jointly and severally liable for the income tax liability*
19 *computed on the consolidated return, except that any includible corporation*
20 *which was not a member of the affiliated group for the entire taxable year shall*
21 *be jointly and severally liable only for that portion of the Kentucky consolidated*
22 *income tax liability attributable to that portion of the year that the corporation*
23 *was a member of the affiliated group.*
24 *(13) Every corporation return or report required by this chapter shall be executed by*
25 *one (1) of the following officers or management of the corporation: the president,*
26 *vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief*
27 *accounting officer, manager, member, or partner. The Revenue Cabinet may*

1 ***require a further or supplemental report of further information and data***
2 ***necessary for computation of the tax.***
3 ***(14) In the case of a corporation doing business in this state that carries on***
4 ***transactions with stockholders, members or partners, or with other corporations***
5 ***related by ownership, by interlocking directorates, or by some other method, the***
6 ***cabinet shall require that information necessary to make possible an accurate***
7 ***assessment of the income derived by the corporation from sources within this***
8 ***state be provided. To make possible this assessment, the cabinet may require the***
9 ***corporation to file supplementary returns showing information respecting the***
10 ***business of any or all individuals and corporations related by one (1) or more of***
11 ***these methods to the corporation. The cabinet may require the return to show in***
12 ***detail the record of transactions between the corporation and any or all other***
13 ***related corporations or individuals.***
14 *(15)*[~~(7)~~] For any taxable year ending on or after December 31, 1995, except as
15 provided under[~~ subsection (3) of~~] this section ***and KRS 141.205***, nothing in this
16 chapter shall be construed as allowing or requiring the filing of:
17 (a) A combined return under the unitary business concept; or
18 (b) A consolidated return.
19 *(16)*[~~(8)~~] No assessment of additional tax due for any taxable year ending on or before
20 December 31, 1995, made after December 22, 1994, and based on requiring a
21 change from any initially filed separate return or returns to a combined return under
22 the unitary business concept or to a consolidated return, shall be effective or
23 recognized for any purpose.
24 *(17)*[~~(9)~~] No claim for refund or credit of a tax overpayment for any taxable year ending
25 on or before December, 31, 1995, made by an amended return or any other method
26 after December 22, 1994, and based on a change from any initially filed separate
27 return or returns to a combined return under the unitary business concept or to a

1 consolidated return, shall be effective or recognized for any purpose.
2 *(18)*[~~(10)~~] No corporation or group of corporations shall be allowed to file a combined
3 return under the unitary business concept or a consolidated return for any taxable
4 year ending before December 31, 1995, unless on or before December 22, 1994, the
5 corporation or group of corporations filed an initial or amended return under the
6 unitary business concept or consolidated return for a taxable year ending before
7 December 22, 1994.
8 *(19)*[~~(11)~~] This section shall not be construed to limit or otherwise impair the cabinet's
9 authority under KRS 141.205.
10 Section 16. KRS 141.205 is amended to read as follows:
11 (1) ***As used in this section:***
12 ***(a) "Intangible property" means franchises, patents, patent applications, trade***
13 ***names, trademarks, service marks, copyrights, trade secrets, and similar***
14 ***types of intangible assets;***
15 ***(b) "Intangible expenses" includes the following only to the extent that the***
16 ***amounts are allowed as deductions or costs in determining taxable net***
17 ***income before the application of any net operating loss deduction provided***
18 ***under Chapter 1 of the Internal Revenue Code:***
19 ***1. Expenses, losses, and costs for, related to, or in connection directly or***
20 ***indirectly with the direct or indirect acquisition, use, maintenance,***
21 ***management, ownership, sale, exchange, or any other disposition of***
22 ***intangible property;***
23 ***2. Losses related to, or incurred in connection directly or indirectly with,***
24 ***factoring transactions or discounting transactions;***
25 ***3. Royalty, patent, technical, and copyright fees;***
26 ***4. Licensing fees; and***
27 ***5. Other similar expenses and costs;***

1 *(c) "Intangible interest expense" means only those amounts which are directly*
2 *or indirectly allowed as deductions under Section 163 of the Internal*
3 *Revenue Code for purposes of determining taxable income under that code,*
4 *to the extent that the amounts are directly or indirectly for, related to, or*
5 *connected to the direct or indirect acquisition, use, maintenance,*
6 *management, ownership, sale, exchange, or any other disposition of*
7 *intangible property;*
8 *(d) "Management fees" includes but is not limited to expenses and costs paid*
9 *for services pertaining to accounts receivable and payable, employee benefit*
10 *plans, insurance, legal, payroll, data processing, purchasing, tax, financial*
11 *and securities, accounting, reporting and compliance services or similar*
12 *services, only to the extent that the amounts are allowed as a deduction or*
13 *cost in determining taxable net income before application of the net*
14 *operating loss deduction for the taxable year provided under Chapter 1 of*
15 *the Internal Revenue Code;*
16 *(e) "Affiliated group" has the same meaning as provided in KRS 141.200;*
17 *(f) "Foreign corporation" means a corporation that is organized under the*
18 *laws of a country other than the United States and that would be a related*
19 *member if it were a domestic corporation;*
20 *(g) "Related member" means a person that, with respect to the corporation*
21 *during all or any portion of the taxable year, is:*
22 *1. A person or entity that has, directly or indirectly, at least fifty percent*
23 *(50%) of the equity ownership interest in the taxpayer, as determined*
24 *under Section 318 of the Internal Revenue Code;*
25 *2. A component member as defined in Section 1563(b) of the Internal*
26 *Revenue Code;*
27 *3. A person to or from whom there is attribution of stock ownership in*

1 *accordance with Section 1563(e) of the Internal Revenue Code; or*
2 *4. A person that, notwithstanding its form of organization, bears the*
3 *same relationship to the taxpayer as a person described in*
4 *subparagraphs 1. to 3. of this paragraph;*
5 *(h) "Recipient" means a related member or foreign corporation to whom the*
6 *item of income that corresponds to the intangible interest expense, the*
7 *intangible expense, or the management fees, is paid;*
8 *(i) "Unrelated party" means a person that has no direct, indirect, beneficial or*
9 *constructive ownership interest in the recipient; and in which the recipient*
10 *has no direct, indirect, beneficial or constructive ownership interest;*
11 *(j) "Disclosure" means that the corporation shall provide the following*
12 *information to the Revenue Cabinet with its tax return regarding a related*
13 *party transaction:*
14 *1. The name of the recipient;*
15 *2. The state or country of domicile of the recipient;*
16 *3. The amount paid to the recipient; and*
17 *4. A description of the nature of the payment made to the recipient;*
18 *(k) "Other related party transaction" means a transaction which:*
19 *1. Is undertaken by a corporation which was not required to file a*
20 *consolidated return under KRS 141.200;*
21 *2. Is undertaken by a corporation, directly or indirectly, with one or*
22 *more of its stockholders, members, partners or affiliated corporations;*
23 *and*
24 *3. Is not within the scope of subsections (2) to (5) of this section; and*
25 *(l) "Related party costs" means intangible expense, intangible interest*
26 *expense, management fees and any costs or expenses associated with other*
27 *related party transactions.*

1 *(2) A corporation subject to the tax imposed by KRS 141.040 shall not be allowed to*
2 *deduct an intangible interest expense directly or indirectly paid, accrued or*
3 *incurred to, or in connection directly or indirectly with one or more direct or*
4 *indirect transactions with one or more related members of an affiliated group or*
5 *with a foreign corporation as defined in subsection (1) of this section.*
6 *(3) The disallowance of deductions provided by subsection (2) of this section shall*
7 *not apply if:*
8 *(a) The corporation and the recipient are both included in the same*
9 *consolidated Kentucky corporation income tax return for the relevant*
10 *taxable year: or*
11 *(b) The corporation makes a disclosure, and establishes by a preponderance of*
12 *the evidence that:*
13 *1. The payment made to the recipient was subject to, in its state or*
14 *country of commercial domicile, a net income tax, or a franchise tax*
15 *measured by, in whole or in part, net income. If the recipient is a*
16 *foreign corporation, the foreign nation shall have in force a*
17 *comprehensive income tax treaty with the United States; and*
18 *2. The recipient is engaged in substantial business activities separate and*
19 *apart from the acquisition, use, licensing, management, ownership,*
20 *sale, exchange, or any other disposition of intangible property, or in*
21 *the financing of related members, as evidenced by the maintenance of*
22 *permanent office space and full-time employees dedicated to the*
23 *maintenance and protection of intangible property; and*
24 *3. The transaction giving rise to the intangible interest expense or the*
25 *intangible expense between the corporation and the recipient was*
26 *made at a commercially reasonable rate and at terms comparable to*
27 *an arm's-length transaction; or*

1 *(c) The corporation makes a disclosure, and establishes by preponderance of*
2 *the evidence that the recipient regularly engages in transactions with one or*
3 *more unrelated parties on terms identical to that of the subject transaction;*
4 *or*
5 *(d) The corporation and the Revenue Cabinet agree in writing to the*
6 *application or use of an alternative method of apportionment under KRS*
7 *141.120(9)*[~~The cabinet may require either a consolidated return or a~~
8 ~~combined return from any or all corporations conducting inter-corporate~~
9 ~~transactions whenever the cabinet finds that such inter-corporate transactions~~
10 ~~reduce taxable net income, as defined in KRS 141.010(14), of the~~
11 ~~corporation(s) below the amount which would result if the transactions were~~
12 ~~at arm's length.~~
13 ~~(2) The cabinet is authorized and empowered to assess the tax against any of the~~
14 ~~corporations whose income is included in the consolidated or combined return in~~
15 ~~such manner as it may determine necessary to prevent the avoidance of income tax~~].
16 *(4) A corporation subject to the tax imposed by KRS 141.040 shall not be allowed to*
17 *deduct management fees directly or indirectly paid, accrued or incurred to, or in*
18 *connection directly or indirectly with one or more direct or indirect transactions*
19 *with one or more related members of an affiliated group or with a foreign*
20 *corporation as defined in subsection (1) of this section.*
21 *(5) The disallowance of the deduction provided in subsection (4) of this section shall*
22 *not apply if:*
23 *(a) The corporation and recipient are both included in the same consolidated*
24 *Kentucky corporation income tax return for the relevant taxable year;*
25 *(b) The corporation makes a disclosure and establishes by a preponderance of*
26 *the evidence that the transaction giving rise to the management fees*
27 *between the corporation and the recipient was made at a commercially*

1 *reasonable rate and at terms comparable to an arm's-length transaction; or*
2 *(c) The corporation and the Revenue Cabinet agree in writing to the*
3 *application or use of an alternative method of apportionment under*
4 *subsection KRS 141.120(9).*
5 *(6) A corporation subject to the tax imposed by KRS 141.040 may deduct expenses or*
6 *costs associated with an other related party transaction only in an amount equal*
7 *to the amount which would have resulted if the other related party transaction*
8 *had been carried out at arm's length. In any dispute between the cabinet and the*
9 *corporation with respect to the amount which would have resulted if the*
10 *transaction had been carried out at arm's length, the corporation shall bear the*
11 *burden of establishing the amount by a preponderance of the evidence.*
12 *(7) Nothing in this section shall be deemed to prohibit a corporation from deducting*
13 *a related party cost in an amount permitted by this section, provided that the*
14 *corporation has incurred related party costs equal to or greater than the amounts*
15 *permitted by this section.*
16 *(8) If it is determined by the cabinet that the amount of a deduction claimed by a*
17 *corporation with respect to a related party cost is greater than the amount*
18 *permitted by this section, the net income of the corporation shall be adjusted to*
19 *reflect the amount of the related party cost permitted by this section.*
20 *(9)*[~~(3)~~] *For tax periods ending before January 1, 2005,* in the case of corporations
21 not required to file a consolidated or combined return under subsection (1) of this
22 section that carried on transactions with stockholders or affiliated corporations
23 directly or indirectly, the cabinet shall adjust the net income of such corporations to
24 an amount that would result if such transactions were carried on at arm's length.
25 Section 17. KRS 141.206 is amended to read as follows:
26 (1) *As used in this section unless the context requires otherwise:*
27 *(a) "General partnership" means a partnership not subject to the tax imposed*

1 ***by KRS 141.040, including any publicly traded partnership as defined by***
2 ***Section 7704(b) of the Internal Revenue Code that is treated as a***
3 ***partnership for federal tax purposes under Section 7704(c) of the Internal***
4 ***Revenue Code and its publicly traded partnership affiliates. "Publicly***
5 ***traded partnership affiliates" shall include any limited liability company or***
6 ***limited partnership for which at least eighty percent (80%) of the limited***
7 ***liability company member interests or limited partner interests are owned***
8 ***directly or indirectly by the publicly traded partnership;***
9 ***(b) "Property" means real property or tangible personal property which is***
10 ***owned or leased; and***
11 ***(c) "Payroll" means compensation paid to one (1) or more individuals as***
12 ***described in KRS 141.120(8)(b).***
13 ***(2)*** Every partnership ***doing***[~~ or S corporation owning property or engaging in~~] business
14 in ***this state***[~~Kentucky,~~] shall, on or before the fifteenth day of the fourth month
15 following the close of its annual accounting period, file a copy of its federal
16 partnership return[~~ or S corporation return~~] with the form prescribed and furnished
17 by the cabinet.
18 ***(3)***[~~(2)~~] ***General*** partnerships[~~ and S corporations~~] shall determine ***net***[~~taxable~~]
19 income in the same manner as in the case of an individual under KRS 141.010(9) to
20 (11) and the adjustment required under ***Section***[~~Sections~~] 703(a)[~~ and 1363(b)~~] of
21 the Internal Revenue Code. Computation of ***net***[~~taxable~~] income under this section
22 and the computation of the ***partners'***[~~partners or shareholders~~] distributive share
23 shall be computed as nearly as practicable identical with those required for federal
24 income tax purposes except to the extent required by differences between this
25 chapter and the federal income tax law and regulations.
26 ***(4)***[~~(3)~~] Individuals***, estates, trusts,*** or corporations ***doing***[~~carrying on a~~] business ***in***
27 ***this state*** as a ***partner in a general*** partnership[~~ or S corporation~~] shall be liable for

1 income tax only in their individual, ***fiduciary,*** or corporate capacities, and no
2 income tax shall be assessed upon the income of any ***general*** partnership[~~ or S~~
3 ~~corporation except as prescribed in KRS 141.040(5)~~]. ***General partnerships may be***
4 ***required to withhold Kentucky income tax on the distributive share of partners***
5 ***under administrative regulations promulgated by the cabinet.***
6 ***(5) In determining the tax under this chapter, a resident individual, estate, or trust***
7 ***that is a partner in a general partnership shall take into account the partner's***
8 ***total distributive share of the partnership's items of income, loss, deduction, and***
9 ***credit.***
10 ***(6) In determining the tax under this chapter, a nonresident individual, estate, or***
11 ***trust that is a partner in a general partnership required to file a return under***
12 ***subsection (2) of this section shall take into account:***
13 ***(a) 1. If the partnership is doing business only in this state, the partner's***
14 ***total distributive share of the partnership's items of income, loss, and***
15 ***deduction. A general partnership is doing business only in the state if***
16 ***property and payroll are entirely within this state. Property and payroll***
17 ***are deemed to be entirely within this state if all other states are***
18 ***prohibited by Pub. L. 86-272, as it existed on December 31, 1975, from***
19 ***enforcing income tax jurisdiction; or***
20 ***2. If the partnership is doing business both within and without this state,***
21 ***the partner's distributive share of the general partnership's items of***
22 ***income, loss, and deduction multiplied by the apportionment fraction***
23 ***of the partnership as prescribed in subsection (9) of this section; and***
24 ***(b) The partner's total distributive share of credits of the partnership.***
25 ***(7) A corporation that is subject to tax under KRS 141.040 and is a partner in a***
26 ***general partnership shall take into account:***
27 ***(a) The corporation's distributive share of the partnership's items of income,***

1 *loss, and deduction and, when applicable, multiplied by the apportionment*
2 *fraction of the partnership as prescribed in subsection (9) of this section;*
3 *and*
4 *(b) Credits from the partnership.*
5 *(8) (a) If a general partnership is doing business both within and without this*
6 *state, the partnership shall compute and furnish to each partner an*
7 *apportionment fraction determined in accordance with subsection (9) of this*
8 *section.*
9 *(b) For purposes of determining an apportionment factor under paragraph (a)*
10 *of this subsection, if the general partnership is:*
11 *1. Doing business both within and without this state; and*
12 *2. A partner in another general partnership;*
13 *then the general partnership shall be deemed to own the pro rata share of*
14 *the property owned or leased by the other general partnership, and shall*
15 *also include its pro rata share of the other general partnership's payroll and*
16 *sales.*
17 *(c) The phrase "a partner in another general partnership" shall extend to each*
18 *level of multiple-tiered general partnerships.*
19 *(d) The attribution to the general partnership of the pro rata share of property,*
20 *payroll and sales from its role as a partner in another general partnership*
21 *will also apply when determining the general partnership's ultimate*
22 *apportionment factor for property, payroll and sales as required under*
23 *subsection (9) of this section*[~~(a) Resident and nonresident individuals who~~
24 ~~are partners or S corporation shareholders must report and pay tax on the~~
25 ~~distributive share of net income, gain, loss, deduction, or credit, as determined~~
26 ~~in subsection (2) of this section, except as provided in subsections (4) and (5)~~
27 ~~of this section. Partnerships and S corporations may be required to withhold~~

1 ~~Kentucky income tax on the distributive share under administrative~~
2 ~~regulations issued by the cabinet.~~
3 ~~(b) Corporations which are partners must include their distributive share of net~~
4 ~~income, gain, loss, deduction or credit, as determined under subsection (2) of~~
5 ~~this section, except as provided in subsections (4) and (5) of this section.~~
6 ~~(4) Resident and nonresident individuals and corporations which are partners in a~~
7 ~~partnership or shareholders in an S corporation carrying on business only in~~
8 ~~Kentucky are taxable on all items of income gain, loss, deduction or credit~~
9 ~~determined under subsection (2) of this section and reported as their distributive~~
10 ~~share from the partnership or S corporation.~~
11 ~~(5) Nonresident individuals and corporations which are partners in a partnership or~~
12 ~~shareholders in an S corporation which does business within and without Kentucky~~
13 ~~are taxable on their proportionate share of the distributive income passed through~~
14 ~~the partnership or S corporation attributable to business done in Kentucky.~~
15 ~~(a) Business done in Kentucky is determined by the ratio of gross receipts from~~
16 ~~sales to purchasers or customers in Kentucky or services performed in~~
17 ~~Kentucky to the total gross receipts from sales or service everywhere.~~
18 ~~(6) Resident partners, S corporation shareholders and corporations which are partners~~
19 ~~in a multistate partnership or shareholders in a multistate S corporation are taxable~~
20 ~~on one hundred percent (100%) of the distributive share of income, gains, losses,~~
21 ~~deductions or credits~~].
22 ***(9) A general partnership doing business within and without the state shall apportion***
23 ***its net income by a fraction, the numerator of which is the property factor,***
24 ***representing twenty-five percent (25%) of the fraction, plus the payroll factor,***
25 ***representing twenty-five percent (25%) of the fraction, plus the sales factor,***
26 ***representing fifty percent (50%) of the fraction, with each factor determined in***
27 ***the same manner as provided in KRS 141.120(8), and the denominator of which***

1 ***is four (4), reduced by the number of factors, if any, having no denominator,***
2 ***provided that if the sales factor has no denominator, then the denominator shall***
3 ***be reduced by two (2).***
4 ***(10)***[~~(7)~~] Resident individuals***, estates, or trusts that***[~~who~~] are partners in a partnership***,***
5 ***members of a limited liability company electing partnership tax treatment for***
6 ***federal income tax purposes, owners of single member limited liability***
7 ***companies,*** or shareholders in an S corporation which does not ***do***[~~carry on~~]
8 business in ***this state***[~~Kentucky~~] are subject to tax under KRS 141.020 on federal
9 net income, gain, deduction, ***or*** loss or credit passed through the partnership***, limited***
10 ***liability company,*** or S corporation.
11 ***(11)***[~~(8)~~] S corporation for purpose of this section means a corporation which has
12 elected for federal tax purposes to be taxed as an S corporation. An election for
13 federal tax purposes is a binding election for Kentucky tax purposes.
14 ***(12)***[~~(9)~~] Nonresident individuals shall not be taxable on investment income distributed
15 by a qualified investment partnership. For purposes of this subsection a "qualified
16 investment partnership" means a ***general*** partnership***, a limited partnership, or a***
17 ***limited liability partnership*** formed to hold only investments that produce income
18 that would not be taxable to the nonresident individual if held or owned
19 individually. ***A qualified investment partnership shall be subject to all other***
20 ***provisions relating to a general partnership under this section and shall not be***
21 ***subject to the tax imposed under KRS 141.040.***
22 ***(13) (a) A general partnership may file a composite income tax return on behalf of***
23 ***electing nonresident individual partners reporting and paying income tax at***
24 ***the highest marginal rate provided in this chapter on the partners' pro rata***
25 ***or distributive shares of income of the general partnership from doing***
26 ***business in, or deriving income from sources within, this state. The***
27 ***partners' pro rata or distributive share of income shall include all items of***

1 *income or deduction used to compute adjusted gross income on the*
2 *Kentucky return that is passed through to the partner by the partnership,*
3 *including but not limited to interest, dividend, capital gains and losses,*
4 *guaranteed payments, and rents.*
5 *(b) A nonresident individual partner whose only source of income within this*
6 *state is from one or more general partnerships may elect to be included in a*
7 *composite return filed pursuant to this section.*
8 *(c) A nonresident individual partner that has been included in a composite*
9 *return may file an individual income tax return and shall receive credit for*
10 *tax paid on the partner's behalf by the general partnership.*
11 *(d) A general partnership shall deliver to the cabinet a return upon a form*
12 *prescribed by the cabinet showing the total amounts paid or credited to its*
13 *electing nonresident individual partners, the amount paid in accordance*
14 *with this subsection, and any other information the cabinet may require. A*
15 *general partnership shall furnish to its nonresident partner annually, but*
16 *not later than the fifteenth day of the fourth month after the end of its*
17 *taxable year, a record of the amount of tax paid on behalf of the partner on*
18 *a form prescribed by the cabinet.*
19 SECTION 18. A NEW SECTION OF KRS CHAPTER 141, TO BE NUMBERED
20 KRS 141.207, IS CREATED TO READ AS FOLLOWS:
21 *(1) (a) Every corporation identified in KRS 141.010(24)(b) to (h) that is doing*
22 *business in this state shall, on or before the fifteenth day of the fourth*
23 *month following the close of its annual accounting period, file a copy of its*
24 *applicable federal return with the form prescribed and furnished by the*
25 *cabinet.*
26 *(b) For a corporation filing a return under paragraph (a) of this subsection,*
27 *the individual partner's, member's, or shareholder's distributive share of*

1 *net income, gain, loss, or deduction shall be computed as nearly as*
2 *practicable in a manner identical to that required for federal income tax*
3 *purposes except to the extent required by differences between this chapter*
4 *and the federal income tax law and regulations.*
5 *(2) (a) Resident individuals who are members, partners, or shareholders of a*
6 *corporation required to file a return under paragraph (a) of subsection (1)*
7 *of this section shall report and pay tax on the distributive share of net*
8 *income, gain, loss, or deduction as determined in paragraph (b) of*
9 *subsection (1) of this section.*
10 *(b) Nonresident individuals who are members, partners, or shareholders of a*
11 *corporation required to file a return under paragraph (a) of subsection (1)*
12 *of this section shall report and pay tax on the distributive share of net*
13 *income, gain, loss, or deduction as determined in paragraph (b) of*
14 *subsection (1) of this section multiplied by the apportionment fraction in*
15 *KRS 141.120(8).*
16 *(3) (a) Resident and nonresident individuals who are members, shareholders, or*
17 *partners of a corporation required to file a return under paragraph (a) of*
18 *subsection (1) of this section shall be entitled to a nonrefundable credit*
19 *against the tax imposed under KRS 141.020.*
20 *(b) The credit determined under this subsection shall be the members',*
21 *shareholders', or partners' proportionate share of the tax due from the*
22 *corporation as determined under KRS 141.040, before the application of*
23 *any credits identified in subsection (4) of KRS 141.0205 and reduced by the*
24 *required minimum imposed by subsection (6) of KRS 141.040.*
25 *(c) Notwithstanding the provisions of paragraph (a) of this subsection, for*
26 *taxable years beginning after December 31, 2004, and before January 1,*
27 *2007, the portion of the credit computed under paragraph (b) of this*

1 ***subsection that exceeds the credit that would have been utilized if the***
2 ***corporation's income were taxed at the rates in KRS 141.020 shall be***
3 ***refundable. The refundable portion of the credit shall be the individual***
4 ***members', shareholders', or partners' proportionate share of the amount***
5 ***computed by multiplying the amount the corporation's income exceeds two***
6 ***hundred sixteen thousand six hundred dollars ($216,600) by one percent***
7 ***(1%).***
8 ***(d) The credit determined under paragraphs (a) and (b) of this subsection shall***
9 ***not operate to reduce the members', shareholders', or partners' tax due to***
10 ***an amount that is less than what would have been payable were the income***
11 ***attributable to doing business in this state by the corporation ignored.***
12 ***(4) For purposes of computing the basis of an ownership interest or stock in a***
13 ***corporation identified in KRS 141.010(24)(b) to (h), the basis attributable to a***
14 ***member, partner, or shareholder shall be adjusted by the distributive share of the***
15 ***items of net income, gain, loss and deduction as though the items had been***
16 ***passed through to the member, partner, or shareholder.***
17 ***(5) Except as otherwise provided in this chapter, distributions by or from a***
18 ***corporation shall be treated in the same manner as they are treated for federal***
19 ***tax purposes.***
20 Section 19. KRS 141.208 is amended to read as follows:
21 (1) For the purposes of this section, "limited liability company" shall mean any
22 company subject to the provisions of KRS Chapter 275.
23 (2) ***A limited liability company shall file a Kentucky corporate income tax return and***
24 ***determine its Kentucky income tax liability as provided in KRS 141.040***
25 ***regardless of the tax treatment elected for federal income tax purposes. All other***
26 ***income tax issues not expressly addressed by the provisions of this chapter shall***
27 ***be treated in the same manner as the issues are treated***~~[Any limited liability~~

1 ~~company shall be treated for Kentucky income tax purposes in the same manner as~~
2 ~~its tax treatment~~] for federal income tax purposes.
3 Section 20. KRS 141.347 is amended to read as follows:
4 (1) As used in this section, unless the context requires otherwise:
5 (a) "Approved company" shall have the same meaning as set forth in KRS
6 154.22-010;
7 (b) "Economic development project" shall have the same meaning as set forth in
8 KRS 154.22-010;
9 (c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-
10 070***; and***
11 ***(d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b)***.
12 (2) An approved company shall determine the income tax credit as provided in this
13 section.
14 (3) An approved company which is an individual sole proprietorship subject to tax
15 under KRS 141.020 ***or***[~~,~~] a corporation subject to tax under KRS 141.040(1)[~~, or a~~
16 ~~limited liability company treated as a corporation for federal income tax purposes~~]
17 shall:
18 (a) Compute the income tax due at the applicable tax rates as provided by KRS
19 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
20 141.040 ***applies***[~~,~~] on net income as defined by KRS 141.010(11)***,***[~~ or~~] taxable
21 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
22 ***profits, as the case may be,*** including income***, gross receipts, or Kentucky***
23 ***gross profits*** from an economic development project; and
24 (b) Compute the income tax due at the applicable tax rates as provided by KRS
25 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
26 141.040 ***applies***[~~,~~] on net income as defined by KRS 141.010(11)***,***[~~ or~~] taxable
27 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***

1 ***profits, as the case may be,*** excluding net income***, gross receipts, or***
2 ***Kentucky gross profits*** attributable to an economic development project.
3 (c) The tax credit shall be the amount by which the tax computed under paragraph
4 (a) of this subsection exceeds the tax computed under paragraph (b) of this
5 subsection; however, the credit shall not exceed the limits set forth in KRS
6 154.22-050.
7 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
8 which is ***a general***[~~an S corporation,~~] partnership ***not subject to tax under***
9 ***KRS 141.040***[~~, registered limited liability partnership, limited liability~~
10 ~~company treated as a partnership for federal income tax purposes,~~] or ***a*** trust
11 ***not subject to tax under KRS 141.040*** shall be subject to income tax on the
12 net income attributable to an economic development project at the rates
13 provided in KRS 141.020(2).
14 (b) The amount of the tax credit shall be the same as the amount of the tax
15 computed in this subsection or, upon the annual election of the approved
16 company, in lieu of the tax credit, an amount shall be applied as an estimated
17 tax payment equal to the tax computed in this section. Any estimated tax
18 payment made pursuant to this paragraph shall be in satisfaction of the tax
19 liability of the[~~ shareholders,~~] partners[~~, members,~~] or beneficiaries of the
20 ***general***[~~S corporation,~~] partnership[~~, registered limited liability partnership,~~
21 ~~limited liability company,~~] or trust, and shall be paid on behalf of the[~~
22 ~~shareholders,~~] partners[~~, members,~~] or beneficiaries.
23 (c) The tax credit or estimated payment shall not exceed the limits set forth in
24 KRS 154.22-050.
25 (d) If the tax computed in this section exceeds the credit, the excess shall be paid
26 by the ***general***[~~S corporation,~~] partnership[~~, registered limited liability~~
27 ~~partnership, limited liability company,~~] or trust at the times provided by KRS

141.160 for filing the returns.

(e) Any estimated tax payment made by the ***general***[~~S corporation,~~] partnership[~~, registered limited liability partnership, limited liability company,~~] or trust in satisfaction of the tax liability of[~~ shareholders,~~] partners[~~, members,~~] or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the[~~ shareholder,~~] partner[~~, member,~~] or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each[~~ shareholder's,~~] partner's[~~, member's,~~] or beneficiaries' distributive share of net income or credit of ***a general***[~~an S corporation,~~] partnership[~~, registered limited liability partnership, limited liability company,~~] or trust.

(6) If the economic development project is a totally separate facility***:***[~~,~~]

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

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

(7) If the economic development project is an expansion to a previously existing facility***:***[~~,~~]

(a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to

1 the facility, and the net income attributable to the economic development
2 project for the purposes of subsections (3), (4), and (5) of this section shall be
3 determined by apportioning the separate accounting net income of the entire
4 facility to the economic development project by a formula approved by the
5 Revenue Cabinet***; and***
6 ***(b) Gross receipts or Kentucky gross profits attributable to the entire facility***
7 ***shall be determined under the separate accounting method reflecting only***
8 ***the gross receipts or Kentucky gross profits directly attributable to the***
9 ***facility, and gross receipts or Kentucky gross profits attributable to the***
10 ***economic development project for the purposes of subsection (3) of this***
11 ***section shall be determined by apportioning the separate accounting gross***
12 ***receipts or Kentucky gross profits of the entire facility to the economic***
13 ***development project by a formula approved by the Revenue Cabinet***.
14 (8) If an approved company can show to the satisfaction of the Revenue Cabinet that
15 the nature of the operations and activities of the approved company are such that it
16 is not practical to use the separate accounting method to determine the net income,
17 ***gross receipts, or Kentucky gross profits*** from the facility at which the economic
18 development project is located, the approved company shall determine net income,
19 ***gross receipts, or Kentucky gross profits*** from the economic development project
20 using an alternative method approved by the Revenue Cabinet.
21 (9) The Revenue Cabinet may issue administrative regulations and require the filing of
22 forms designed by the Revenue Cabinet to reflect the intent of KRS 154.22-020 to
23 154.22-070 and the allowable income tax credit which an approved company may
24 retain under KRS 154.22-020 to 154.22-070.
25 Section 21. KRS 141.310 is amended to read as follows:
26 (1) Every employer making payment of wages on or after January 1, 1971, shall deduct
27 and withhold upon the wages a tax determined under KRS 141.315 or by the tables

1 authorized by KRS 141.370.
2 (2) If wages are paid with respect to a period which is not a payroll period, the amount
3 to be deducted and withheld shall be that applicable in the case of a miscellaneous
4 payroll period containing a number of days, including Sundays and holidays, equal
5 to the number of days in the period with respect to which the wages are paid.
6 (3) ***If***[~~In any case in which~~] wages are paid by an employer without regard to any
7 payroll period or other period, the amount to be deducted and withheld shall be that
8 applicable in the case of a miscellaneous payroll period containing a number of days
9 equal to the number of days, including Sundays and holidays, which have elapsed
10 since the date of the last payment of wages by the employer during the calendar
11 year, or the date of commencement of employment with the employer during the
12 year, or January 1 of the year, whichever is the later.
13 (4) In determining the amount to be deducted and withheld under this section, the
14 wages may, at the election of the employer, be computed to the nearest dollar.
15 (5) The tables mentioned in subsection (1) of this section ***shall consider***[~~take into~~
16 ~~consideration~~] the ***standard deduction***[~~deductible federal income tax. If Congress~~
17 ~~changes substantially the federal income tax, the cabinet shall make the change in~~
18 ~~these tables necessary to compensate for any increase or decrease in the deductible~~
19 ~~federal income tax~~].
20 (6) The cabinet may permit the use of accounting machines to calculate the proper
21 amount to be deducted from wages when the calculation[~~ so permitted~~] produces
22 substantially the same result ***as*** set forth in the tables authorized by KRS 141.370.
23 Prior approval of the calculation shall be secured from the cabinet at least thirty (30)
24 days before the first payroll period for which it is to be used.
25 (7) The cabinet may, by ***administrative*** regulations, authorize employers:
26 (a) To estimate the wages which will be paid to any employee in any quarter of
27 the calendar year;

1 (b) To determine the amount to be deducted and withheld upon each payment of
2 wages to the employee during the quarter as if the appropriate average of the
3 wages estimated constituted the actual wages paid; and
4 (c) To deduct and withhold upon any payment of wages to the employee during
5 the quarter the amount necessary to adjust the amount actually deducted and
6 withheld upon the wages of the employee during the quarter to the amount
7 that would be required to be deducted and withheld during the quarter if the
8 payroll period of the employee was quarterly.
9 (8) The cabinet may provide by regulation, under the conditions and to the extent it
10 deems proper, for withholding in addition to that otherwise required under this
11 section and KRS 141.315 in cases in which the employer and the employee agree to
12 the additional withholding. The additional withholding shall for all purposes be
13 considered tax required to be deducted and withheld under this chapter.
14 (9) Effective January 1, 1992, any employer required by this section to withhold
15 Kentucky income tax who assesses and withholds from employees the job
16 assessment fee provided in KRS 154.24-110 may offset a portion of the fee against
17 the Kentucky income tax required to be withheld from the employee under this
18 section. The amount of the offset shall be four-fifths (4/5) of the amount of the
19 assessment fee withheld from the employee or the Commonwealth's contribution of
20 KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply,
21 the offset, the offset shall be one hundred percent (100%) of the assessment.
22 (10) Any employer required by this section to withhold Kentucky income tax who
23 assesses and withholds from employees an assessment provided in KRS 154.22-070
24 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to
25 be withheld from the employee under this section.
26 (11) Any employer required by this section to withhold Kentucky income tax who
27 assesses and withholds from employees the job assessment fee provided in KRS

1 154.26-100 may offset a portion of the fee against the Kentucky income tax
2 required to be withheld from the employee under this section. The amount of the
3 offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from
4 the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated,
5 the offset shall be one hundred percent (100%) of the assessment fee.
6 (12) Any employer required by this section to withhold Kentucky income tax who
7 assesses and withholds from employees the job development assessment fee
8 provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky
9 income tax required to be withheld from the employee under this section. The
10 amount of the offset shall be equal to the Commonwealth's contribution as
11 determined by KRS 154.23-055(1) to (3).
12 (13) Any employer required by this section to withhold Kentucky income tax may be
13 required to post a bond with the cabinet. The bond shall be a corporate surety bond
14 or cash. The amount of the bond shall be determined by the cabinet, but shall not
15 exceed fifty thousand dollars ($50,000).
16 (14) The Commonwealth may bring an action for a restraining order or a temporary or
17 permanent injunction to restrain or enjoin the operation of an employer's business
18 until the bond is posted or the tax required to be withheld is paid or both. The action
19 may be brought in the Franklin Circuit Court or in the Circuit Court having
20 jurisdiction of the defendant.
21 Section 22. KRS 141.370 is amended to read as follows:
22 The tax levied under KRS 141.020 and required to be withheld under KRS 141.310,
23 unless determined by KRS 141.315, shall be withheld in accordance with the tables
24 provided~~[in regulations promulgated]~~ by the cabinet. ***The cabinet shall annually publish***
25 ***withholding tables for use in determining the amount of tax to be withheld under KRS***
26 ***141.310 and 141.315. The tables shall reflect the tax computed under KRS 141.020 for***
27 ***the midpoint of each income range using the standard deduction allowed under KRS***

1 ***141.081. The withholding tables shall be available in an on-line format.***

2 Section 23. KRS 141.390 is amended to read as follows:

3 (1) As used in this section:

4 (a) "Postconsumer waste" means any product generated by a business or
5 consumer which has served its intended end use, and which has been
6 separated from solid waste for the purposes of collection, recycling,
7 composting, and disposition and which does not include secondary waste
8 material or demolition waste;

9 (b) "Recycling equipment" means any machinery or apparatus used exclusively to
10 process postconsumer waste material and manufacturing machinery used
11 exclusively to produce finished products composed of substantial
12 postconsumer waste materials;~~[and]~~

13 (c) "Composting equipment" means equipment used in a process by which
14 biological decomposition of organic solid waste is carried out under controlled
15 aerobic conditions, and which stabilizes the organic fraction into a material
16 which can easily and safely be stored, handled, and used in a environmentally
17 acceptable manner***;***

18 ***(d) "Recapture period" means:***

19 ***1. For qualified equipment with a useful life of five (5) or more years,***
20 ***the period from the date the equipment is purchased to five (5) full***
21 ***years from that date; or***

22 ***2. For qualified equipment with a useful life of less than five (5) years,***
23 ***the period from the date the equipment is purchased to three (3) full***
24 ***years from that date;***

25 ***(e) "Useful life" means the period determined under Section 168 of the***
26 ***Internal Revenue Code;***

27 ***(f) "Baseline tax liability" means the tax liability of the taxpayer for the most***

1 ***recent tax year ending prior to January 1, 2005; and***

2 ***(g) "Major recycling project" means a project where the taxpayer:***

3 ***1. Invests more than ten million dollars ($10,000,000) in recycling or***

4 ***composting equipment to be used exclusively in this state;***

5 ***2. Has more than seven hundred fifty (750) full-time employees with an***

6 ***average hourly wage of more than three hundred percent (300%) of***

7 ***the federal minimum wage; and***

8 ***3. Has plant and equipment with a total cost of more than five hundred***

9 ***million dollars ($500,000,000)***.

10 (2) ***(a)*** A taxpayer ***that***[~~who~~] purchases recycling or composting equipment to be

11 used exclusively within this state for recycling or composting postconsumer

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

13 pursuant to this chapter, ***including any tax due under the provisions of KRS***

14 ***141.040(5)(b),*** in an amount equal to fifty percent (50%) of the installed cost

15 of the recycling or composting equipment. The amount of credit claimed in

16 the tax year during which the recycling equipment is purchased shall not

17 exceed ten percent (10%) of the amount of the total credit allowable and shall

18 not exceed twenty-five percent (25%) of the total of each tax liability which

19 would be otherwise due.

20 ***(b) For taxable years beginning after December 31, 2004, a taxpayer that has a***

21 ***major recycling project containing recycling or composting equipment to be***

22 ***used exclusively within this state for recycling or composting postconsumer***

23 ***waste material shall be entitled to a credit against the income taxes imposed***

24 ***pursuant to this chapter, including any tax due under the provisions of KRS***

25 ***141.040(5)(b), in an amount equal to fifty percent (50%) of the installed cost***

26 ***of the recycling or composting equipment. The credit described in this***

27 ***paragraph shall be limited to a period of ten (10) years commencing with***

1 ***the approval of the recycling credit application. In each taxable year, the***
2 ***amount of credits claimed for all major recycling projects shall be limited***
3 ***to:***
4 ***1. Fifty percent (50%) of the excess of the total of each tax liability over***
5 ***the baseline tax liability of the taxpayer; or***
6 ***2. Two million five hundred thousand dollars ($2,500,000), whichever is***
7 ***less.***
8 ***(c) A taxpayer with one or more major recycling projects shall be entitled to a***
9 ***total credit including the amount computed in paragraph (a) of this***
10 ***subsection plus the amount of credit computed in paragraph (b) of this***
11 ***subsection.***
12 ***(d) A taxpayer shall not be permitted to utilize a credit computed under***
13 ***paragraph (a) of this subsection and a credit computed under paragraph (b)***
14 ***of this subsection on the same recycling or composting equipment.***
15 (3) Application for a tax credit shall be made to the Revenue Cabinet on or before ***the***
16 ***first day of the seventh month***[~~July 1 of the year~~] following the ***close of the***
17 ***taxable***[~~calendar~~] year in which the recycling or composting equipment is
18 purchased. The application shall include a description of each item of recycling
19 equipment purchased, the date of purchase and the installed cost of the recycling
20 equipment, a statement of where the recycling equipment is to be used, and any
21 other information as the Revenue Cabinet may require. The Revenue Cabinet shall
22 review all applications received to determine whether expenditures for which
23 credits are required meet the requirements of this section and shall advise the
24 taxpayer of the amount of credit for which the taxpayer is eligible under this
25 section. ***Any corporation as defined in KRS 141.010(24)(b) to (h) may elect to***
26 ***claim the balance of a recycling credit approved prior to the effective date of this***
27 ***section against its tax liability imposed under KRS 141.040. The election shall be***

1 *binding on the taxpayer and the Revenue Cabinet until the balance of the*
2 *recycling credit is used.*
3 *(4) Except as provided in subsection (6) of this section, if a taxpayer that receives a*
4 *tax credit under this section sells, transfers, or otherwise disposes of the*
5 *qualifying recycling or composting equipment before the end of the recapture*
6 *period, the tax credit shall be redetermined under subsection (5) of this section. If*
7 *the total credit taken in prior taxable years exceeds the redetermined credit, the*
8 *difference shall be added to the taxpayer's tax liability under this chapter for the*
9 *taxable year in which the sale, transfer, or disposition occurs. If the redetermined*
10 *credit exceeds the total credit already taken in prior taxable years, the taxpayer*
11 *shall be entitled to use the difference to reduce the taxpayer's tax liability under*
12 *this chapter for the taxable year in which the sale, transfer, or disposition occurs.*
13 *(5) The total tax credit allowable under subsection (2) of this section for equipment*
14 *that is sold, transferred, or otherwise disposed of before the end of the recapture*
15 *period shall be adjusted as follows:*
16 *(a) For equipment with a useful life of five (5) or more years that is sold,*
17 *transferred, or otherwise disposed of:*
18 *1. One (1) year or less after the purchase, no credit shall be allowed.*
19 *2. Between one (1) year and two (2) years after the purchase, twenty*
20 *percent (20%) of the total allowable credit shall be allowed.*
21 *3. Between two (2) and three (3) years after the purchase, forty percent*
22 *(40%) of the total allowable credit shall be allowed.*
23 *4. Between three (3) and four (4) years after the purchase, sixty percent*
24 *(60%) of the total allowable credit shall be allowed.*
25 *5. Between four (4) and five (5) years after the purchase, eighty percent*
26 *(80%) of the total allowable credit shall be allowed.*
27 *(b) For equipment with a useful life of less than five (5) years that is sold,*

1 ***transferred, or otherwise disposed of:***

2 ***1. One (1) year or less after the purchase, no credit shall be allowed.***

3 ***2. Between one (1) year and two (2) years after the purchase, thirty-three***

4 ***percent (33%) of the total allowable credit shall be allowed.***

5 ***3. Between two (2) and three (3) years after the purchase, sixty-seven***

6 ***percent (67%) of the total allowable credit shall be allowed.***

7 ***(6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or***

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

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

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

11 ***(7) The Revenue Cabinet may promulgate administrative regulations to carry out the***

12 ***provisions of this section.***

13 Section 24. KRS 141.400 is amended to read as follows:

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

15 (a) "Approved company" shall have the same meaning as set forth in KRS

16 154.28-010;

17 (b) "Economic development project" shall have the same meaning as set forth in

18 KRS 154.28-010;~~[and]~~

19 (c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090***; and***

20 ***(d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b)***.

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

22 section.

23 (3) An approved company which is an individual sole proprietorship subject to tax

24 under KRS 141.020 ***or***~~[,]~~ a corporation subject to tax under KRS 141.040(1)~~[, or a~~

25 ~~limited liability company treated as a corporation for federal income tax purposes]~~

26 shall:

27 (a) Compute the income tax due at the applicable tax rates as provided by KRS

141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS*** 141.040 ***applies***[~~,~~] on net income as defined by KRS 141.010(11),[~~ or~~] taxable net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross profits, as the case may be,*** including income***, gross receipts, or Kentucky gross profits*** from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS*** 141.040 ***applies***[~~,~~] on net income as defined by KRS 141.010(11)***,***[~~ or~~] taxable net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross profits, as the case may be,*** excluding net income***, gross receipts, or Kentucky gross profits*** attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is ***a general***[~~an S corporation,~~] partnership ***not subject to tax under KRS 141.040, or a***[~~, registered limited liability partnership,~~] trust ***not subject to tax under KRS 141.040***[~~, or limited liability company treated as a partnership for federal income tax purposes~~] shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax

1 liability of the[~~ shareholders,~~] partners[~~, members,~~] or beneficiaries of the
2 ***general***[~~S corporation,~~] partnership[~~, registered limited liability partnership,~~
3 ~~limited liability company,~~] or trust, and shall be paid on behalf of the[~~
4 ~~shareholders,~~] partners[~~, members,~~] or beneficiaries.
5 (c) The tax credit or estimated payment shall not exceed the limits set forth in
6 KRS 154.28-090.
7 (d) If the tax computed in this section exceeds the credit, the excess shall be paid
8 by the ***general***[~~S corporation,~~] partnership[~~, registered limited liability~~
9 ~~partnership, limited liability company,~~] or trust at the times provided by KRS
10 141.160 for filing the returns.
11 (e) Any estimated tax payment made by the ***general***[~~S corporation,~~] partnership[~~,~~
12 ~~registered limited liability partnership, limited liability company,~~] or trust in
13 satisfaction of the tax liability of[~~ shareholders,~~] partners[~~, members,~~] or
14 beneficiaries shall not be treated as taxable income subject to Kentucky
15 income tax by the[~~ shareholder,~~] partner[~~, member,~~] or beneficiary.
16 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
17 the tax credit, and the estimated tax payment determined under subsection (4) of
18 this section shall be excluded in determining each[~~ shareholder's,~~] partner's[~~,~~
19 ~~member's,~~] or beneficiaries' distributive share of net income or credit of ***a***[~~an S~~
20 ~~corporation,~~] partnership[~~, registered limited liability partnership, limited liability~~
21 ~~company,~~] or trust.
22 (6) If the economic development project is a totally separate facility:[~~,~~]
23 ***(a)*** Net income attributable to the project for the purposes of subsections (3), (4),
24 and (5) of this section shall be determined under the separate accounting
25 method reflecting only the gross income, deductions, expenses, gains, and
26 losses allowed under this chapter directly attributable to the facility and
27 overhead expenses apportioned to the facility***; and***

1 ***(b) Gross receipts or Kentucky gross profits attributable to the project for***
2 ***purposes of subsection (3) of this section shall be determined under the***
3 ***separate accounting method reflecting only the gross receipts or Kentucky***
4 ***gross profits directly attributable to the facility***.
5 (7) If the economic development project is an expansion to a previously existing
6 facility:~~[,]~~
7 ***(a)*** Net income attributable to the entire facility shall be determined under the
8 separate accounting method reflecting only the gross income, deductions,
9 expenses, gains, and losses allowed under this chapter directly attributable to
10 the facility and overhead expenses apportioned to the facility, and the net
11 income attributable to the economic development project for the purposes of
12 subsections (3), (4), and (5) of this section shall be determined by
13 apportioning the separate accounting net income of the entire facility to the
14 economic development project by a formula approved by the Revenue
15 Cabinet***; and***
16 ***(b) Gross receipts or Kentucky gross profits attributable to the entire facility***
17 ***shall be determined under the separate accounting method reflecting only***
18 ***the gross receipts or Kentucky gross profits directly attributable to the***
19 ***facility, and gross receipts or Kentucky gross profits attributable to the***
20 ***economic development project for the purposes of subsection (3) of this***
21 ***section shall be determined by apportioning the separate accounting gross***
22 ***receipts or Kentucky gross profits of the entire facility to the economic***
23 ***development project by a formula approved by the Revenue Cabinet***.
24 (8) If an approved company can show to the satisfaction of the Revenue Cabinet that
25 the nature of the operations and activities of the approved company are such that it
26 is not practical to use the separate accounting method to determine the net income,
27 ***gross receipts, or Kentucky gross profits*** from the facility at which the economic

development project is located, the approved company shall determine net income, ***gross receipts, or Kentucky gross profits*** from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable[~~ income~~] tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 25. KRS 141.401 is amended to read as follows:

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

(a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010;[~~ and~~]

(c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079***; and***

(d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b).

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

(3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020 ***or***[~~,~~] a corporation subject to tax under KRS 141.040(1)[~~, or a limited liability company treated as a corporation for federal income tax purposes~~] shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS*** 141.040 ***applies***[~~,~~] on net income as defined by KRS 141.010(11),[~~ or~~] taxable net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross profits, as the case may be,*** including income***, gross receipts, or Kentucky***

1 ***gross profits*** from an economic development project; and
2 (b) Compute the income tax due at the applicable tax rates as provided by KRS
3 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
4 141.040 ***applies***[~~,~~] on net income as defined by KRS 141.010(11),[~~ or~~] taxable
5 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
6 ***profits, as the case may be,*** excluding net income***, gross receipts, or***
7 ***Kentucky gross profits*** attributable to an economic development project.
8 (c) The tax credit shall be the amount by which the tax computed under paragraph
9 (a) of this subsection exceeds the tax computed under paragraph (b) of this
10 subsection; however, the credit shall not exceed the limits set forth in KRS
11 154.23-005 to 154.23-079.
12 (4) Notwithstanding any other provisions of this chapter, an approved company that is ***a***
13 ***general***[~~an S-corporation,~~] partnership ***not subject to the tax imposed by KRS***
14 ***141.040***[~~, registered limited liability partnership, limited liability company treated~~
15 ~~as a partnership for federal income tax purposes,~~] or trust ***not subject to the tax***
16 ***imposed by KRS 141.040*** shall be subject to income tax on the net income
17 attributable to an economic development project at the rates provided in KRS
18 141.020(2), as follows:
19 (a) The amount of the tax credit shall be the same as the amount of the tax
20 computed in this subsection or, upon the annual election of the approved
21 company, in lieu of the tax credit, an amount shall be applied as an estimated
22 tax payment equal to the tax computed in this section. Any estimated tax
23 payment made in this paragraph shall be in satisfaction of the tax liability of
24 the[~~ shareholders,~~] partners[~~, members,~~] or beneficiaries of the ***general***[~~S-~~
25 ~~corporation,~~] partnership[~~, registered limited liability partnership, limited~~
26 ~~liability company,~~] or trust, and shall be paid on behalf of the[~~ shareholders,~~]
27 partners[~~, members,~~] or beneficiaries.

1 (b) The tax credit or estimated payment shall not exceed the limits set forth in
2 KRS 154.23-005 to 154.23-079.
3 (c) If the tax computed in this section exceeds the credit, the excess shall be paid
4 by the ***general***[~~S corporation,~~] partnership[~~, registered limited liability~~
5 ~~partnership, limited liability company,~~] or trust at the times provided by KRS
6 141.160 for filing the returns.
7 (d) Any estimated tax payment made by the ***general***[~~S corporation,~~] partnership[~~,~~
8 ~~registered limited liability partnership, limited liability company,~~] or trust in
9 satisfaction of the tax liability of[~~ shareholders,~~] partners[~~, members,~~] or
10 beneficiaries shall not be treated as taxable income subject to Kentucky
11 income tax by the[~~ shareholder,~~] partner[~~, member,~~] or beneficiary.
12 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
13 the tax credit, and the estimated tax payment determined under subsection (4) of
14 this section shall be excluded in determining each[~~ shareholder's,~~] partner's[~~,~~
15 ~~member's,~~] or beneficiary's distributive share of net income or credit of ***a***
16 ***general***[~~an S corporation,~~] partnership[~~, registered limited liability partnership,~~
17 ~~limited liability company,~~] or trust.
18 (6) If the economic development project is a totally separate facility***:***[~~,~~]
19 ***(a)*** Net income attributable to the project for the purposes of subsections (3), (4),
20 and (5) of this section shall be determined under the separate accounting
21 method reflecting only the gross income, deductions, expenses, gains, and
22 losses allowed under this chapter directly attributable to the facility and
23 overhead expenses apportioned to the facility***; and***
24 ***(b) Gross receipts or Kentucky gross profits attributable to the project for the***
25 ***purposes of subsection (3) of this section shall be determined under the***
26 ***separate accounting method reflecting only the gross receipts or Kentucky***
27 ***gross profits directly attributable to the facility***.

1 (7) If the economic development project is an expansion to a previously existing
2 facility:[,]
3 *(a)* Net income attributable to the entire facility shall be determined under the
4 separate accounting method reflecting only the gross income, deductions,
5 expenses, gains, and losses allowed under this chapter directly attributable to
6 the facility, and the net income attributable to the economic development
7 project for the purposes of subsections (3), (4), and (5) of this section shall be
8 determined by apportioning the separate accounting net income of the entire
9 facility to the economic development project by a formula approved by the
10 Revenue Cabinet*; and*
11 *(b) Gross receipts or Kentucky gross profits attributable to the entire facility*
12 *shall be determined under the separate accounting method reflecting only*
13 *the gross receipts or Kentucky gross profits directly attributable to the*
14 *facility, and gross receipts or Kentucky gross profits attributable to the*
15 *economic development project for the purposes of subsection (3) of this*
16 *section shall be determined by apportioning the separate accounting gross*
17 *receipts or Kentucky gross profits of the entire facility to the economic*
18 *development project by a formula approved by the Revenue Cabinet*.
19 (8) If an approved company can show to the satisfaction of the Revenue Cabinet that
20 the nature of the operations and activities of the approved company are such that it
21 is not practical to use the separate accounting method to determine the net income*,*
22 *gross receipts, or Kentucky gross profits* from the facility at which the economic
23 development project is located, the approved company shall determine net income*,*
24 *gross receipts, or Kentucky gross profits* from the economic development project
25 using an alternative method approved by the Revenue Cabinet.
26 (9) The Revenue Cabinet may issue administrative regulations and require the filing of
27 forms designed by the Revenue Cabinet to reflect the intent of KRS 154.23-005 to

1 154.23-079 and the allowable income tax credit that an approved company may
2 retain under KRS 154.23-005 to 154.23-079.
3 Section 26. KRS 141.403 is amended to read as follows:
4 (1) As used in this section, unless the context requires otherwise:
5 (a) "Approved company" shall have the same meaning as set forth in KRS
6 154.26-010;
7 (b) "Economic revitalization project" shall have the same meaning as set forth in
8 KRS 154.26-010;
9 (c) "Tax credit" means the tax credit allowed in KRS 154.26-090***; and***
10 ***(d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b)***.
11 (2) An approved company shall determine the income tax credit as provided in this
12 section.
13 (3) An approved company which is an individual sole proprietorship subject to tax
14 under KRS 141.020 ***or***~~[,]~~ a corporation subject to tax under KRS 141.040(1)~~[, or a~~
15 ~~limited liability company treated as a corporation for federal income tax purposes]~~
16 shall:
17 (a) Compute the income tax due at the applicable tax rates as provided by KRS
18 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
19 141.040 ***applies*** on net income as defined by KRS 141.010(11) or taxable net
20 income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
21 ***profits, as the case may be,*** including income***, gross receipts, or Kentucky***
22 ***gross profits*** from an economic revitalization project;
23 (b) Compute the income tax due at the applicable tax rates as provided by KRS
24 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
25 141.040 ***applies*** on net income as defined by KRS 141.010(11)***,***~~[or]~~ taxable
26 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
27 ***profits, as the case may be,*** excluding net income***, gross receipts, or***

1 ***Kentucky gross profits*** attributable to an economic revitalization project; and
2 (c) The tax credit shall be the amount by which the tax computed under paragraph
3 (a) of this subsection exceeds the tax computed under paragraph (b) of this
4 subsection; however, the credit shall not exceed the limits set forth in KRS
5 154.26-090.
6 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
7 which is ***a general***[~~an S-corporation,~~] partnership ***not subject to the tax***
8 ***imposed by KRS 141.040***[~~, registered limited liability partnership, limited~~
9 ~~liability company treated as a partnership for federal income tax purposes,~~] or
10 trust ***not subject to the tax imposed KRS 141.040*** shall be subject to income
11 tax on the net income attributable to an economic revitalization project at the
12 rates provided in KRS 141.020(2).
13 (b) The amount of the tax credit shall be the same as the amount of the tax
14 computed in this subsection or, upon the annual election of the approved
15 company, in lieu of the tax credit, an amount shall be applied as an estimated
16 tax payment equal to the tax computed in this section. Any estimated tax
17 payment made pursuant to this paragraph shall be in satisfaction of the tax
18 liability of the[~~ shareholders,~~] partners[~~, members,~~] or beneficiaries of the
19 ***general***[~~S-corporation,~~] partnership[~~, registered limited liability partnership,~~
20 ~~limited liability company,~~] or trust, and shall be paid on behalf of the[~~
21 ~~shareholders,~~] partners[~~, members,~~] or beneficiaries.
22 (c) The tax credit or estimated payment shall not exceed the limits set forth in
23 KRS 154.26-090.
24 (d) If the tax computed in this section exceeds the tax credit, the difference shall
25 be paid by the ***general***[~~S-corporation,~~] partnership[~~, registered limited liability~~
26 ~~partnership, limited liability company,~~] or trust at the times provided by KRS
27 141.160 for filing the returns.

1 (e) Any estimated tax payment made by the ***general***[~~S corporation,~~] partnership[~~,~~
2 ~~registered limited liability partnership, limited liability company,~~] or trust in
3 satisfaction of the tax liability of[~~ shareholders,~~] partners[~~, members,~~] or
4 beneficiaries shall not be treated as taxable income subject to Kentucky
5 income tax by the[~~ shareholder,~~] partner[~~, member,~~] or beneficiary.
6 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
7 the tax credit, and the estimated tax payment determined under subsection (4) of
8 this section shall be excluded in determining each[~~ shareholder's,~~] partner's[~~,~~
9 ~~member's,~~] or beneficiaries' distributive share of net income or credit of ***a***
10 ***general***[~~an S corporation,~~] partnership[~~, registered limited liability partnership,~~
11 ~~limited liability company,~~] or trust.
12 (6) If the economic ***revitalization***[~~development~~] project is a totally separate facility:[~~,~~]
13 ***(a)*** Net income attributable to the project for the purposes of subsections (3), (4),
14 and (5) of this section shall be determined under the separate accounting
15 method reflecting only the gross income, deductions, expenses, gains, and
16 losses allowed under KRS Chapter 141 directly attributable to the facility and
17 overhead expenses apportioned to the facility***; and***
18 ***(b) Gross receipts or Kentucky gross profits attributable to the project for***
19 ***purposes of subsection (3) of this section shall be determined under the***
20 ***separate accounting method reflecting only the gross receipts or Kentucky***
21 ***gross profits directly attributable to the facility***.
22 (7) If the economic ***revitalization***[~~development~~] project is an expansion to a previously
23 existing facility:[~~,~~]
24 ***(a)*** Net income attributable to the entire facility shall be determined under the
25 separate accounting method reflecting only the gross income, deductions,
26 expenses, gains, and losses allowed under KRS Chapter 141 directly
27 attributable to the facility and overhead expenses apportioned to the facility,

1 and the net income attributable to the economic ***revitalization***[~~development~~]
2 project for the purposes of subsections (3), (4), and (5) of this section shall be
3 determined by apportioning the separate accounting net income of the entire
4 facility to the economic ***revitalization***[~~development~~] project by a formula
5 approved by the Revenue Cabinet***; and***
6 ***(b) Gross receipts or Kentucky gross profits attributable to the entire facility***
7 ***shall be determined under the separate accounting method reflecting only***
8 ***the gross receipts or Kentucky gross profits directly attributable to the***
9 ***facility. Gross receipts or Kentucky gross profits attributable to the***
10 ***economic revitalization project for purposes of subsection (3) of this section***
11 ***shall be determined by apportioning the separate accounting gross receipts***
12 ***or Kentucky gross profits of the entire facility to the economic revitalization***
13 ***project pursuant to a formula approved by the Revenue Cabinet***.
14 (8) If an approved company can show to the satisfaction of the Revenue Cabinet that
15 the nature of the operations and activities of the approved company are such that it
16 is not practical to use the separate accounting method to determine the net income***,***
17 ***gross receipts or Kentucky gross profits*** from the facility at which the economic
18 ***revitalization***[~~development~~] project is located, the approved company shall
19 determine net income***, gross receipts or Kentucky gross profits*** from the economic
20 ***revitalization***[~~development~~] project using an alternative method approved by the
21 Revenue Cabinet.
22 (9) The Revenue Cabinet may issue administrative regulations and require the filing of
23 forms designed by the Revenue Cabinet to reflect the intent of KRS 154.26-010 to
24 154.26-100 and the allowable income tax credit which an approved company may
25 retain under KRS 154.26-010 to 154.26-100.
26 Section 27. KRS 141.405 is amended to read as follows:
27 (1) As used in this section, unless the context requires otherwise:

1 (a) "Approved company" has the same meaning as set forth in KRS 154.12-
2 2084;[~~ and~~]
3 (b) "Skills training investment credit" has the same meaning as set forth in KRS
4 154.12-2084***; and***
5 ***(c) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b)***.
6 (2) An approved company shall determine the income tax credit as provided in this
7 section.
8 (3) (a) An approved company which is an individual sole proprietorship subject to
9 tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1)
10 shall compute the income tax due at the applicable tax rates as provided by
11 KRS 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
12 141.040 ***applies***[~~,~~] on net income as defined by KRS 141.010(11),[~~ or~~] taxable
13 net income as defined by KRS 141.010(14)***, gross receipts, or Kentucky gross***
14 ***profits, as the case may be***;
15 (b) The amount of the skills training investment credit that the Bluegrass State
16 Skills Corporation has given final approval for under KRS 154.12-2088(6)
17 shall be applied against the amount of the tax computed under paragraph (a)
18 of this subsection; and
19 (c) The skills training investment credit payment shall not exceed the amount of
20 the final approval awarded by the Bluegrass State Skills Corporation under
21 KRS 154.12-2088(6).
22 (4) (a) In the case of an approved company which is ***a general***[~~an S-corporation or~~]
23 partnership ***not subject to the tax imposed by KRS 141.040,*** the amount of the
24 tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-
25 2088(6) shall be apportioned among the[~~ shareholders or~~] partners thereof at
26 the same ratio as the[~~ shareholders' or~~] partners' distributive shares of income
27 are determined for the tax year during which the final authorization resolution

1 is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).
2 (b) The amount of the tax credit apportioned to each[~~ shareholder or~~] partner that
3 may be claimed in any tax year of the[~~ shareholder or~~] partner shall be
4 determined in accordance with the provisions of KRS 154.12-2086.
5 (5) (a) In the case of an approved company that is a trust ***not subject to the tax***
6 ***imposed by KRS 141.040***, the amount of the tax credit awarded by the
7 Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be
8 apportioned to the trust and the beneficiaries on the basis of the income of the
9 trust allocable to each for the tax year during which the final authorizing
10 resolution is adopted by the Bluegrass State Skills Corporation in KRS
11 154.12-2088(6).
12 (b) The amount of tax credit apportioned to each trust or beneficiary that may be
13 claimed in any tax year of the trust or beneficiary shall be determined in
14 accordance with the provisions of KRS 154.12-2086.
15 (6) The Revenue Cabinet may promulgate administrative regulations in accordance
16 with KRS Chapter 13A adopting forms and procedures for the reporting of the
17 credit allowed in KRS 154.12-2084 to 154.12-2089.
18 Section 28. KRS 141.407 is amended to read as follows:
19 (1) As used in this section, unless the context requires otherwise:
20 (a) "Approved company" shall have the same meaning as set forth in KRS
21 154.24-010;
22 (b) "Economic development project" shall have the same meaning as economic
23 development project as set forth in KRS 154.24-010;
24 (c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150***;***
25 ***and***
26 ***(d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b)***.
27 (2) An approved company shall determine the[~~ income~~] tax credit as provided in this

1 section.

2 (3) An approved company which is an individual sole proprietorship subject to tax
3 under KRS 141.020 ***or***[~~,~~] a corporation subject to tax under KRS 141.040(1)[~~, or a~~
4 ~~limited liability company treated as a corporation for federal income tax purposes~~]
5 shall:

6 (a) Compute the income tax due at the applicable tax rates as provided by KRS
7 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
8 141.040 ***applies*** on net income as defined by KRS 141.010(11),[~~ or~~] taxable
9 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
10 ***profits, as the case may be,*** including income ***gross receipts, or Kentucky***
11 ***gross profits*** from an economic development project;

12 (b) Compute the income tax due at the applicable tax rates as provided by KRS
13 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
14 141.040 ***applies*** on net income as defined by KRS 141.010(11),[~~ or~~] taxable
15 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
16 ***profits, as the case may be,*** excluding net income***, gross receipts, or***
17 ***Kentucky gross profits*** attributable to an economic development project; and

18 (c) The tax credit shall be the amount by which the tax computed under paragraph
19 (a) of this subsection exceeds the tax computed under paragraph (b) of this
20 subsection; however, the credit shall not exceed the limits set forth in KRS
21 154.24-020 to 154.24-150.

22 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
23 which is ***a general***[~~an S-corporation,~~] partnership ***not subject to the tax***
24 ***imposed by KRS 141.040***[~~, registered limited liability partnership, limited~~
25 ~~liability company treated as a partnership for federal income tax purposes,~~] or
26 ***a*** trust ***not subject to the tax imposed by KRS 141.040*** shall be subject to
27 income tax on the net income attributable to an economic development project

1 at the rates provided in KRS 141.020(2).

2 (b) The amount of the tax credit shall be the same as the amount of the tax
3 computed in this subsection or, upon the annual election of the approved
4 company, in lieu of the tax credit, an amount shall be applied as an estimated
5 tax payment equal to the tax computed in this section. Any estimated tax
6 payment made pursuant to this paragraph shall be in satisfaction of the tax
7 liability of the~~[shareholders,]~~ partners~~[, members,]~~ or beneficiaries of the
8 ***general***~~[S corporation,]~~ partnership~~[, registered limited liability partnership,~~
9 ~~limited liability company,]~~ or trust, and shall be paid on behalf of the~~[~~
10 ~~shareholders,]~~ partners~~[, members,]~~ or beneficiaries.

11 (c) The tax credit or estimated payment shall not exceed the limits set forth in
12 KRS 154.24-020 to 154.24-150.

13 (d) If the tax computed herein exceeds the credit, the excess shall be paid by the
14 ***general***~~[S corporation,]~~ partnership~~[, registered limited liability partnership,~~
15 ~~limited liability company,]~~ or trust at the times provided by KRS 141.160 for
16 filing the returns.

17 (e) Any estimated tax payment made by the ***general***~~[S corporation,]~~
18 partnership~~[,]~~ or trust in satisfaction of the tax liability of~~[shareholders,]~~
19 partners~~[, members,]~~ or beneficiaries shall not be treated as taxable income
20 subject to Kentucky income tax by the~~[shareholder,]~~ partner~~[, member,]~~ or
21 beneficiary.

22 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
23 the tax credit, and the estimated tax payment determined under subsection (4) of
24 this section shall be excluded in determining each~~[shareholder's,]~~ partner's~~[,~~
25 ~~member's,]~~ or beneficiaries' distributive share of net income or credit of ***a***
26 ***general***~~[an S corporation,]~~ partnership~~[, registered limited liability partnership,~~
27 ~~limited liability company,]~~ or trust.

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

1 ***receipts or Kentucky gross profits of the entire facility to the economic***
2 ***development project by a formula approved by the Revenue Cabinet***.
3 (8) If an approved company can show to the satisfaction of the Revenue Cabinet that
4 the nature of the operations and activities of the approved company are such that it
5 is not practical to use the separate accounting method to determine the net income,
6 ***gross receipts, or Kentucky gross profits*** from the facility at which the economic
7 development project is located, the approved company shall determine net income,
8 ***gross receipts, or Kentucky gross profits*** from the economic development project
9 using an alternative method approved by the Revenue Cabinet.
10 (9) The Revenue Cabinet may promulgate administrative regulations and require the
11 filing of forms designed by the Revenue Cabinet to reflect the intent of KRS
12 154.24-010 to 154.24-150 and the allowable income tax credit which an approved
13 company may retain under KRS 154.24-010 to 154.24-150.
14 Section 29. KRS 141.410 is amended to read as follows:
15 As used in KRS 141.410 to 141.414, unless the context requires otherwise:
16 (1) "Approved costs" means the costs incurred during the taxable year by a qualified
17 farming operation for training and improving the skills of managers and employees
18 involved in a networking project.
19 (2) "Business network" means a formalized, collaborative mechanism organized by and
20 operating among three (3) or more qualified farming operations, industrial entities,
21 business enterprises, or private sector firms for the purposes of, but not limited to:
22 pooling expertise; improving responses to changing technology or markets;
23 lowering the risks to individual entities of accelerated modernization; encouraging
24 new technology investments, new market development, and employee skills
25 improvement; and developing a system of collective intelligence among
26 participating entities.
27 (3) "Food producing facilities" means establishments that manufacture or process foods

1 and beverages for human consumption, and which are included under the ***three (3)***
2 ***digit NAICS***[~~two (2) digit SIC~~] code ***three hundred eleven (311).***[~~20;~~]
3 (4) "Networking project" means a project by which farmers and other entities involved
4 in the production of food join together to form a network approved by the Cabinet
5 for Economic Development for the purpose of producing or expanding the
6 production of crops or livestock necessary for the establishment or expansion of
7 secondary food-producing facilities in Kentucky.
8 (5) "Qualified farming operation" means an individual, sole proprietorship, partnership,
9 joint venture, trust, unincorporated organization, association, corporation, or
10 institution, engaged in farming in Kentucky that provides raw materials for food-
11 producing facilities in Kentucky, and that purchases new buildings or equipment, or
12 that incurs training expenses, to support its participation in a networking project.
13 (6) "***NAICS***[~~SIC~~] code" means the classification system grouping business operations
14 or enterprises as published in the ***North American Industry Classification System***
15 ***United States Manual published by Convergence Working Group and***[~~"Standard~~
16 ~~Industrial Classification Manual" of~~] the United States Office of Management and
17 Budget, ***2002***[~~1987~~] edition.
18 ***(7) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b).***
19 Section 30. KRS 141.414 is amended to read as follows:
20 (1) A qualified farming operation which is an individual sole proprietorship subject to
21 tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:
22 (a) Compute the income tax due at the applicable tax rates as provided by KRS
23 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
24 141.040 ***applies*** on net income as defined by KRS 141.010(11),[~~or~~] taxable
25 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
26 ***profits, as the case may be,*** including income***, gross receipts, or Kentucky***
27 ***gross profits*** from the qualified farming operation's participation in a

1 networking project.

2 (b) Compute the income tax due at the applicable tax rates as provided by KRS
3 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS***
4 141.040 ***applies*** on net income as defined by KRS 141.010(11)***,***[~~ or~~] taxable
5 net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross***
6 ***profits, as the case may be,*** excluding net income***, gross receipts, or***
7 ***Kentucky gross profits*** attributable to the qualified farming operation's
8 participation in a networking project; and

9 (c) Be entitled to a tax credit in the amount by which the tax computed under
10 paragraph (a) of this subsection exceeds the tax computed under paragraph (b)
11 of this subsection. The credit shall not exceed the farming operation's
12 approved costs, as defined in KRS 141.410.

13 (2) Notwithstanding any other provisions of this chapter, a qualified farming operation
14 which is ***a general***[~~an S-corporation,~~] partnership ***not subject to the tax imposed by***
15 ***KRS 141.040***[~~,~~] or trust ***not subject to the tax imposed by KRS 141.040*** shall be
16 subject to income tax on the net income attributable to its participation in a
17 networking project at the rates provided in KRS 141.020(2), and the amount of the
18 tax credit shall be the same as the amount of the tax computed in this subsection.
19 The credit shall not exceed the farming operation's approved costs, as defined in
20 KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the
21 difference shall be paid by the ***general***[~~S-corporation,~~] partnership[~~,~~] or trust at the
22 times provided by KRS 141.160 for filing the returns.

23 (3) Notwithstanding any other provisions of this chapter, the net income subject to tax
24 and the tax credit determined under subsection (2) of this section shall be excluded
25 in determining each[~~ shareholder's,~~] partner's[~~,~~] or beneficiary's distributive share of
26 net income or credit of ***a***[~~an S-corporation,~~] partnership[~~,~~] or trust.

27 (4) If the networking entity is a separate facility***:***[~~,~~]

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

1 ***development project by a formula approved by the Revenue Cabinet***.

2 (6) If an approved company can show to the satisfaction of the Revenue Cabinet that
3 the nature of the operations and activities of the approved farming operation are
4 such that it is not practical to use the separate accounting method to determine the
5 net income***, gross receipts, or Kentucky gross profits*** from the networking project,
6 the approved farming operation shall determine net income***, gross receipts, or***
7 ***Kentucky gross profits*** from its participation in the networking project using an
8 alternative method approved by the Revenue Cabinet.

9 (7) The Revenue Cabinet may promulgate administrative regulations pursuant to KRS
10 Chapter 13A and require the filing of forms designed by the Revenue Cabinet
11 necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the
12 allowable income tax credit which an approved farming operation may retain under
13 the provisions of KRS 141.412 and this section.

14 Section 31. KRS 141.415 is amended to read as follows:

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

16 (a) "Approved company" has the same meaning as set forth in KRS 154.34-010;

17 (b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-
18 010;~~[and]~~

19 (c) "Tax credit" means the tax credit allowed in KRS 154.34-080***; and***

20 ***(d) "Gross receipts" means gross receipts as defined in KRS 141.040(5)(b)***.

21 (2) An approved company shall determine the income tax credit as provided in this
22 section.

23 (3) An approved company which is an individual sole proprietorship subject to tax
24 under KRS 141.020 ***or***~~[,]~~ a corporation subject to tax under KRS 141.040(1)~~[, or~~
25 ~~limited liability company treated as a corporation for federal income tax purposes]~~
26 shall:

27 (a) Compute the income tax due at the applicable tax rates as provided by KRS

141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS*** 141.040 ***applies*** on net income as defined by KRS 141.010(11)***,***~~[or]~~ taxable net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross profits, as the case may be,*** including income***, gross receipts, or Kentucky gross profits*** from a reinvestment project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or ***whichever of paragraph (a) or (b) of subsection (5) of KRS*** 141.040 ***applies*** on net income as defined by KRS 141.010(11)***,***~~[or]~~ taxable net income as defined by KRS 141.010(14), ***gross receipts, or Kentucky gross profits, as the case may be,*** excluding net income***, gross receipts, or Kentucky gross profits*** attributable to a reinvestment project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is ***a general***~~[an S corporation,]~~ partnership ***not subject to the tax imposed by KRS 141.040***~~[, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes,]~~ or trust ***not subject to the tax imposed by KRS 141.040*** shall be subject to income tax on the net income attributable to a reinvestment project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax

1 liability of the[~~ shareholders,~~] partners[~~, members,~~] or beneficiaries of the
2 ***general***[~~S corporation,~~] partnership[~~, registered limited liability partnership,~~
3 ~~limited liability company,~~] or trust, and shall be paid on behalf of the[~~
4 ~~shareholders,~~] partners[~~, members,~~] or beneficiaries.
5 (c) The tax credit or estimated payment shall not exceed the limits set forth in
6 KRS 154.34-080.
7 (d) If the tax computed in this section exceeds the tax credit, the difference shall
8 be paid by the ***general***[~~S corporation,~~] partnership[~~, registered limited liability~~
9 ~~partnership, limited liability company,~~] or trust at the times provided by KRS
10 141.160 for filing the returns.
11 (e) Any estimated tax payment made by the ***general***[~~S corporation,~~] partnership[~~,~~
12 ~~registered limited liability partnership, limited liability company,~~] or trust in
13 satisfaction of the tax liability of[~~ shareholders,~~] partners[~~, members,~~] or
14 beneficiaries[~~,~~] shall not be treated as taxable income subject to Kentucky
15 income tax by the[~~ shareholder,~~] partner[~~, member,~~] or beneficiary.
16 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
17 the tax credit, and the estimated tax payment determined under subsection (4) of
18 this section shall be excluded in determining each[~~ shareholder's,~~] partner's[~~,~~
19 ~~member's,~~] or beneficiary's distributive share of net income or credit of ***a***
20 ***general***[~~an S corporation,~~] partnership[~~, registered limited liability partnership,~~
21 ~~limited liability company~~] or trust.
22 (6) If the reinvestment project is a totally separate facility***:***[~~,~~]
23 ***(a)*** Net income attributable to the project for the purposes of subsections (3), (4),
24 and (5) of this section shall be determined under the separate accounting
25 method reflecting only the gross income, deductions, expenses, gains, and
26 losses allowed under KRS Chapter 141 directly attributable to the facility and
27 overhead expenses apportioned to the facility***; and***

1 ***(b) Gross receipts or Kentucky gross profits attributable to the project for the***
2 ***purposes of subsection (3) of this section shall be determined under the***
3 ***separate accounting method reflecting only the gross receipts or Kentucky***
4 ***gross profits directly attributable to the facility.***
5 (7) If the reinvestment project is an expansion to a previously existing facility:[,]
6 ***(a)*** Net income attributable to the entire facility shall be determined under the
7 separate accounting method reflecting only the gross income, deductions,
8 expenses, gains, and losses allowed under KRS Chapter 141 directly
9 attributable to the facility and overhead expenses apportioned to the facility,
10 and the net income attributable to the reinvestment project for the purposes of
11 subsections (3), (4), and (5) of this section shall be determined by
12 apportioning the separate accounting net income of the entire facility to the
13 reinvestment project by a formula approved by the Revenue Cabinet***; and***
14 ***(b) Gross receipts or Kentucky gross profits attributable to the entire facility***
15 ***shall be determined under the separate accounting method reflecting only***
16 ***the gross receipts or Kentucky gross profits directly attributable to the***
17 ***facility, and gross receipts or Kentucky gross profits attributable to the***
18 ***economic development project for the purposes of subsection (3) of this***
19 ***section shall be determined by apportioning the separate accounting gross***
20 ***receipts or Kentucky gross profits of the entire facility to the economic***
21 ***development project by a formula approved by the Revenue Cabinet.***
22 (8) If an approved company can show to the satisfaction of the Revenue Cabinet that
23 the nature of the operations and activities of the approved company are such that it
24 is not practical to use the separate accounting method to determine the net income
25 ***or gross receipts*** from the facility at which the reinvestment project is located, the
26 approved company shall determine net income ***or gross receipts*** from the
27 reinvestment project using an alternative method approved by the Revenue Cabinet.

1 (9) The Revenue Cabinet may issue administrative regulations and require the filing of
2 forms designed by the Revenue Cabinet to reflect the intent of KRS 154.34-010 to
3 154.34-100 and the allowable income tax credit which an approved company may
4 retain under KRS 154.34-010 to 154.34-100.
5 Section 32. KRS 141.990 is amended to read as follows:
6 (1) Any individual, fiduciary, corporation, employer, or other person who violates any
7 of the provisions of this chapter shall be subject to the uniform civil penalties
8 imposed pursuant to KRS 131.180.
9 (2) Any individual required by KRS 141.300 to file a declaration of estimated tax and
10 required by KRS 141.305 to pay the declaration of estimated tax shall be subject to
11 a penalty as provided in KRS 131.180 for any declaration underpayment or any late
12 payment. Underpayment, for purposes of this subsection, is determined by
13 subtracting declaration credits allowed by KRS 141.070, declaration installment
14 payments actually made, and credit for tax withheld as allowed by KRS 141.350
15 from seventy percent (70%) of the total income tax liability computed by the
16 taxpayer as shown on the return filed for the tax year. This subsection shall not
17 apply to the tax year in which the death of the taxpayer occurs, nor in the case of a
18 farmer exercising an election under subsection (5) of KRS 141.305, nor in the case
19 of any person having a tax liability of ***five***[~~two~~] hundred dollars ***($500)***[~~($200)~~] or
20 less.
21 (3) Any corporation required by KRS 141.042 to file a declaration of estimated tax and
22 required to pay the declaration of estimated tax by the installment method
23 prescribed by subsection (1) of KRS 141.044 shall be subject to a penalty as
24 provided in KRS 131.180 for any declaration underpayment or any installment not
25 paid on time. Declaration underpayment, for purposes of this subsection, is
26 determined by subtracting five thousand dollars ($5,000) and declaration payments
27 actually made from seventy percent (70%) of the total[~~ income~~] tax liability ***due***

1 ***under the provisions of KRS 141.040 and*** computed by the taxpayer on the return
2 filed for the tax year.
3 (4) Every tax imposed by this chapter, and all increases, interest, and penalties thereon,
4 shall become, from the time it is due and payable, a personal debt to the state from
5 the taxpayer or other person liable therefor.
6 (5) In addition to the penalties herein prescribed, any taxpayer or employer, who
7 willfully fails to make a return or willfully makes a false return, or who willfully
8 fails to pay taxes owing or collected, with intent to evade payment of the tax or
9 amount collected, or any part thereof, shall be guilty of a Class D felony.
10 (6) Any person who willfully aids or assists in, or procures, counsels, or advises the
11 preparation or presentation under, or in connection with any matter arising under
12 this chapter of a return, affidavit, claim, or other document, which is fraudulent or is
13 false as to any material matter, whether or not the falsity or fraud is with the
14 knowledge or consent of the person authorized or required to present such return,
15 affidavit, claim, or document, shall be guilty of a Class D felony.
16 (7) A return for the purpose of this section shall mean and include any return,
17 declaration, or form prescribed by the cabinet and required to be filed with the
18 cabinet by the provisions of this chapter, or by the rules and regulations of the
19 cabinet or by written request for information to the taxpayer by the cabinet.
20 Section 33. KRS 136.530 is amended to read as follows:
21 (1) The receipts factor is a fraction, the numerator of which is the receipts of the
22 financial institution in this Commonwealth during the taxable year as determined by
23 subsection (2) of this section and the denominator of which is the receipts of the
24 financial institution within and without this Commonwealth during the taxable year.
25 Receipts shall include the following:
26 (a) Receipts from the lease or rental of real property owned by the financial
27 institution;

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

1 include the following amounts:
2 1. The amount by which interest from federal funds sold and securities
3 purchased under resale agreements exceeds interest expense on federal
4 funds purchased and securities sold under repurchase agreements; and
5 2. The amount by which interest, dividends, gains, and other income from
6 trading assets and activities, including but not limited to assets and
7 activities in the matched book, in the arbitrage book, and foreign
8 currency transactions, exceed amounts paid in lieu of interest, amounts
9 paid in lieu of dividends, and losses from these assets and activities;
10 (m) All receipts derived from sales that would be included in the factor established
11 by KRS ***141.120(8)(c)***[~~136.070(3)(d)1., 2., and 3.~~]; and
12 (n) Receipts from services not otherwise specifically listed.
13 (2) A determination of whether receipts should be included in the numerator of the
14 fraction shall be made as follows:
15 (a) Receipts from the lease or rental of real property owned by the financial
16 institution shall be included in the numerator if the property is located within
17 this Commonwealth or receipts from the sublease of real property if the
18 property is located within this Commonwealth.
19 (b) 1. Except as described in subparagraph 2. of this paragraph, receipts from
20 the lease or rental of tangible personal property owned by the financial
21 institution shall be included in the numerator if the property is located
22 within this Commonwealth when it is first placed in service by the
23 lessee.
24 2. Receipts from the lease or rental of transportation property owned by the
25 financial institution are included in the numerator of the receipts factor
26 to the extent that the property is used in this Commonwealth. The extent
27 an aircraft will be deemed to be used in this Commonwealth and the

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

(c) 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.

2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.

1 (e) Net gains from the sale of loans shall be included in the numerator as provided
2 in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans
3 includes income recorded under the coupon stripping rules of Section 1286 of
4 the Internal Revenue Code.
5 1. The amount of net gains, but not less than zero (0), from the sale of
6 loans secured by real property included in the numerator is determined
7 by multiplying net gains by a fraction the numerator of which is the
8 amount included in the numerator of the receipts factor pursuant to
9 paragraph (c) of this subsection and the denominator of which is the
10 total amount of interest and fees or penalties in the nature of interest
11 from loans secured by real property.
12 2. The amount of net gains, but not less than zero (0), from the sale of
13 loans not secured by real property included in the numerator is
14 determined by multiplying net gains by a fraction the numerator of
15 which is the amount included in the numerator of the receipts factor
16 pursuant to paragraph (d) of this subsection and the denominator of
17 which is the total amount of interest and fees or penalties in the nature of
18 interest from loans not secured by real property.
19 (f) Interest and fees or penalties in the nature of interest from credit card
20 receivables and receipts from fees charged to card holders, such as annual
21 fees, shall be included in the numerator if the billing address of the card
22 holder is in this Commonwealth.
23 (g) Net gains, but not less than zero (0), from the sale of credit card receivables to
24 be included in the numerator shall be determined by multiplying the amount
25 established in paragraph (g) of subsection (1) of this section by a fraction the
26 numerator of which is the amount included in the numerator of the receipts
27 factor pursuant to paragraph (f) of this subsection and the denominator of

1 which is the financial institution's total amount of interest and fees or penalties
2 in the nature of interest from credit card receivables and fees charged to card
3 holders.
4 (h) Credit card issuer's reimbursement fees to be included in the numerator shall
5 be determined by multiplying the amount established in paragraph (h) of
6 subsection (1) of this section by a fraction the numerator of which is the
7 amount included in the numerator of the receipts factor pursuant to paragraph
8 (f) of this subsection and the denominator of which is the financial
9 institution's total amount of interest and fees or penalties in the nature of
10 interest from credit card receivables and fees charged to card holders.
11 (i) Receipts from merchant discount shall be included in the numerator if the
12 commercial domicile of the merchant is in this Commonwealth. Receipts from
13 merchant discount shall be computed net of any cardholder charge backs but
14 shall not be reduced by any interchange transaction fees or by any issuer's
15 reimbursement fees paid to another for charges made by its card holders.
16 (j) 1. a. Loan servicing fees derived from loans secured by real property to
17 be included in the numerator shall be determined by multiplying
18 the amount determined under paragraph (j) of subsection (1) of this
19 section by a fraction the numerator of which is the amount
20 included in the numerator of the receipts factor pursuant to
21 paragraph (c) of this subsection and the denominator of which is
22 the total amount of interest and fees or penalties in the nature of
23 interest from loans secured by real property.
24 b. Loan servicing fees derived from loans not secured by real
25 property to be included in the numerator shall be determined by
26 multiplying the amount determined under paragraph (k) of
27 subsection (1) of this section by a fraction the numerator of which

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

2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.

(k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.

(l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this

1 Commonwealth and the denominator of which is the average value
2 of all the assets.
3 b. The amount of interest from federal funds sold and purchased and
4 from securities purchased under resale agreements and securities
5 sold under repurchase agreements attributable to this
6 Commonwealth and included in the numerator is determined by
7 multiplying the amount described in subparagraph 1. of paragraph
8 (l) of subsection (1) of this section from funds and securities by a
9 fraction the numerator of which is the average value of federal
10 funds sold and securities purchased under agreements to resell
11 which are properly assigned to a regular place of business of the
12 financial institution within this Commonwealth and the
13 denominator of which is the average value of all funds and
14 securities.
15 c. The amount of interest, dividends, gains, and other income from
16 trading assets and activities, including but not limited to assets and
17 activities in the matched book, in the arbitrage book, and foreign
18 currency transactions, but excluding amounts described in
19 subdivisions a. and b. of this subparagraph, attributable to this
20 Commonwealth and included in the numerator is determined by
21 multiplying the amount described in subparagraph 2. of paragraph
22 (l) of subsection (1) of this section by a fraction the numerator of
23 which is the average value of trading assets which are properly
24 assigned to a regular place of business of the financial institution
25 within this Commonwealth and the denominator of which is the
26 average value of all assets.
27 d. For purposes of this subparagraph, average value shall be

1 determined using the rules for determining the average value of
2 tangible personal property set forth in KRS 136.535(3) and (4).
3 2. In lieu of using the method set forth in subparagraph 1. of this
4 paragraph, the financial institution may elect, or the cabinet may require
5 in order to fairly represent the business activity of the financial
6 institution in this Commonwealth, the use of the method set forth in this
7 subparagraph.
8 a. The amount of interest, dividends, net gains, but not less than zero
9 (0), and other income from investment assets and activities in the
10 investment account to be attributed to this Commonwealth and
11 included in the numerator is determined by multiplying all income
12 from assets and activities by a fraction the numerator of which is
13 the gross income from assets and activities which are properly
14 assigned to a regular place of business of the financial institution
15 within this Commonwealth and the denominator of which is the
16 gross income from all assets and activities.
17 b. The amount of interest from federal funds sold and purchased and
18 from securities purchased under resale agreements and securities
19 sold under repurchase agreements attributable to this
20 Commonwealth and included in the numerator is determined by
21 multiplying the amount described in subparagraph 1. of paragraph
22 (l) of subsection (1) of this section from funds and securities by a
23 fraction the numerator of which is the gross income from funds
24 and securities which are properly assigned to a regular place of
25 business of the financial institution within this Commonwealth and
26 the denominator of which is the gross income from all funds and
27 securities.

1 c. The amount of interest, dividends, gains, and other income from
2 trading assets and activities, including but not limited to assets and
3 activities in the matched book, in the arbitrage book and foreign
4 currency transactions, but excluding amounts described in
5 subdivisions a. and b. of this subparagraph, attributable to this
6 Commonwealth and included in the numerator is determined by
7 multiplying the amount described in subparagraph 2. of paragraph
8 (l) of subsection (1) of this section by a fraction the numerator of
9 which is the gross income from trading assets and activities which
10 are properly assigned to a regular place of business of the financial
11 institution within this Commonwealth and the denominator of
12 which is the gross income from all assets and activities.
13 3. If the financial institution elects or is required by the cabinet to use the
14 method set forth in subparagraph 2. of this paragraph, it shall use this
15 method on all subsequent returns unless the financial institution receives
16 prior permission from the cabinet to use, or the cabinet requires, a
17 different method.
18 4. The financial institution shall have the burden of proving that an
19 investment asset or activity or trading asset or activity was properly
20 assigned to a regular place of business outside this Commonwealth by
21 demonstrating that the day-to-day decisions regarding the asset or
22 activity occurred at a regular place of business outside this
23 Commonwealth. Where the day-to-day decisions regarding an
24 investment asset or activity or trading asset or activity occur at more
25 than one (1) regular place of business and one (1) regular place of
26 business is in this Commonwealth and one (1) regular place of business
27 is outside this Commonwealth, the asset or activity shall be considered

1 to be located at the regular place of business of the financial institution
2 where the investment or trading policies or guidelines with respect to the
3 asset or activity are established. Unless the financial institution
4 demonstrates to the contrary, the policies and guidelines shall be
5 presumed to be established at the commercial domicile of the financial
6 institution.
7 (m) The numerator of the receipts factor includes all other receipts derived from
8 sales as determined pursuant to the provisions set forth in KRS
9 ***141.120(8)(c)***[~~136.070(3)(d)1., 2., and 3~~].
10 (n) 1. All receipts that would be assigned under this section to a state in which
11 the financial institution is not taxable shall be included in the numerator
12 of the receipts factor, if the financial institution's commercial domicile is
13 in this Commonwealth.
14 2. For purposes of subparagraph 1. of this paragraph, "taxable" means
15 either:
16 a. That a financial institution is subject in another state to a net
17 income tax, a franchise tax measured by net income, a franchise
18 tax for the privilege of doing business, a corporate stock tax
19 including a bank shares tax, a single business tax, an earned
20 surplus tax, or any tax which is imposed upon or measured by net
21 income; or
22 b. That another state has statutory authority to subject the financial
23 institution to any of the taxes in subdivision a. of this
24 subparagraph, whether in fact the state does or does not impose the
25 tax.
26 Section 34. KRS 144.125 is amended to read as follows:
27 (1) Subject to the provisions of subsections (4) through (9) of this section and KRS

1 144.130, any certificated air carrier which is engaged in the air transportation of
2 persons or property for hire shall be entitled to a general tax credit, as computed in
3 subsection (3) of this section, for any annual period in which the certificated air
4 carrier meets or exceeds the investment and gross wage qualification requirements
5 prescribed in subsection (2) of this section and has elected to begin claiming the
6 credit.
7 (2) To qualify for the general tax credit provided in subsection (1) of this section, the
8 certificated air carrier shall:
9 (a) Prior to or during the annual period for which the credit is claimed, have
10 made, caused to be made, or obtained contractual obligations to make,
11 consistent with the fundamental project scope, an investment in the aggregate
12 of at least three hundred million dollars ($300,000,000) in new and expanded
13 air transportation facilities and related equipment in this Commonwealth; and
14 (b) During the annual period for which the credit is claimed, have gross wages
15 subject to Kentucky income tax and Kentucky income tax withholding
16 pursuant to KRS Chapter 141 which are at least fifteen million dollars
17 ($15,000,000) greater than its gross Kentucky real wage base. In calculating
18 the gross wages paid for the annual period for which the credit is claimed,
19 there shall not be included the wages of any nonqualifying employees of the
20 certificated air carrier.
21 (3) The general tax credit shall be an amount equal to ten percent (10%) of the increase
22 in gross wages subject to Kentucky income tax and Kentucky income tax
23 withholding paid by the certificated air carrier during the annual period as compared
24 to the carrier's gross Kentucky real wage base. In calculating the gross wages paid
25 for the annual period for which the credit is claimed, there shall not be included the
26 wages of any nonqualifying employees of the certificated air carrier.
27 (4) The general tax credit may accrue for only five (5) consecutive annual periods of

1 the qualifying certificated air carrier. The five (5) year limitation period shall begin
2 at the election of the qualifying certificated air carrier, but not later than the carrier's
3 annual period beginning in 1997. The tax credit shall accrue to the carrier only for
4 the annual periods during which the carrier meets or exceeds the requirements as
5 provided in subsection (2) of this section.
6 (5) The general tax credit authorized to a qualifying certificated air carrier shall not
7 exceed three million dollars ($3,000,000) for any annual period.
8 (6) The general tax credit authorized to a qualifying certificated air carrier shall not
9 exceed a total of fifteen million dollars ($15,000,000).
10 (7) The general tax credit authorized shall be claimed by the qualifying certificated air
11 carrier first against ***the tax liability imposed by KRS 141.040***[~~its Kentucky~~
12 ~~corporation income tax liability~~], then against its Kentucky corporation license tax
13 liability, with any remaining balance to be claimed against its Kentucky sales and
14 use tax liability. The credit shall not be applied to any other liability due the
15 Commonwealth. The Revenue Cabinet may prescribe the method or manner for the
16 qualifying certificated air carrier to claim the tax credit on applicable tax returns
17 filed with the cabinet.
18 (8) If the tax liabilities against which the tax credit is to be claimed pursuant to
19 subsection (7) of this section are not sufficient to fully absorb the allowable tax
20 credit, or if a[~~ net operating loss carryback or other~~] subsequent adjustment reduces
21 the carrier's liability against which a credit authorized by this section has previously
22 been claimed, the unused or excess balance of the allowable credit may be applied
23 against the carrier's liabilities for the specified taxes for previous or subsequent
24 annual periods within the five (5) year limitation period. However, no refund in
25 excess of the net tax actually paid by the carrier shall be made by the
26 Commonwealth because of the carrier's application of the unused or excess credit.
27 Interest shall not apply to any tax refunded for a prior period resulting from the

1 credit carryback provisions of this subsection.

2 (9) Each certificated air carrier claiming the general tax credit authorized pursuant to
3 this section shall file an annual general tax credit reconciliation report with the
4 Revenue Cabinet on or before the fifteenth day of the fourth month following the
5 end of each annual period for which the credit is claimed. The report shall be filed
6 as provided in KRS 144.135 to 144.139 for each type tax against which the credit is
7 applied.

8 Section 35. KRS 155.170 is amended to read as follows:

9 (1) An annual excise tax is hereby levied on every corporation organized under this
10 chapter for the privilege of transacting business in this Commonwealth during the
11 calendar year, according to or measured by its entire net income, as defined herein,
12 received or accrued from all sources during the preceding calendar year, hereinafter
13 referred to as taxable year, at the rate of four and one-half percent (4.5%) of such
14 entire net income. The minimum tax assessable to any one (1) such corporation
15 shall be ten dollars ($10). The liability for the tax imposed by this section shall arise
16 upon the first day of each calendar year, and shall be based upon and measured by
17 the entire net income of each such corporation for the preceding calendar year,
18 including all income received from government securities in such year. As used in
19 this section the words "taxable year" mean the calendar year next preceding the
20 calendar year for which and during which the excise tax is levied.

21 (2) The excise tax levied under subsection (1) of this section shall be in lieu of~~[all~~
22 ~~intangible personal property taxes,]~~ the corporation license tax imposed by KRS
23 136.070 and the ***taxes***~~[state income tax]~~ imposed by KRS 141.040. It is the purpose
24 and intent of the General Assembly to levy taxes on corporations organized
25 pursuant to this chapter so that all such corporations will be taxed uniformly in a
26 just and equitable manner in accordance with the provisions of the Constitution of
27 the Commonwealth of Kentucky. The intent of this section is for the General

1 Assembly to exercise the powers of classification and of taxation on property,
2 franchises, and trades conferred by Section 171 of the Constitution of the
3 Commonwealth.
4 (3) On or before June 1 of each year, the executive officer or officers of each
5 corporation shall file with the secretary of revenue a full and accurate report of all
6 income received or accrued during the taxable year, and also an accurate record of
7 the legal deductions in the same calendar year to the end that the correct entire net
8 income of the corporation may be determined. This report shall be in such form and
9 contain such information as the secretary of revenue may specify. At the time of
10 making such report by each corporation, the taxes levied by this section with respect
11 to an excise tax on corporations organized pursuant to this chapter shall be paid to
12 the secretary of revenue.
13 (4) The securities, evidences of indebtedness and shares of the capital stock issued by
14 the corporation established under the provisions of this chapter, their transfer, and
15 income therefrom and deposits of financial institutions invested therein, shall at all
16 times be free from taxation within the Commonwealth.
17 (5) Any stockholder, member, or other holder of any securities, evidences of
18 indebtedness, or shares of the capital stock of the corporation who realizes a loss
19 from the sale, redemption, or other disposition of any securities, evidences of
20 indebtedness, or shares of the capital stock of the corporation, including any such
21 loss realized on a partial or complete liquidation of the corporation, and who is not
22 entitled to deduct such loss in computing any of such stockholder's, member's, or
23 other holder's taxes to the Commonwealth shall be entitled to credit against any
24 taxes subsequently becoming due to the Commonwealth from such stockholder,
25 member, or other holder, a percentage of such loss equivalent to the highest rate of
26 tax assessed for the year in which the loss occurs upon mercantile and business
27 corporations.

1 SECTION 36. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
2 154 IS CREATED TO READ AS FOLLOWS:
3 *As used in Sections 36 to 44 of this Act, unless the context clearly indicates otherwise:*
4 *(1) "Agreement" means any agreement made pursuant to Section 41 of this Act*
5 *between the authority and an approved company with respect to an economic*
6 *development project in which inducements are granted.*
7 *(2) "Approval" means action taken by the authority that authorizes the eligible*
8 *company to receive inducements in connection with an economic development*
9 *project under the provisions of Sections 36 to 44 of this Act and that designates*
10 *the eligible company as an approved company.*
11 *(3) "Approved company" means an eligible company that initiates an economic*
12 *development project in the Commonwealth whose application has been approved*
13 *by the authority.*
14 *(4) "Approved expense" means:*
15 *(a) For an approved company that establishes a new facility or expands an*
16 *existing facility:*
17 *1. The cost of building and construction materials, upon which Kentucky*
18 *sales and use tax as defined in KRS Chapter 139 is paid, purchased in*
19 *connection with the acquisition, construction, installation, equipping,*
20 *and rehabilitation of an economic development project; and*
21 *2. The cost of equipment purchased and used in research and*
22 *development, at the economic development project, upon which*
23 *Kentucky sales and use tax as defined in KRS Chapter 139 is paid.*
24 *(b) Approved expenses may only be incurred during the life of the project, not*
25 *to exceed eighteen (18) months from the date an eligible company is*
26 *designated an approved company by the authority. Provided, however, that*
27 *the authority may grant a twelve (12) month extension of the project for*

1 *good cause shown. Approved expenses shall not include any expenditure*
2 *made before the date the company is approved by the authority.*
3 *(5) "Authority" means the Kentucky Economic Development Finance Authority.*
4 *(6) "Economic development project" or "project" means a new or expanded service*
5 *or technology, manufacturing, or tourism attraction activity, conducted by the*
6 *approved company at a specific site in the Commonwealth, including the*
7 *acquisition of real property by an approved company and the construction,*
8 *installation, and rehabilitation of fixtures, and facilities, necessary or desirable*
9 *for improvement of real estate owned, used, or occupied by the approved*
10 *company, excluding the cost of labor. The minimum investment for an economic*
11 *development project located in a preference zone shall be one hundred thousand*
12 *dollars ($100,000) and for a project not located in a preference zone, five*
13 *hundred thousand dollars ($500,000).*
14 *(7) "Eligible company" means any corporation, limited liability company,*
15 *partnership, registered limited liability partnership, sole proprietorship, business*
16 *trust, or other legal entity that is primarily engaged in manufacturing, service or*
17 *technology, or operating or developing a tourism attraction. Any company whose*
18 *primary purpose is retail sales shall not be an eligible company.*
19 *(8) "Equipment used in research and development" means:*
20 *(a) "Equipment" means assets used in the operation of a business which are*
21 *subject to depreciation under Sections 167 and 168 of the Internal Revenue*
22 *Code, including assets which are expensed under Section 179 of the*
23 *Internal Revenue Code. The term "equipment" shall not include any*
24 *tangible personal property used to maintain, restore, mend, or repair*
25 *machinery or equipment, consumable operating supplies, office supplies, or*
26 *maintenance supplies; and*
27 *(b) "Research and development" means experimental or laboratory activity*

1 *that has as its ultimate goals the development of new products, the*
2 *improvement of existing products, the development of new uses for existing*
3 *products, or the development or improvement of methods for producing*
4 *products. "Research and development" does not include testing or*
5 *inspection of materials or products for quality control purposes, efficiency*
6 *surveys, management studies, consumer surveys, or other market research,*
7 *advertising or promotional activities, or research in connection with*
8 *literary, historical or similar projects.*
9 *(9) "Inducements" means the sales and use tax refund allowed to an approved*
10 *company for approved expenses under the provisions of Sections 36 to 44 of this*
11 *Act.*
12 *(10) "Life of the project" or "project life" means the eighteen (18) month period*
13 *beginning on the date the company is designated as an approved company by the*
14 *authority and the twelve (12) month extension if the extension is granted by the*
15 *authority.*
16 *(11) (a) "Manufacturing" means to make, assemble, process, produce, or perform*
17 *any other activity that changes the form or conditions of raw materials and*
18 *other property, and shall include any ancillary activity to the manufacturing*
19 *process, such as storage, warehousing, distribution, and related office*
20 *facilities;*
21 *(b) "Manufacturing" does not include any activity involving the performance*
22 *of work classified by the divisions, including successor divisions, of mining*
23 *in accordance with the "North American Industry Classification System,"*
24 *as revised by the United States Office of Management and Budget from time*
25 *to time, or any successor publication.*
26 *(12) "Preference zone" or "zone" means the geographic area that was designated as*
27 *an enterprise zone pursuant to KRS 154.45-050, and that was in existence as an*

1 *enterprise zone on December 31, 2003. No enterprise zone may be expanded after*
2 *the effective date of this Act. Enterprise zone designations that are scheduled to*
3 *expire, pursuant to 154.45-050(2), shall expire as scheduled. All preference zones*
4 *shall expire on December 31, 2007.*
5 *(13) "Sales and use tax" means those taxes paid to the Commonwealth for the*
6 *purchase of goods pursuant to KRS Chapter 139.*
7 *(14) (a) "Service or technology" means either:*
8 *1. Any activity involving the performance of work except work classified*
9 *by the divisions, including successor divisions, of agriculture, forestry*
10 *and fishing, mining, utilities, construction, manufacturing, wholesale*
11 *trade, retail trade, real estate rental and leasing, educational services,*
12 *accommodation and food services, and public administration in*
13 *accordance with the "North American Industry Classification*
14 *System," as revised by the United States Office of Management and*
15 *Budget from time to time, or any successor publication; or*
16 *2. Regional or headquarters operations of an entity engaged in an*
17 *activity listed in subparagraph 1. of this paragraph.*
18 *(b) Notwithstanding paragraph (a) of this subsection, "service or technology"*
19 *shall not include any activity involving the performance of work by an*
20 *individual who is providing direct service to the public pursuant to a license*
21 *issued by the state or an association that licenses in lieu of the state.*
22 *(15) "Tourism attraction" shall have the meaning assigned in KRS 148.851.*
23 SECTION 37. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
24 154 IS CREATED TO READ AS FOLLOWS:
25 *(1) The authority shall promulgate administrative regulations, pursuant to the*
26 *provisions of Chapter 13A, for approving eligible companies pursuant to Sections*
27 *36 to 44 of this Act.*

1 *(2) Relevant standards for approval of eligible companies and economic development*
2 *projects shall include but are not limited to creditworthiness of the eligible*
3 *company, employment opportunities for Kentucky residents, including wages to*
4 *be paid, whether the project is located in a preference zone, whether the eligible*
5 *company is participating in other incentive programs pursuant to KRS Chapter*
6 *154 for the project, and the likelihood that the project will be an economic*
7 *success. An eligible company with an economic development project located in a*
8 *preference zone shall be given priority for approval.*
9 *(3) An eligible company shall certify to the authority, by written application provided*
10 *by the authority, the following:*
11 *(a) That the company is making a minimum investment of one hundred*
12 *thousand dollars ($100,000) in the project, if the project is located in a*
13 *preference zone or five hundred thousand dollars ($500,000) in the project,*
14 *if the project is not located in a preference zone;*
15 *(b) A description of the project;*
16 *(c) An estimate of the expenses for which the company shall seek approval;*
17 *(d) Supporting documentation, as requested by the authority; and*
18 *(e) Any other information requested by the authority.*
19 SECTION 38. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
20 154 IS CREATED TO READ AS FOLLOWS:
21 *(1) The total tax refund incentive available for commitment by the authority for all*
22 *projects, for each fiscal year, shall not exceed twenty million dollars*
23 *($20,000,000) for building and construction materials and five million dollars*
24 *($5,000,000) for equipment used in research and development.*
25 *(2) If an eligible company proposes to locate or expand its business in the state, the*
26 *eligible company may submit an application to the authority to become an*
27 *approved company pursuant to Sections 36 to 44 of this Act.*

1 *(3) When the application of an eligible company is complete, it shall be brought*
2 *before the authority for approval.*
3 *(4) The eligible company shall only be designated an approved company for the*
4 *specific, discrete project contained in its application.*
5 *(5) A company may transfer its designation as an approved company for the project*
6 *to another company upon prior notification to the authority in a manner*
7 *prescribed by the authority. The company to which approval is transferred shall*
8 *be eligible for the incentives to which the transferring company was entitled on*
9 *the entire project.*
10 SECTION 39. A NEW SECTION OF SUBCHAPTER 20 OF KRS 154 IS
11 CREATED TO READ AS FOLLOWS:
12 *(1) Notwithstanding any provision of KRS 139.770 to the contrary, an approved*
13 *company under the terms of Sections 36 to 44 of this Act may receive a tax refund*
14 *of sales and use tax paid on approved expenses for the cost of building and*
15 *construction materials that are permanently incorporated as an improvement to*
16 *real property to an economic development project and equipment used in*
17 *research and development at an economic development project. The approved*
18 *company shall have no obligation to refund or otherwise return any amount of*
19 *the sales and use tax refund to the person who originally collected the tax and*
20 *remitted it to the state.*
21 *(2) An approved company shall only apply for a refund:*
22 *(a) Of sales and use tax paid for construction materials and building fixtures*
23 *and for equipment used in research and development purchased during the*
24 *life of the economic development project not to exceed the amount specified*
25 *in the approved company's agreement, as defined in Section 36 of this Act;*
26 *and*
27 *(b) Within sixty (60) days after the completion of the economic development*

1 ***project or the expiration of the life of the project, whichever occurs first.***
2 ***(3) An approved company shall execute information-sharing agreements prescribed***
3 ***by the Revenue Cabinet with contractors, vendors, and other related parties to***
4 ***verify construction material and building fixture costs and equipment used in***
5 ***research and development, including applicable taxes, for the economic***
6 ***development project.***
7 ***(4) Interest shall not be allowed or paid on any refund made under the provisions of***
8 ***this section. The Revenue Cabinet may examine any refund within four (4) years***
9 ***from the date the refund application is received. An overpayment resulting from***
10 ***the examination shall be repaid to the State Treasury. Any amount required to be***
11 ***repaid is subject to the interest provisions of KRS 131.183 and to the penalty***
12 ***provisions of KRS 131.180.***
13 ***(5) The Revenue Cabinet may promulgate administrative regulations, pursuant to***
14 ***the provisions of KRS Chapter 13A, and shall require the filing of forms designed***
15 ***by the Revenue Cabinet to reflect the intent of Sections 36 to 44 of this Act.***
16 SECTION 40. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
17 154 IS CREATED TO READ AS FOLLOWS:
18 ***(1) An eligible company may apply to be designated an approved company under the***
19 ***provisions of Sections 36 to 44 of this Act by the authority on and after October 1,***
20 ***2005.***
21 ***(2) No approvals under Sections 36 to 44 of this Act shall be effective before January***
22 ***1, 2006.***
23 SECTION 41. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
24 154 IS CREATED TO READ AS FOLLOWS:
25 ***Before any approved company is granted inducements as provided in Sections 36 to 44***
26 ***of this Act, an agreement with respect to the company's economic development project***
27 ***shall be entered into between the authority and the approved company. The terms and***

1 ***provisions of the agreement, including the amount of approved expenses and the***
2 ***maximum inducement, shall be determined by negotiations between the authority and***
3 ***the approved company, except that each agreement shall include the following***
4 ***provisions:***
5 ***(1) The term of an agreement shall not be longer than eighteen (18) months from the***
6 ***date of approval of the company. The agreement may be extended by the***
7 ***authority an additional twelve (12) months for good cause shown by approval of***
8 ***the authority and notation upon the face of the agreement. The authority shall***
9 ***notify the Revenue Cabinet of any such extension.***
10 ***(2) The agreement shall include:***
11 ***(a) A description of the project for which the inducements have been***
12 ***authorized;***
13 ***(b) A description of the authorized expenses;***
14 ***(c) The total inducements allowed for the project, not to exceed the amount***
15 ***negotiated by the authority and the company; and***
16 ***(d) A provision that the inducements are not assignable without written notice***
17 ***to the authority before any assignment is made.***
18 SECTION 42. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
19 154 IS CREATED TO READ AS FOLLOWS:
20 ***The contents of a company's filings under Sections 36 to 44 of this Act shall be subject***
21 ***to the Kentucky Open Records Act, KRS 61.870 to 61.884.***
22 SECTION 43. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
23 154 IS CREATED TO READ AS FOLLOWS:
24 ***The authority shall annually submit a complete and detailed report of the use of the***
25 ***incentives and participation of approved companies under Sections 36 to 44 of this Act***
26 ***within one hundred twenty (120) days after the end of each fiscal year to the***
27 ***Legislative Research Commission and to the Governor.***

1 SECTION 44. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
2 154 IS CREATED TO READ AS FOLLOWS:
3 ***Sections 36 to 44 of this Act shall be known as the Kentucky Enterprise Initiative Act.***
4 Section 45. KRS 65.680 is amended to read as follows:
5 As used in KRS 65.680 to 65.699:
6 (1) "Activation date" means the date established in the grant contract at any time in a
7 two (2) year period after the date of approval of the grant contract by the economic
8 development authority or the tourism development authority, as appropriate. The
9 economic development authority or tourism development authority, as appropriate,
10 may extend this two (2) year period to no more than four (4) years upon written
11 application of the agency requesting the extension. To implement the activation
12 date, the agency who is a party to the grant contract shall notify the economic
13 development authority or the tourism development authority, as appropriate, the
14 Revenue Cabinet, and other taxing districts that are parties to the grant contract
15 when the implementation of the increment authorized in the grant contract shall
16 occur;
17 (2) "Agency" means an urban renewal and community development agency established
18 under KRS Chapter 99; a development authority established under KRS Chapter 99;
19 a nonprofit corporation established under KRS Chapter 58; an air board established
20 under KRS 183.132 to 183.160; a local industrial development authority established
21 under KRS 154.50-301 to 154.50-346; a riverport authority established under KRS
22 65.510 to 65.650; or a designated department, division, or office of a city or county;
23 (3) "Assessment" means the job development assessment fee authorized by KRS
24 65.6851, which the governing body may elect to impose throughout the
25 development area;
26 (4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of
27 which may be complicated by the presence or potential presence of a hazardous

1 substance, pollutant, or contaminant;
2 (5) "City" means any city, consolidated local government, or urban-county;
3 (6) "Commencement date" means the date a development area is established, as
4 provided in the ordinance creating the development area;
5 (7) "Commonwealth" means the Commonwealth of Kentucky;
6 (8) "County" means any county, consolidated local government, or charter county;
7 (9) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban
8 consumers, all items (base year computed for 1982 to 1984 equals one hundred
9 (100)), published by the United States Department of Labor, Bureau of Labor
10 Statistics;
11 (10) "Debt charges" means the principal, including any mandatory sinking fund deposits,
12 interest, and any redemption premium, payable on increment bonds as the payments
13 come due and are payable and any charges related to the payment of the foregoing;
14 (11) "Development area" means a contiguous geographic area, which may be within one
15 (1) or more cities or counties, defined and created for economic development
16 purposes by an ordinance of a city or county in which one (1) or more projects are
17 proposed to be located, except that for any development area for which increments
18 are to include revenues from the Commonwealth, the contiguous geographic area
19 shall satisfy the requirements of KRS 65.6971 or 65.6972;
20 (12) "Economic development authority" means the Kentucky Economic Development
21 Finance Authority as created in KRS 154.20-010;
22 (13) "Enterprise Zone" means an area ***that had been*** designated by the Enterprise Zone
23 Authority of Kentucky to be eligible for the benefits of ***Subchapter 45 of KRS***
24 ***Chapter 154 before January 1, 2005***[~~KRS 154.45-010 to 154.45-110~~];
25 (14) "Governing body" means the body possessing legislative authority in a city or
26 county;
27 (15) "Grant contract" means:

1 (a) That agreement with respect to a development area established under KRS
2 65.686, by and among an agency and one (1) or more taxing districts other
3 than the Commonwealth, by which a taxing district permits the payment to an
4 agency of an amount equal to a portion of increments other than revenues
5 from the Commonwealth received by it in return for the benefits accruing to
6 the taxing district by reason of one (1) or more projects in a development area;
7 or
8 (b) That agreement, including with respect to a development area satisfying the
9 requirements of KRS 65.6971 or 65.6972, a master agreement and addenda to
10 the master agreement, by and among an agency, one (1) or more taxing
11 districts, and the economic development authority or the tourism development
12 authority, as appropriate, by which a taxing district permits the payment to an
13 agency of an amount equal to a portion of increments received by it in return
14 for the benefits accruing to the taxing district by reason of one (1) or more
15 projects in a development area;
16 (16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs
17 of one (1) or more projects in a development area, the payment of which is secured
18 solely by a pledge of increments or by a pledge of increments and other sources of
19 payment that are otherwise permitted by law to be pledged or used as a source of
20 payment of the bonds or notes;
21 (17) "Increments" means the amount of revenues received by any taxing district,
22 determined by subtracting the amount of old revenues from the amount of new
23 revenues in the calendar year with respect to a development area and for which the
24 taxing district or districts and the agency have agreed upon under the terms of a
25 grant contract;
26 (18) "Infrastructure development" means the acquisition of real estate within a
27 development area meeting the requirements of KRS 65.6971 and the construction or

1 improvement, within a development area meeting the requirements of KRS
2 65.6971, of roads and facilities necessary or desirable for improvements of the real
3 estate, including surveys; site tests and inspections; environmental remediation;
4 subsurface site work; excavation; removal of structures, roadways, cemeteries, and
5 other underground and surface obstructions; filling, grading, and provision of
6 drainage, storm water retention, installation of utilities such as water, sewer, sewage
7 treatment, gas, and electricity, communications, and similar facilities; and utility
8 extensions to the boundaries of the development area meeting the requirements of
9 KRS 65.6971;
10 (19) "Issuer" means a city, county, or an agency issuing increment bonds;
11 (20) "New revenues" means the amount of revenues received with respect to a
12 development area in any calendar year after the activation date for a development
13 area:
14 (a) Established under KRS 65.686, the ad valorem taxes other than the school and
15 fire district portions of the ad valorem taxes received from real property
16 generated from the development area and properties sold within the
17 development area, and occupational license fees not otherwise used as a credit
18 against an assessment, and all or a portion of assessments as determined by
19 the governing body; or
20 (b) Satisfying the requirements of KRS 65.6971, the ad valorem taxes other than
21 the school and fire district portions of the ad valorem taxes received from real
22 property generated from the development area and properties sold within the
23 development area; or
24 (c) Satisfying the requirements of KRS 65.6972, the ad valorem taxes, other than
25 the school and fire district portions of the ad valorem taxes, received from real
26 property, Kentucky individual income tax, Kentucky sales and use taxes, local
27 insurance premium taxes, occupational license fees, or other such state taxes

1 as may be determined by the Revenue Cabinet to be applicable to the project
2 and specified in the grant contract, generated from the primary project entity
3 within the development area minus relocation revenue;
4 (21) "Old revenues" means the amount of revenues received with respect to a
5 development area:
6 (a) Established under KRS 65.686, in the last calendar year prior to the
7 commencement date for the development area, revenues which constitute ad
8 valorem taxes other than the school and fire district portions of ad valorem
9 taxes received from real property in the development area and occupational
10 license fees generated from the development area; or
11 (b) Satisfying the requirements of KRS 65.6971, in the last calendar year prior to
12 the commencement date for the development area, revenues which constitute
13 ad valorem taxes other than the school and fire district portions of ad valorem
14 taxes received from real property in the development area; or
15 (c) Satisfying the requirements of KRS 65.6972, in the period of no longer than
16 three (3) calendar years prior to the commencement date, the average as
17 determined by the Revenue Cabinet to be a fair representation of revenues
18 derived from ad valorem taxes, other than the school and fire district portions
19 of ad valorem taxes, from real property in the development area, and
20 Kentucky individual income tax, Kentucky sales and use taxes, local
21 insurance premium taxes, occupational license fees, and other such state taxes
22 as may be determined by the Revenue Cabinet as specified in the grant
23 contract generated from the development area. With respect to this paragraph,
24 if the development area was within an active enterprise zone for the period
25 used by the Revenue Cabinet for measuring old revenues, then the calculation
26 of old revenues shall include the amounts of ad valorem taxes, other than the
27 school and fire district portions of ad valorem taxes, that would have been

1 generated from real property, Kentucky individual income tax, Kentucky sales
2 and use taxes, local insurance premium taxes, occupational license fees, and
3 other such state taxes as may be determined by the Revenue Cabinet as
4 specified in the grant contract, were the development area not within an active
5 enterprise zone. With respect to this paragraph, if the primary project entity
6 generated old revenue prior to the commencement date in the development
7 area or revenues were derived from the development area prior to the
8 commencement date of the development area, then revenues shall increase
9 each calendar year by the percentage increase of the consumer price index, if
10 any;
11 (22) "Outstanding" means increment bonds that have been issued, delivered, and paid
12 for, except any of the following:
13 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon
14 payment or redemption;
15 (b) Increment bonds in replacement of which or in exchange for which other
16 bonds have been issued; or
17 (c) Increment bonds for the payment, or redemption or purchase for cancellation
18 prior to maturity, of which sufficient moneys or investments, in accordance
19 with the ordinance or other proceedings or any applicable law, by mandatory
20 sinking fund redemption requirements, or otherwise, have been deposited, and
21 credited in a sinking fund or with a trustee or paying or escrow agent, whether
22 at or prior to their maturity or redemption, and, in the case of increment bonds
23 to be redeemed prior to their stated maturity, notice of redemption has been
24 given or satisfactory arrangements have been made for giving notice of that
25 redemption, or waiver of that notice by or on behalf of the affected bond
26 holders has been filed with the issuer or its agent;
27 (23) "Primary project entity" means the entity responsible for control, ownership, and

1 operation of the project within a development area satisfying the requirements of
2 KRS 65.6972 which generates the greatest amount of new revenues or, in the case
3 of a proposed development area satisfying the requirements of KRS 65.6972, is
4 expected to generate the greatest amount of new revenues;
5 (24) "Project" means, for purposes of a development area:
6 (a) Established under KRS 65.686, any property, asset, or improvement certified
7 by the governing body, which certification is conclusive as:
8 1. Being for a public purpose;
9 2. Being for the development of facilities for residential, commercial,
10 industrial, public, recreational, or other uses, or for open space, or any
11 combination thereof, which is determined by the governing body
12 establishing the development areas as contributing to economic
13 development;
14 3. Being in or related to a development area; and
15 4. Having an estimated life or period of usefulness of one (1) year or more,
16 including but not limited to real estate, buildings, personal property,
17 equipment, furnishings, and site improvements and reconstruction,
18 rehabilitation, renovation, installation, improvement, enlargement, and
19 extension of property, assets, or improvements so certified as having an
20 estimated life or period of usefulness of one (1) year or more;
21 (b) Satisfying the requirements of KRS 65.6971; an economic development
22 project defined under KRS 154.22-010, 154.24-010, or 154.28-010; or a
23 tourism attraction project defined under KRS 148.851; or
24 (c) Satisfying the requirements of KRS 65.6972, the development of facilities for:
25 1. The transportation of goods or persons by air, ground, water, or rail;
26 2. The transmission or utilization of information through fiber-optic cable
27 or other advanced means;

1 3. Commercial, industrial, recreational, tourism attraction, or educational
2 uses; or
3 4. Any combination thereof;
4 (25) "Relocation revenue" means the ad valorem taxes, other than the school and fire
5 district portions of ad valorem taxes, from real property, Kentucky individual
6 income tax, Kentucky sales and use taxes, local insurance premium taxes,
7 occupational license fees, and other such state taxes as specified in the grant
8 contract, received by a taxing district attributable to that portion of the existing
9 operations of the primary project entity located in the Commonwealth and
10 relocating to the development area satisfying the requirements of KRS 65.6972;
11 (26) "Special fund" means a special fund created in accordance with KRS 65.688 into
12 which increments are to be deposited;
13 (27) "Taxing district" means a city, county, or other taxing district that encompasses all
14 or part of a development area, or the Commonwealth, but does not mean a school
15 district or fire district;
16 (28) "Termination date" means the date on which a development area shall cease to
17 exist, which for purposes of a development area:
18 (a) Established under KRS 65.686, shall be for a period of no longer than twenty
19 (20) years from the commencement date and set forth in the grant contract.
20 Increment bonds shall not mature on a date beyond the termination date
21 established by this paragraph; or
22 (b) Satisfying the requirements of KRS 65.6971, shall be for a period of no longer
23 than twenty (20) years from the commencement date and set forth in the grant
24 contract constituting a master agreement, except that for an addendum added
25 to the master agreement for each project in the development area, the
26 termination date may be extended to no longer than twenty (20) years from the
27 date of each addendum; or

1 (c) Satisfying the requirements of KRS 65.6972, shall be for a period of no longer
2 than twenty (20) years from the activation date of the grant contract.
3 Increment bonds shall not mature on a date beyond the termination date
4 established by this subsection;
5 (29) "Tourism development authority" means the Tourism Development Finance
6 Authority as created in KRS 148.850; and
7 (30) "Project costs" mean the total private and public capital costs of a project.
8 Section 46. KRS 148.851 is amended to read as follows:
9 As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly
10 indicates otherwise:
11 (1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS
12 148.859, on behalf of the authority and an approved company, with respect to a
13 tourism attraction project;
14 (2) "Approved company" means any eligible company approved by the secretary of the
15 Tourism Development Cabinet and the authority pursuant to KRS 148.859 that is
16 seeking to undertake a tourism attraction project;
17 (3) "Approved costs" means:
18 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
19 builders, suppliers, deliverymen, and materialmen in connection with the
20 acquisition, construction, equipping, and installation of a tourism attraction
21 project;
22 (b) The costs of acquiring real property or rights in real property and any costs
23 incidental thereto;
24 (c) The cost of contract bonds and of insurance of all kinds that may be required
25 or necessary during the course of the acquisition, construction, equipping, and
26 installation of a tourism attraction project which is not paid by the vendor,
27 supplier, deliveryman, contractor, or otherwise provided;

1 (d) All costs of architectural and engineering services, including but not limited
2 to: estimates, plans and specifications, preliminary investigations, and
3 supervision of construction and installation, as well as for the performance of
4 all the duties required by or consequent to the acquisition, construction,
5 equipping, and installation of a tourism attraction project;
6 (e) All costs required to be paid under the terms of any contract for the
7 acquisition, construction, equipping, and installation of a tourism attraction
8 project;
9 (f) All costs required for the installation of utilities, including but not limited to:
10 water, sewer, sewer treatment, gas, electricity and communications, and
11 including off-site construction of the facilities paid for by the approved
12 company; and
13 (g) All other costs comparable with those described in this subsection***, excluding***
14 ***costs subject to refund under Sections 37, 38, 39, 40, and 41 of this Act***;
15 (4) "Authority" means the Kentucky Tourism Development Finance Authority as set
16 forth in KRS 148.850;
17 (5) "Crafts and products center" means a facility primarily devoted to the display,
18 promotion, and sale of Kentucky products, and at which a minimum of eighty
19 percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or
20 agricultural products;
21 (6) "Eligible company" means any corporation, limited liability company, partnership,
22 registered limited liability partnership, sole proprietorship, business trust, or any
23 other entity operating or intending to operate a tourism attraction project, whether
24 owned or leased, within the Commonwealth that meets the standards promulgated
25 by the secretary of the Tourism Development Cabinet pursuant to KRS 148.855. An
26 eligible company may operate or intend to operate directly or indirectly through a
27 lessee;

1 (7) "Entertainment destination center" means a facility containing a minimum of two
2 hundred thousand (200,000) square feet of building space adjacent or
3 complementary to an existing tourism attraction, an approved tourism attraction
4 project, or a major convention facility, and which provides a variety of
5 entertainment and leisure options that contain at least one (1) major themed
6 restaurant and at least three (3) additional entertainment venues, including but not
7 limited to live entertainment, multiplex theaters, large format theaters, motion
8 simulators, family entertainment centers, concert halls, virtual reality or other
9 interactive games, museums, exhibitions, or other cultural and leisure time
10 activities. Entertainment and food and drink options shall occupy a minimum of
11 sixty percent (60%) of total gross area available for lease, and other retail stores
12 shall occupy no more than forty percent (40%) of the total gross area available for
13 lease;
14 (8) "Final approval" means the action taken by the authority authorizing the eligible
15 company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;
16 (9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;
17 (10) "Preliminary approval" means the action taken by the authority conditioning final
18 approval by the authority upon satisfaction by the eligible company of the
19 requirements of KRS 139.536 and KRS 148.851 to 148.860;
20 (11) "State agency" means any state administrative body, agency, department, or division
21 as defined in KRS 42.005, or any board, commission, institution, or division
22 exercising any function of the state that is not an independent municipal corporation
23 or political subdivision;
24 (12) "Theme restaurant destination attraction" means a restaurant facility that:
25 (a) Has construction, equipment, and furnishing costs in excess of five million
26 dollars ($5,000,000);
27 (b) Has an annual average of not less than fifty percent (50%) of guests who are

1 not residents of the Commonwealth;
2 (c) Is in operation and open to the public no less than three hundred (300) days
3 per year and for no less than eight (8) hours per day;
4 (d) Has food and nonalcoholic drink options that constitute a minimum of fifty
5 percent (50%) of total gross sales receipts; and
6 (e) 1. Has seating capacity of four hundred fifty (450) guests and offers live
7 music or live musical and theatrical entertainment during the peak
8 business hours that the facility is in operation and open to the public;
9 2. Within three (3) years of the completion date pursuant to KRS
10 148.859(1)(b), holds a top two (2) tier rating by a nationally accredited
11 service; or
12 3. Offers a unique dining experience that is not available in the
13 Commonwealth within a one hundred (100) mile radius of the attraction;
14 (13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment
15 facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and
16 products center, a theme restaurant destination attraction, or an entertainment
17 destination center. A tourism attraction shall not include any of the following:
18 (a) Lodging facilities, unless:
19 1. The facilities constitute a portion of a tourism attraction project and
20 represent less than fifty percent (50%) of the total approved cost of the
21 tourism attraction project, or the facilities are to be located on
22 recreational property owned or leased by the Commonwealth or federal
23 government and the facilities have received prior approval from the
24 appropriate state or federal agency;
25 2. The facilities involve the restoration or rehabilitation of a structure that
26 is listed individually in the National Register of Historic Places or are
27 located in a National Register Historic District and certified by the

1 Kentucky Heritage Council as contributing to the historic significance of
2 the district, and the rehabilitation or restoration project has been
3 approved in advance by the Kentucky Heritage Council;
4 3. The facilities involve the reconstruction, restoration, rehabilitation, or
5 upgrade of a full-service lodging facility having not less than five
6 hundred (500) guest rooms, with reconstruction, restoration,
7 rehabilitation, or upgrade costs exceeding ten million dollars
8 ($10,000,000);
9 4. The facilities involve the construction, restoration, rehabilitation, or
10 upgrade of a full-service lodging facility which is or will be an integral
11 part of a major convention or sports facility, with construction,
12 restoration, rehabilitation, or upgrade costs exceeding six million dollars
13 ($6,000,000); or
14 5. The facilities involve the construction, restoration, rehabilitation, or
15 upgrade of a lodging facility which is or will be located:
16 a. In the Commonwealth within a fifty (50) mile radius of a property
17 listed on the National Register of Historic Places with a current
18 function of recreation and culture; and
19 b. Within any of the one hundred (100) least populated counties in
20 the Commonwealth, in terms of population density, according to
21 the most recent census;
22 (b) Facilities that are primarily devoted to the retail sale of goods, other than an
23 entertainment destination center, a theme restaurant destination attraction, a
24 Kentucky crafts and products center, or a tourism attraction where the sale of
25 goods is a secondary and subordinate component of the attraction; and
26 (c) Recreational facilities that do not serve as a likely destination where
27 individuals who are not residents of the Commonwealth would remain

1 overnight in commercial lodging at or near the tourism attraction project; and
2 (14) "Tourism attraction project" or "project" means the acquisition, including the
3 acquisition of real estate by a leasehold interest with a minimum term of ten (10)
4 years, construction, and equipping of a tourism attraction; the construction, and
5 installation of improvements to facilities necessary or desirable for the acquisition,
6 construction, and installation of a tourism attraction, including but not limited to
7 surveys; installation of utilities, which may include water, sewer, sewage treatment,
8 gas, electricity, communications, and similar facilities; and off-site construction of
9 utility extensions to the boundaries of the real estate on which the facilities are
10 located, all of which are to be used to improve the economic situation of the
11 approved company in a manner that shall allow the approved company to attract
12 persons.
13 Section 47. KRS 154.12-224 is amended to read as follows:
14 (1) There is created in the Cabinet for Economic Development the Department of
15 Financial Incentives. The department shall be headed by a commissioner appointed
16 by the Governor pursuant to KRS 12.040. The department shall coordinate all
17 financial assistance, tax credit, and related programs available for business and
18 industry.
19 (2) The department shall include the following divisions, each of which shall be headed
20 by a director appointed by the secretary pursuant to KRS 12.050:
21 (a) The Grant Programs Division, which shall supervise and manage the
22 Economic Development Bond Program, as set forth in KRS 154.12-100, and
23 the Local Government Economic Development Program, as set forth in KRS
24 42.4588;
25 (b) The Direct Loan Programs Division, which shall supervise and manage the
26 Direct Loan Program of the Kentucky Economic Development Finance
27 Authority, as set forth in 307 KAR 1:020, and the Small Business Loans

1 Branch;

2 (c) The Tax Incentive Programs Division, which shall supervise and manage the
3 Kentucky Industrial Development Act Program, as set forth in KRS 154.28-
4 010 et seq., the Kentucky Jobs Development Act Program, as set forth in KRS
5 154.24-010 et seq., the Kentucky Industrial Revitalization Act Program, as set
6 forth in KRS 154.26-010 et seq., the Kentucky Rural Economic Development
7 Act Program, as set forth in KRS 154.22-010 et seq., and the Kentucky
8 Enterprise ***Initiative***~~[Zone]~~ Program, as set forth in ***Sections 36 to 44 of this***
9 ***Act***~~[KRS 154.45-001 et seq., which shall be attached to the division for~~
10 ~~administrative purposes]~~; and

11 (d) The Program Servicing Division, which shall perform auditing, monitoring,
12 and compliance functions for the Grant Programs Division, the Direct Loan
13 Programs Division, and the Tax Incentive Programs Division within the
14 Department of Financial Incentives.

15 (3) The department shall also include the following entities:

16 (a) The Kentucky investment fund, established by KRS 154.20-250 to 154.20-
17 284, which shall be attached to the department for administrative purposes
18 and staff support; and

19 (b) The Bluegrass State Skills Corporation, established by KRS 154.12-204 to
20 154.12-208, which shall be attached to the department.

21 Section 48. KRS 154.45-010 is amended to read as follows:

22 As used in ***Subchapter 45 of KRS Chapter 154***~~[KRS 154.45-020 to 154.45-110]~~, unless
23 the context otherwise requires:

24 (1) "Authority" means the Enterprise Zone Authority of Kentucky;

25 (2) "Employee" means a person who works twenty (20) hours or more per week and is
26 employed by a business located in an enterprise zone and includes a qualified
27 seasonal employee. For purposes of determining whether a qualified business

1 maintains the percentage of targeted workforce employees required by subsection
2 (8) of this section for the entire time it is certified as a qualified business, a qualified
3 seasonal employee shall be deemed to be employed for the entire calendar year;
4 (3) "Enterprise zone" means an area designated by the authority to be eligible for the
5 benefits of ***the Enterprise Zone Program***[~~KRS 154.45-020 to 154.45-110~~];
6 (4) "Establishment" means a single physical location where business is conducted or
7 where services or industrial operations are performed;
8 (5) "Existing business" means a person, corporation, or other entity engaged in the
9 active conduct of a trade or business at a location within the enterprise zone prior to
10 the date the authority designated the area as an enterprise zone;
11 (6) "Local government" means a city, county, urban-county government, or charter
12 county government;
13 (7) "New business" means a person, corporation, or other entity who was not engaged
14 in the active conduct of a trade or business in the enterprise zone prior to the date
15 the authority designated the area as an enterprise zone, and who becomes engaged
16 in the active conduct of a trade or business within the enterprise zone after the date
17 the authority designated the area as an enterprise zone;
18 (8) "Qualified business" means an existing business or new business that has been
19 certified by the authority to have at least fifty percent (50%) of its employees
20 performing substantially all of their services within an enterprise zone and meeting
21 one (1) of the following criteria:
22 (a) With a new business employing at least twenty-five percent (25%) of the
23 business's employees from the targeted workforce; or
24 (b) With an existing business creating new activity within the enterprise zone of
25 not less than a twenty percent (20%) increase in the number of employees or
26 by a twenty percent (20%) increase in capital investment within eighteen (18)
27 months from the date of application for certification as a qualified business.

1 Businesses that are certified based upon an increase in employees shall
2 employ at least twenty-five percent (25%) of the new employees from the
3 targeted workforce;
4 (9) "Qualified employee" means an employee of a qualified business;
5 (10) "Qualified seasonal employee" means a seasonal employee employed by a seasonal
6 business for at least sixty (60) days during the calendar year;
7 (11) "Seasonal business" means a business with respect to which seasonal employees
8 constitute at least eighty percent (80%) of the total number of employees of the
9 business during the calendar year. For purposes of this definition, a person shall be
10 treated as an employee only if the person is employed by the business for at least
11 sixty (60) days during the calendar year;
12 (12) "Seasonal employee" means a person who is employed by a qualified business
13 during certain seasons or during part of the calendar year; and
14 (13) "Targeted workforce" means Kentucky residents:
15 (a) Who reside within an enterprise zone; or
16 (b) Who have been unemployed for at least ninety (90) days or who have received
17 public assistance benefits, based on need and intended to alleviate poverty, for
18 at least ninety (90) days prior to employment with a qualified business.
19 (c) For the purpose of this subsection, "Kentucky resident" means a person who
20 has resided in the Commonwealth for at least ninety (90) days.
21 Section 49. KRS 154.45-050 is amended to read as follows:
22 (1) In addition to the seven (7) existing state enterprise zones, the authority may
23 designate three (3) additional state enterprise zones by December 31, 1988. In
24 deciding which areas should be designated as enterprise zones the authority shall
25 give preference to:
26 (a) Local governments that have documented the greatest commitment to the
27 goals ***of the Enterprise Zone Program***[~~established pursuant to KRS 154.45-~~

1 ~~001~~];

2 (b) Areas with the highest levels of poverty, unemployment, and general distress;
3 and

4 (c) Areas that have the greatest support from the local government seeking
5 designation, the community, residents, local business, and private
6 organizations, taking into account the resources available to the local
7 government.

8 (2) Designation of an area as an enterprise zone shall remain in effect during the period
9 beginning on the date of designation and ending on December 31 of the twentieth
10 year following designation.

11 (3) The authority shall remove the designation of an area as an enterprise zone if the
12 area no longer meets the criteria for ***average rate of unemployment, population***
13 ***density, chronic abandonment or demolition of commercial or residential***
14 ***structures, and pervasive poverty or no longer meets criteria set forth***
15 ***in***[~~designation as set out in KRS 154.45-020 to 154.45-110 or by~~] administrative
16 ***regulations***[~~regulation~~] adopted by the authority[~~ pursuant to KRS 154.45-020 to~~
17 ~~154.45-110~~]. The authority shall establish by administrative regulation a procedure
18 for revocation of the designation of an enterprise zone. The authority shall ensure
19 that local governments shall be notified in writing of the authority's intent and
20 reasons for considering revocation of the designation. The authority shall establish a
21 reasonable time frame within which the local government may correct the problems
22 cited by the authority to avoid revocation of the enterprise zone designation.

23 (4) A local government that has had an enterprise zone designation revoked shall be
24 prohibited from applying for future enterprise zone designations for at least five (5)
25 years. The authority may, by administrative regulation, extend the time frame that a
26 local government is prohibited from participating in the enterprise zone program.

27 (5) If the authority revokes the designation of an enterprise zone, it shall immediately

1 begin reviewing the applications of local governments seeking an enterprise zone
2 and designate a new area as an enterprise zone as soon as possible.
3 (6) If the authority removes the designation of an area as an enterprise zone pursuant to
4 this section, the qualified businesses within the area shall retain certification and
5 shall remain eligible to receive tax exemptions pursuant to KRS 154.45-090 until
6 December 31 of the twentieth year from the date of the original designation of the
7 area as an enterprise zone.
8 Section 50. KRS 154.45-060 is amended to read as follows:
9 (1) For the purposes of carrying out the provisions of ***the Enterprise Zone***
10 ***Program***[~~KRS 154.45-020 to 154.45-110~~], there is created the Enterprise Zone
11 Authority of Kentucky consisting of eleven (11) members. The authority shall be
12 appointed as follows: one (1) member appointed by the Governor from a list of
13 three (3) persons nominated by the Labor Management Advisory Council; one (1)
14 member appointed by the Governor from a list of three (3) persons nominated by
15 the Kentucky League of Cities; one (1) member appointed by the Governor from a
16 list of three (3) persons nominated by the Kentucky Association of Counties; one
17 (1) member appointed by the Governor who is qualified to represent the interests of
18 Kentucky's small business community; one (1) member appointed by the Governor
19 from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2)
20 members appointed by the Governor to serve at large; one (1) member appointed by
21 the Governor from a list of five (5) persons nominated by the secretary of the
22 Cabinet for Economic Development; the secretary of the Cabinet for Economic
23 Development or his designee; the secretary of the Revenue Cabinet or his designee;
24 and the secretary of the Cabinet for Families and Children or his designee.
25 (2) Authority members shall serve a term of four (4) years and, except for the secretary
26 of the Cabinet for Economic Development, the secretary of the Revenue Cabinet,
27 and the secretary of the Cabinet for Families and Children, shall not be eligible to

1 succeed themselves.

2 (3) The authority shall meet at least four (4) times per year. A majority of the total
3 authority membership shall be required to designate an area as an enterprise zone
4 and to certify businesses as qualified businesses. The authority shall keep official
5 minutes of all meetings. All members shall serve until such time as their successors
6 are qualified and appointed. Each member of the authority shall receive one
7 hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar
8 year, as compensation for attending official meetings of the authority. Each member
9 of the authority shall be reimbursed for travel expenses actually incurred in the
10 discharge of his duties on the authority.

11 (4) The Cabinet for Economic Development shall serve as staff for the authority and
12 carry out the administrative duties and functions as directed by the authority.

13 Section 51. KRS 154.45-070 is amended to read as follows:

14 The authority shall administer the provisions of ***the Enterprise Zone Program***[~~KRS~~
15 ~~154.45-020 to 154.45-110~~], and shall:

16 (1) Establish by administrative regulation a process to monitor compliance by local
17 governments and qualified businesses with the provisions of the Enterprise Zone
18 Program;

19 (2) Initiate contact and fully cooperate with the Revenue Cabinet in the collection of
20 information to determine the fiscal impact of enterprise zone tax exemptions on
21 state revenues;

22 (3) Report to the General Assembly no later than October 1 annually regarding:

23 (a) The authority's method of monitoring the Enterprise Zone Program;

24 (b) Information on the fiscal impact of enterprise zone tax exemptions on state
25 revenues;

26 (c) The authority's method of reviewing local incentives;

27 (d) Information on the number of qualified businesses per zone;

1 (e) Information on the number of requests for amendments to zone boundaries
2 and the number of amendments granted and denied; and
3 (f) Recommendations requiring state legislative action;
4 (4) Revoke designation of an area as an enterprise zone pursuant to the provisions of
5 KRS 154.45-050.
6 (5) Prohibit the certification of businesses in an enterprise zone if the local government
7 has been notified in writing by the authority of the authority's intent to revoke the
8 local government's designation as an enterprise zone. The prohibition of
9 certification of businesses shall continue until the authority officially revokes the
10 local government's enterprise zone designation, or notifies the local government in
11 writing that the problems cited by the authority have been corrected and the
12 enterprise zone designation shall not be revoked;
13 (6) Offer technical assistance and job training assistance to local governments, qualified
14 businesses, and neighborhood enterprise association corporations; and
15 (7) Aggressively review local incentives and commitments on an annual basis.
16 Section 52. KRS 131.020 is amended to read as follows:
17 (1) The Revenue Cabinet shall be organized into the following functional units:
18 (a) Office of the Secretary. The Office of the Secretary shall include the Office of
19 the Taxpayer Ombudsman, the Office of Financial and Administrative
20 Services, principal assistants and other personnel appointed by the secretary
21 pursuant to KRS Chapter 12 as are necessary to enable the secretary to
22 perform functions of the office;
23 (b) Office of Financial and Administrative Services. The Office of Financial and
24 Administrative Services shall be headed by an executive director. The
25 functions and duties of the office shall include personnel services,
26 administrative support, preparation and administration of the budget, training,
27 and asset management;

1 (c) Office of Taxpayer Ombudsman. The Office of Taxpayer Ombudsman shall
2 be headed by a taxpayer ombudsman as established by KRS 131.051(1). The
3 functions and duties of the office shall consist of those established by KRS
4 131.071;
5 (d) Department of Law. The Department of Law shall be headed by a
6 commissioner. The functions and duties of the department shall include
7 establishing Revenue Cabinet tax policies, providing information to the
8 public, conducting tax research, collecting delinquent taxes, conducting
9 conferences, administering taxpayer protests, issuing final rulings,
10 administering all activities relating to assessments issued pursuant to KRS
11 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the
12 criminal laws of the Commonwealth involving revenue and taxation, and
13 representing the cabinet in legal and administrative actions. The Department
14 of Law shall consist of the divisions of legal services, protest resolution, tax
15 policy, collections, and research;
16 (e) Department of Property Valuation. The Department of Property Valuation
17 shall be headed by a commissioner. The functions and duties of the
18 department shall include mapping, providing assistance to property valuation
19 administrators, supervising the property valuation process throughout the
20 Commonwealth, valuing the property of public service companies, valuing
21 unmined coal and other mineral resources, administering[~~ tangible and~~
22 ~~intangible~~] personal property taxes, and collecting delinquent taxes. The
23 Department of Property Valuation shall consist of the Divisions of Local
24 Valuation, State Valuation, and Technical Support;
25 (f) Department of Tax Administration. The Department of Tax Administration
26 shall be headed by a commissioner. The functions and duties of the
27 department shall include recordkeeping, conducting audits, reviewing audits,

1 rendering taxpayer assistance, and collecting delinquent taxes. The
2 Department of Tax Administration shall consist of the Divisions of Field
3 Operations, Revenue Operations, and Compliance and Taxpayer Assistance;
4 and
5 (g) Department of Information Technology. The Department of Information
6 Technology shall be headed by a commissioner. The functions and duties of
7 the department shall include the development and maintenance of technology
8 and information management systems in support of all units of the cabinet.
9 The Department of Information Technology shall consist of the Division of
10 Systems Planning and Development and the Division of Technology
11 Infrastructure Support.
12 (2) The functions and duties of the cabinet shall include conducting conferences,
13 administering taxpayer protests, and settling tax controversies on a fair and
14 equitable basis, taking into consideration the hazards of litigation to the
15 Commonwealth of Kentucky and the taxpayer. The mission of the cabinet shall be
16 to afford an opportunity for taxpayers to have an independent informal review of the
17 determinations of the audit functions of the cabinet, and to attempt to fairly and
18 equitably resolve tax controversies at the administrative level.
19 (3) Except as provided in KRS 131.190(4), the cabinet shall fully cooperate with and
20 make tax information available as prescribed under KRS 131.190(2) to the
21 Governor's Office for Economic Analysis as necessary for the office to perform the
22 tax administration function established in KRS 42.410.
23 Section 53. KRS 131.140 is amended to read as follows:
24 (1) The cabinet shall requisition the Finance and Administration Cabinet to furnish to
25 local officials an adequate supply of forms for listing property for taxation and other
26 forms and blanks the state is required by law to provide. The books and records
27 prescribed for use by property valuation administrators, county clerks, sheriffs and

1 other county tax collectors shall be designed to promote economical operation,
2 adequate control, availability of useful information, and safekeeping.~~[The forms~~
3 ~~prescribed for listing intangible property shall be designed to secure a detailed list to~~
4 ~~provide convenient checking of valuations with available sources of information,~~
5 ~~and to safeguard the confidential character of the intangible property assessment.]~~
6 (2) The cabinet may confer with, advise and direct local officials respecting their duties
7 relating to taxation, and shall supervise the officials in the performance of those
8 duties. The cabinet shall provide to the property valuation administrators up-to-date
9 appraisal manuals outlining uniform procedures for appraising all types of real and
10 personal property assessed by them. The property valuation administrators shall
11 follow the uniform procedures for appraising property outlined in these manuals.
12 The cabinet shall maintain and make accessible to all property valuation
13 administrators a statewide commercial real property comparative sales file. The
14 cabinet, by authorized agents, may visit local governmental units and officers for
15 investigational purposes, when necessary.
16 (3) The Revenue Cabinet shall conduct a biennial performance audit of each property
17 valuation administrator's office. This audit shall include, but shall not be limited to,
18 an inspection of maps and records, an appraisal study of real property, and an
19 evaluation of the overall effectiveness of the office. Each property valuation
20 administrator's office shall provide the cabinet with access to its files, maps and
21 records during the audit. The cabinet shall prepare a report on assessment equity and
22 quality for each county based on the performance audit, and shall provide a copy to
23 the Legislative Research Commission.
24 (4) The cabinet shall arrange for an annual conference of the property valuation
25 administrators, or the county officers whose duty it is to assess property for
26 taxation, to give them systematic instruction in the fair and just valuation and
27 assessment of property, and their duty in connection therewith. The conference shall

1 continue not more than five (5) days. The officers shall attend and take part in the
2 conference, unless prevented by illness or other reason satisfactory to the secretary.
3 Any officer willfully failing to attend the conference may be removed from office
4 by the Circuit Court of the county where he was elected. If the officer participates in
5 all sessions of the conference, one-half (1/2) of his actual and necessary expenses in
6 attending the conference shall be paid by the state, and the other half shall be paid
7 by the county from which he attends. Each officer shall prepare an itemized
8 statement showing his actual and necessary expenses, and if it is found regular and
9 supported by proper receipts it shall be approved by the cabinet before payment.
10 Section 54. KRS 132.010 is amended to read as follows:
11 As used in this chapter, unless the context otherwise requires:
12 (1) "Cabinet" means the Revenue Cabinet.
13 (2) "Taxpayer" means any person made liable by law to file a return or pay a tax.
14 (3) "Real property" includes all lands within this state and improvements thereon.
15 (4) "Personal property" includes every species and character of property, tangible and
16 intangible, other than real property.
17 (5) "Resident" means any person who has taken up a place of abode within this state
18 with the intention of continuing to abide in this state; any person who has had his
19 actual or habitual place of abode in this state for the larger portion of the twelve
20 (12) months next preceding the date as of which an assessment is due to be made
21 shall be deemed to have intended to become a resident of this state.
22 (6) "Compensating tax rate" means that rate which, rounded to the next higher one-
23 tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and
24 applied to the current year's assessment of the property subject to taxation by a
25 taxing district, excluding new property and personal property, produces an amount
26 of revenue approximately equal to that produced in the preceding year from real
27 property. However, in no event shall the compensating tax rate be a rate which,

1 when applied to the total current year assessment of all classes of taxable property,
2 produces an amount of revenue less than was produced in the preceding year from
3 all classes of taxable property. For purposes of this subsection, "property subject to
4 taxation" means the total fair cash value of all property subject to full local rates,
5 less the total valuation exempted from taxation by the homestead exemption
6 provision of the Constitution and the difference between the fair cash value and
7 agricultural or horticultural value of agricultural or horticultural land.
8 (7) "Net assessment growth" means the difference between:
9 (a) The total valuation of property subject to taxation by the county, city, school
10 district, or special district in the preceding year, less the total valuation
11 exempted from taxation by the homestead exemption provision of the
12 Constitution in the current year over that exempted in the preceding year, and
13 (b) The total valuation of property subject to taxation by the county, city, school
14 district, or special district for the current year.
15 (8) "New property" means the net difference in taxable value between real property
16 additions and deletions to the property tax roll for the current year. "Real property
17 additions" shall mean:
18 (a) Property annexed or incorporated by a municipal corporation, or any other
19 taxing jurisdiction; however, this definition shall not apply to property
20 acquired through the merger or consolidation of school districts, or the
21 transfer of property from one (1) school district to another;
22 (b) Property, the ownership of which has been transferred from a tax-exempt
23 entity to a nontax-exempt entity;
24 (c) The value of improvements to existing nonresidential property;
25 (d) The value of new residential improvements to property;
26 (e) The value of improvements to existing residential property when the
27 improvement increases the assessed value of the property by fifty percent

1 (50%) or more;
2 (f) Property created by the subdivision of unimproved property, provided, that
3 when such property is reclassified from farm to subdivision by the property
4 valuation administrator, the value of such property as a farm shall be a
5 deletion from that category;
6 (g) Property exempt from taxation, as an inducement for industrial or business
7 use, at the expiration of its tax exempt status;
8 (h) Property, the tax rate of which will change, according to the provisions of
9 KRS 82.085, to reflect additional urban services to be provided by the taxing
10 jurisdiction, provided, however, that such property shall be considered "real
11 property additions" only in proportion to the additional urban services to be
12 provided to the property over the urban services previously provided; and
13 (i) The value of improvements to real property previously under assessment
14 moratorium.
15 "Real property deletions" shall be limited to the value of real property removed
16 from, or reduced over the preceding year on, the property tax roll for the current
17 year.
18 (9) "Agricultural land" means:
19 (a) Any tract of land, including all income-producing improvements, of at least
20 ten (10) contiguous acres in area used for the production of livestock,
21 livestock products, poultry, poultry products and/or the growing of tobacco
22 and/or other crops including timber;
23 (b) Any tract of land, including all income-producing improvements, of at least
24 five (5) contiguous acres in area commercially used for aquaculture; or
25 (c) Any tract of land devoted to and meeting the requirements and qualifications
26 for payments pursuant to agriculture programs under an agreement with the
27 state or federal government.

1 (10) "Horticultural land" means any tract of land, including all income-producing
2 improvements, of at least five (5) contiguous acres in area commercially used for
3 the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables,
4 flowers, or ornamental plants.
5 (11) "Agricultural or horticultural value" means the use value of "agricultural or
6 horticultural land" based upon income-producing capability and comparable sales of
7 farmland purchased for farm purposes where the price is indicative of farm use
8 value, excluding sales representing purchases for farm expansion, better
9 accessibility, and other factors which inflate the purchase price beyond farm use
10 value, if any, considering the following factors as they affect a taxable unit:
11 (a) Relative percentages of tillable land, pasture land, and woodland;
12 (b) Degree of productivity of the soil;
13 (c) Risk of flooding;
14 (d) Improvements to and on the land that relate to the production of income;
15 (e) Row crop capability including allotted crops other than tobacco;
16 (f) Accessibility to all-weather roads and markets; and
17 (g) Factors which affect the general agricultural or horticultural economy, such
18 as: interest, price of farm products, cost of farm materials and supplies, labor,
19 or any economic factor which would affect net farm income.
20 (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural
21 value and the tax based on fair cash value.
22 (13) "Homestead" means real property maintained as the permanent residence of the
23 owner with all land and improvements adjoining and contiguous thereto including,
24 but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all
25 other land connected thereto.
26 (14) "Residential unit" means all or that part of real property occupied as the permanent
27 residence of the owner.

1 (15) "Special benefits" are those which are provided by public works not financed
2 through the general tax levy but through special assessments against the benefited
3 property.
4 (16) "Mobile home" means a structure, transportable in one (1) or more sections, which
5 when erected on site measures eight (8) body feet or more in width and thirty-two
6 (32) body feet or more in length, and which is built on a permanent chassis and
7 designed to be used as a dwelling, with or without a permanent foundation, when
8 connected to the required utilities, and includes the plumbing, heating, air-
9 conditioning, and electrical systems contained therein. It may be used as a place of
10 residence, business, profession, or trade by the owner, lessee, or their assigns and
11 may consist of one (1) or more units that can be attached or joined together to
12 comprise an integral unit or condominium structure.
13 (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary
14 living quarters for recreational, camping, or travel use, which either has its own
15 motive power or is mounted on or drawn by another vehicle. The basic entities are:
16 travel trailer, camping trailer, truck camper, and motor home.
17 (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide
18 temporary living quarters for recreational, camping, or travel use, and of such
19 size or weight as not to require special highway movement permits when
20 drawn by a motorized vehicle, and with a living area of less than two hundred
21 twenty (220) square feet, excluding built-in equipment (such as wardrobes,
22 closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
23 (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed
24 with collapsible partial side walls which fold for towing by another vehicle
25 and unfold at the camp site to provide temporary living quarters for
26 recreational, camping, or travel use.
27 (c) Truck camper: A portable unit constructed to provide temporary living

1 quarters for recreational, travel, or camping use, consisting of a roof, floor,
2 and sides, designed to be loaded onto and unloaded from the bed of a pick-up
3 truck.
4 (d) Motor home: A vehicular unit designed to provide temporary living quarters
5 for recreational, camping, or travel use built on or permanently attached to a
6 self-propelled motor vehicle chassis or on a chassis cab or van which is an
7 integral part of the completed vehicle.
8 ***(18) "Intangible personal property" means stocks, mutual funds, money market***
9 ***funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash,***
10 ***credits, patents, trademarks, copyrights, tobacco base, allotments, annuities,***
11 ***deferred compensation, retirement plans, and any other type of personal property***
12 ***that is not tangible personal property.***
13 ***(19) "Qualifying voluntary environmental remediation property" means real property***
14 ***subject to the provisions of KRS 224.01-400 and KRS 224.01-405 for which the***
15 ***Natural Resources and Environmental Protection Cabinet has made a***
16 ***determination that:***
17 ***(a) The responsible parties are financially unable to carry out the obligations in***
18 ***KRS 224.01-400 and KRS 224.01-405; and***
19 ***(b) The property was acquired after the effective date of this Act by a bona fide***
20 ***prospective purchaser as defined in 42 U.S.C. sec. 9601(40).***
21 Section 55. KRS 132.020 is amended to read as follows:
22 (1) ***The owner or person assessed shall pay*** an annual ad valorem tax for state
23 purposes ***at the rate*** of:
24 ***(a)*** Thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100)
25 of value of all real property directed to be assessed for taxation;~~[, and]~~
26 ***(b)*** One and one-half cents ($0.015) upon each one hundred dollars ($100) of
27 value of all privately-owned leasehold interests in industrial buildings, as

1 defined under KRS 103.200, owned and financed by a tax-exempt
2 governmental unit, or tax-exempt statutory authority under the provisions of
3 KRS Chapter 103, upon the prior approval of the Kentucky Economic
4 Development Finance Authority, except that the rate shall not apply to the
5 proportion of value of the leasehold interest created through any private
6 financing;~~[, and]~~
7 ***(c) One and one-half cents ($0.015) upon each one hundred dollars ($100) of***
8 ***value of all qualifying voluntary environmental remediation property,***
9 ***provided the bona fide prospective purchaser has obtained a covenant not to***
10 ***sue from the Natural Resources and Environmental Protection Cabinet***
11 ***under KRS 224.01-526 for all known releases located on the property. This***
12 ***rate shall apply for a period of three (3) years following the issuance of the***
13 ***covenant not to sue, after which the regular tax rate shall apply;***
14 *(d)* One and one-half cents ($0.015) upon each one hundred dollars ($100) of
15 value of all tobacco directed to be assessed for taxation;~~[, and twenty five~~
16 ~~cents ($0.25) upon each one hundred dollars ($100) of value of all money in~~
17 ~~hand, notes, bonds, accounts, and other credits, whether secured by mortgage,~~
18 ~~pledge, or otherwise, or unsecured, except as otherwise provided in subsection~~
19 ~~(2) of this section, and]~~
20 *(e)* One and one-half cents ($0.015) upon each one hundred dollars ($100) of
21 value of unmanufactured agricultural products;~~[,]~~
22 *(f)* One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value
23 of all farm implements and farm machinery owned by or leased to a person
24 actually engaged in farming and used in his farm operations;~~[,]~~
25 *(g)* One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value
26 of all livestock and domestic fowl;~~[,]~~
27 *(h)* One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value

of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;[,]

(i) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of all*** machinery actually engaged in manufacturing;[,]

(j) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of all*** commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna;[,]

(k) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of all*** property which has been certified as a pollution control facility as defined in KRS 224.01-300;[,]

(l) One-tenth of one cent ($0.001) upon ***each one hundred dollars ($100) of value of all*** property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;[,]

(m) Twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;[,]

(n) Five cents ($0.05) upon each one hundred dollars ($100) of value of goods held for sale in the regular course of business, which includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of

1 ***business;***

2 ***(o) Ten cents ($0.10) per one hundred dollars ($100) of assessed value on the***

3 ***operating property of railroads or railway companies that operate solely***

4 ***within the Commonwealth;***

5 ***(p) One and one-half cents ($0.015) per one hundred dollars ($100) of assessed***

6 ***value on aircraft not used in the business of transporting persons or***

7 ***property for compensation or hire;***

8 ***(q) One and one-half cents ($0.015) per one hundred dollars ($100) of assessed***

9 ***value on federally documented vessels not used in the business of***

10 ***transporting persons or property for compensation or hire, or for other***

11 ***commercial purposes;*** and

12 ***(r)*** Forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all

13 other property directed to be assessed for taxation shall be paid by the owner

14 or person assessed, except as provided in~~[subsection (2) of this section and]~~

15 KRS 132.030,~~[132.050,]~~ 132.200, 136.300, ***and*** 136.320,~~[and other sections]~~

16 providing a different tax rate for particular property.

17 (2) ~~[(a) An annual ad valorem tax for state purposes of one and one half cents~~

18 ~~($0.015) upon each one hundred dollars ($100) of value shall be paid upon the~~

19 ~~following classes of intangible personal properties, when the intangible~~

20 ~~personal properties have not acquired a taxable situs without this state:~~

21 ~~1. Accounts receivable, notes, bonds, credits, and any other intangible~~

22 ~~property rights arising out of or created in the course of regular and~~

23 ~~continuing business transactions substantially performed outside this~~

24 ~~state;~~

25 ~~2. Patents, trademarks, copyrights, and licensing or royalty agreements~~

26 ~~relating to these;~~

27 ~~3. Notes, bonds, accounts receivable, and all other intercompany intangible~~

1 ~~personal property due from any affiliated company; and~~
2 ~~4. Tobacco base allotments.~~
3 ~~(b) An annual ad valorem tax for state purposes of one thousandth of one percent~~
4 ~~(0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits,~~
5 ~~and other intangible assets, whether by mortgage, pledge, or otherwise, or~~
6 ~~unsecured, of financial institutions, as defined in KRS 136.500.~~
7 ~~(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and~~
8 ~~any corporation principally engaged in business outside the United States in which~~
9 ~~the owner or the person assessed directly or indirectly owns or controls not less than~~
10 ~~ten percent (10%) of the outstanding voting stock.~~
11 ~~(4) With respect to the intangible properties taxed pursuant to subsection (2) of this~~
12 ~~section, no other ad valorem tax shall be levied by the state or any county, city,~~
13 ~~school, or other taxing district on the intangible properties, or directly or indirectly~~
14 ~~against the owner.~~
15 ~~(5) Thirty cents ($0.30) of the thirty one and one half cents ($0.315) state tax rate on~~
16 ~~real property and thirty cents ($0.30) of the forty five cents ($0.45) state tax on~~
17 ~~tangible personalty subject to local taxation shall be considered as local school~~
18 ~~district tax levies for purposes of computing any direct payments of state or federal~~
19 ~~funds to said districts as replacement for ad valorem taxes lost on property acquired~~
20 ~~by a governmental agency. Should the equivalency ever be less than thirty cents~~
21 ~~($0.30), as certified by the Department of Education, the direct payments shall be~~
22 ~~reduced proportionately.~~
23 ~~(6) The provisions of subsection (1) of this section~~]Notwithstanding ***subsection (1)(a)***
24 ***of this section***, the state tax rate on real property shall be reduced to compensate for
25 any increase in the aggregate assessed value of real property to the extent that the
26 increase exceeds the preceding year's assessment by more than four percent (4%),
27 excluding***:***

1 *(a)* The ***assessment of new property as defined in KRS 132.010(8);***
2 *(b)* ***The*** assessment from property which is subject to tax increment financing
3 pursuant to KRS Chapter 65*;* and
4 *(c)* The assessment from leasehold property which is owned and financed by a
5 tax-exempt governmental unit, or tax-exempt statutory authority under the
6 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
7 one-half cents ($0.015) pursuant to subsection (1)*(b)* of this section. In any
8 year in which the aggregate assessed value of real property is less than the
9 preceding year, the state rate shall be increased to the extent necessary to
10 produce the approximate amount of revenue that was produced in the
11 preceding year from real property.
12 *(3)*[~~(7)~~] By July 1 each year, the cabinet shall compute the state tax rate applicable to
13 real property for the current year in accordance with the provisions of subsection
14 *(2)*[~~(5)~~] of this section and certify the rate to the county clerks for their use in
15 preparing the tax bills. If the assessments for all counties have not been certified by
16 July 1, the cabinet shall, when either real property assessments of at least seventy-
17 five percent (75%) of the total number of counties of the Commonwealth have been
18 determined to be acceptable by the cabinet, or when the number of counties having
19 at least seventy-five percent (75%) of the total real property assessment for the
20 previous year have been determined to be acceptable by the cabinet, make an
21 estimate of the real property assessments of the uncertified counties and compute
22 the state tax rate.
23 *(4)*[~~(8)~~] If the tax rate set by the cabinet as provided in subsection *(2)*[~~(6)~~] of this
24 section produces more than a four percent (4%) increase in real property tax
25 revenues, excluding*:*
26 ***(a) The revenue resulting from new property as defined in KRS 132.010(8);***
27 *(b)* The revenue from property which is subject to tax increment financing

1 pursuant to KRS Chapter 65; and

2 *(c)* The revenue from leasehold property which is owned and financed by a tax-
3 exempt governmental unit, or tax-exempt statutory authority under the
4 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
5 one-half cents ($0.015) pursuant to subsection (1) of this section, the rate shall
6 be adjusted in the succeeding year so that the cumulative total of each year's
7 property tax revenue increase shall not exceed four percent (4%) per year.

8 *(5)*[~~(9)~~] The provisions of subsection *(2)*[~~(6)~~] of this section notwithstanding, the
9 assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not
10 be included with the assessed value of other real property in determining the state
11 real property tax rate. All omitted unmined coal assessments made after July 1,
12 1994, shall also be excluded from the provisions of subsection *(2)*[~~(6)~~] of this
13 section. The calculated rate shall, however, be applied to unmined coal property,
14 and the state revenue shall be devoted to the program described in KRS 146.550 to
15 146.570, except that four hundred thousand dollars ($400,000) of the state revenue
16 shall be paid annually to the State Treasury and credited to the Kentucky Coal
17 Council for the purpose of public education of coal-related issues.

18 [~~(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five~~
19 ~~cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon~~
20 ~~goods held for sale in the regular course of business, which, on or after January 1,~~
21 ~~1999, includes machinery and equipment held in a retailer's inventory for sale or~~
22 ~~lease originating under a floor plan financing arrangement; and raw materials,~~
23 ~~which includes distilled spirits and distilled spirits inventory, and in process~~
24 ~~materials, which includes distilled spirits and distilled spirits inventory, held for~~
25 ~~incorporation in finished goods held for sale in the regular course of business.~~

26 ~~(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars~~
27 ~~($100) of assessed value shall be paid on the operating property of railroads or~~

1 ~~railway companies that operate solely within the Commonwealth.~~
2 ~~(12) An ad valorem tax for state purposes of one and one half cents ($0.015) per one~~
3 ~~hundred dollars ($100) of assessed value shall be paid on aircraft not used in the~~
4 ~~business of transporting persons or property for compensation or hire.~~
5 ~~(13) An ad valorem tax for state purposes of one and one half cents ($0.015) per one~~
6 ~~hundred dollars ($100) of assessed value shall be paid on federally documented~~
7 ~~vessels not used in the business of transporting persons or property for~~
8 ~~compensation or hire, or for other commercial purposes.]~~
9 Section 56. KRS 132.190 is amended to read as follows:
10 (1) ***All***[~~The~~] property ***shall be*** subject to taxation, unless ***it is*** exempted by the
11 Constitution or ***in the case of*** personal property ***unless it is*** exempted by ***the***
12 ***Constitution or by*** statute.[~~, shall be as follows:~~
13 ~~(a) All real and personal property within this state, including intangible personal~~
14 ~~property of nonresidents and corporations not organized under the laws of this~~
15 ~~state that has acquired a business situs within this state, except that~~] Twenty-
16 five (25) domestic fowl to each family shall be exempt from taxation for any
17 purpose.
18 [~~(b) All intangible personal property of individuals residing in this state and of~~
19 ~~corporations organized under the laws of this state unless it has acquired a~~
20 ~~business situs without this state.]~~
21 (2) ***All intangible personal property of corporations organized under the laws of this***
22 ***state, unless it has acquired a business situs without this state,***[~~The property~~
23 ~~enumerated in paragraph (b) of subsection (1) of this section~~] shall be considered
24 and estimated in fixing the valuation of corporate franchises.
25 (3) Property shall be assessed for taxation at its fair cash value, estimated at the price it
26 would bring at a fair voluntary sale, except[~~ the following~~]: real property qualifying
27 for an assessment moratorium shall not have its fair cash value assessment changed

while under the assessment moratorium unless the assessment moratorium expires or is otherwise canceled or revoked.

(4)[~~The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.~~

~~(5) An administrator, executor, trustee, guardian, conservator, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.~~

~~(6)~~] Nothing contained in this section shall affect the liability for franchise taxes payable

1 by corporations organized under the laws of this state; nor the method of taxation of
2 financial institutions provided in KRS 136.505; nor the method of taxation of
3 savings and loan associations provided in KRS 136.300[~~; and nothing contained in~~
4 ~~this section shall alter or repeal KRS 136.030~~].
5 Section 57. KRS 132.200 is amended to read as follows:
6 All property subject to taxation for state purposes shall also be subject to taxation in the
7 county, city, school, or other taxing district in which it has a taxable situs, except the
8 ***class***[~~classes~~] of property described in KRS 132.030[~~ and 132.050,~~] and the following
9 classes of property, which shall be subject to taxation for state purposes only:
10 (1) Farm implements and farm machinery owned by or leased to a person actually
11 engaged in farming and used in his farm operation;
12 (2) Livestock, ratite birds, and domestic fowl;
13 (3) Capital stock of savings and loan associations;
14 (4) Machinery actually engaged in manufacturing, products in the course of
15 manufacture, and raw material actually on hand at the plant for the purpose of
16 manufacture. The printing, publication, and distribution of a newspaper or operating
17 a job printing plant shall be deemed to be manufacturing;
18 (5) Commercial radio, television, and telephonic equipment directly used or associated
19 with electronic equipment which broadcasts electronic signals to an antenna;
20 however, radio or television towers not essential to the production of the wave or
21 signal broadcast shall not be included;
22 (6) Unmanufactured agricultural products. They shall be exempt from taxation for state
23 purposes to the extent of the value, or amount, of any unpaid nonrecourse loans
24 thereon granted by the United States government or any agency thereof, and except
25 that cities and counties may each impose an ad valorem tax of not exceeding one
26 and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash
27 value of all unmanufactured tobacco and not exceeding four and one-half cents

($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7)[~~Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;~~

~~(8)~~] All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(8)[~~(9)~~] Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(9)[~~(10)~~] Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(10)[~~(11)~~] On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(11)[~~(12)~~] Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;

(12)[~~(13)~~] Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be

1 construed to exempt historical motor vehicles from the usage tax imposed by KRS
2 138.460;
3 *(13)*[~~(14)~~] Property which has been certified as a fluidized bed energy production facility
4 as defined in KRS 211.390;
5 *(14)*[~~(15)~~] All motor vehicles held for sale in the inventory of a licensed motor vehicle
6 dealer, which are not currently titled and registered in Kentucky and are held on an
7 assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles
8 with a salvage title held by an insurance company;
9 *(15)*[~~(16)~~] Machinery or equipment owned by a business, industry, or organization in
10 order to collect, source separate, compress, bale, shred, or otherwise handle waste
11 materials if the machinery or equipment is primarily used for recycling purposes as
12 defined in KRS 139.095;
13 *(16)*[~~(17)~~] New farm machinery and other equipment held in the retailer's inventory for
14 sale under a floor plan financing arrangement by a retailer, as defined under KRS
15 365.800;
16 *(17)*[~~(18)~~] New boats and new marine equipment held for retail sale under a floor plan
17 financing arrangement by a dealer registered under KRS 235.220;
18 *(18)*[~~(19)~~] Aircraft not used in the business of transporting persons or property for
19 compensation or hire if an exemption is approved by the county, city, school, or
20 other taxing district in which the aircraft has its taxable situs;
21 *(19)*[~~(20)~~] Federally documented vessels not used in the business of transporting persons
22 or property for compensation or hire or for other commercial purposes, if an
23 exemption is approved by the county, city, school, or other taxing district in which
24 the federally documented vessel has its taxable situs;[~~ and~~]
25 *(20)*[~~(21)~~] Any nonferrous metal that conforms to the quality, shape, and weight
26 specifications set by the New York Mercantile Exchange's special contract rules for
27 metals, and which is located or stored in a commodity warehouse and held on

1 warrant, or for which a written request has been made to a commodity warehouse to
2 place it on warrant, according to the rules and regulations of a trading facility. In
3 this subsection:
4 (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or
5 other facility that has been designated or approved by a trading facility as a
6 regular delivery point for a commodity on contracts of sale for future delivery;
7 and
8 (b) "Trading facility" means a facility that is designated by or registered with the
9 federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et
10 seq. "Trading facility" includes the Board of Trade of the City of Chicago, the
11 Chicago Mercantile Exchange, and the New York Mercantile Exchange***; and***
12 ***(21) Qualifying voluntary environmental remediation property for a period of three***
13 ***(3) years following the issuance of a covenant not to sue by the Natural***
14 ***Resources and Environmental Protection Cabinet for all known releases located***
15 ***on the property***.
16 Section 58. KRS 132.208 is amended to read as follows:
17 ***All intangible personal property except that which is assessed under KRS 132.030 or***
18 ***KRS Chapter 136***[~~Shares of stock~~] shall be exempt from state and local ad valorem tax.
19 ***Nothing in this section shall forbid local taxation of franchises of corporations or of***
20 ***financial institutions, as provided for in KRS 136.575, or domestic life insurance***
21 ***companies.***
22 Section 59. KRS 132.220 is amended to read as follows:
23 (1) [~~Deposits belonging to a resident of Kentucky in any financial institution, as defined~~
24 ~~in KRS 136.500, and unmanufactured tobacco insofar as it is subject to taxation by~~
25 ~~KRS 132.190 and 132.200, shall be listed, assessed, and valued as of January 1 of~~
26 ~~each year. Money in hand shall be listed, assessed, and valued as of January 1 of~~
27 ~~each year. Notes, bonds, accounts, and other credits, whether secured by mortgage,~~

1 ~~pledge, or otherwise, or unsecured, and all interest in the property, unless otherwise~~
2 ~~provided by law, shall be listed, assessed, and valued as of the beginning of~~
3 ~~business on January 1 of each year.~~]All[~~ other~~] taxable property and all
4 ***interests***[~~interest~~] in[~~ other~~] taxable property, unless otherwise specifically provided
5 by law, shall be listed, assessed, and valued as of January 1 of each year. It shall be
6 the duty of all persons owning or having any interest in any real property taxable in
7 this state to list or have listed the property with the property valuation administrator
8 of the county where it is located between January 1 and March 1 in each year,
9 except as otherwise provided by law. It shall be the duty of all persons owning or
10 having any interest in any[~~ intangible personal property or~~] tangible personal
11 property taxable in this state to list or have listed the property with the property
12 valuation administrator of the county of taxable situs or with the cabinet between
13 January 1 and May 15 in each year, except as otherwise prescribed by law.[~~ The~~
14 ~~filing date for an individual's intangible property tax return may be extended to the~~
15 ~~extended federal income filing date approved by the Internal Revenue Service for~~
16 ~~that individual. If an individual extends the filing date for the intangible return, no~~
17 ~~discount shall be allowed upon the payment of the intangible tax.~~] All persons in
18 whose name property is properly assessed shall remain bound for the tax,
19 notwithstanding they may have sold or parted with it.
20 (2) Any taxpayer may list his property in person before the property valuation
21 administrator or his deputy, or may file a property tax return by first class mail. Any
22 real property correctly and completely described in the assessment record for the
23 previous year, or purchased during the preceding year and for which a value was
24 stated in the deed according to the provisions of KRS 382.135, may be considered
25 by the owner to be listed for the current year if no changes that could potentially
26 affect the assessed value have been made to the property. However, if requested in
27 writing by the property valuation administrator or by the cabinet, any real property

1 owner shall submit a property tax return to verify existing information or to provide
2 additional information for assessment purposes. Any real property which has been
3 underassessed as a result of the owner intentionally failing to provide information,
4 or intentionally providing erroneous information, shall be subject to revaluation,
5 and the difference in value shall be assessed as omitted property under the
6 provisions of KRS 132.290.
7 (3) If the owner fails to list the property, the property valuation administrator shall
8 nevertheless assess it. The property valuation administrator may swear witnesses in
9 order to ascertain the person in whose name to make the list. The property valuation
10 administrator, his employee, or employees of the cabinet may physically inspect and
11 revalue land and buildings in the absence of the property owner or resident. The
12 exterior dimensions of buildings may be measured and building photographs may
13 be taken; however, with the exception of buildings under construction or not yet
14 occupied, an interior inspection of residential and farm buildings, and of the
15 nonpublic portions of commercial buildings shall not be conducted in the absence
16 or without the permission of the owner or resident.
17 (4) Real property shall be assessed in the name of the owner, if ascertainable by the
18 property valuation administrator, otherwise in the name of the occupant, if
19 ascertainable, and otherwise to "unknown owner." The undivided real estate of any
20 deceased person may be assessed to the heirs or devisees of the person without
21 designating them by name.
22 (5) Real property tax roll entries for which tax bills have not been collected at the
23 expiration of the one (1) year tolling period provided for in KRS 134.470, and for
24 which the property valuation administrator cannot physically locate and identify the
25 real property, shall be deleted from the tax roll and the assessment shall be
26 exonerated. The property valuation administrator shall keep a record of these
27 exonerations, which shall be open under the provisions of KRS 61.870 to 61.884. If,

1 at any time, one of these entries is determined to represent a valid parcel of property
2 it shall be assessed as omitted property under the provisions of KRS 132.290.
3 Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary,
4 any loss of ad valorem tax revenue suffered by a taxing district due to the
5 exoneration of these uncollectable tax bills may be recovered through an adjustment
6 in the tax rate for the following year.
7 (6) All real property exempt from taxation by Section 170 of the Constitution shall be
8 listed with the property valuation administrator in the same manner and at the same
9 time as taxable real property. The property valuation administrator shall maintain an
10 inventory record of the tax-exempt property, but the property shall not be placed on
11 the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the
12 cabinet within thirty (30) days of the close of the listing period. This inventory shall
13 be in the form prescribed by the cabinet. The cabinet shall make an annual report
14 itemizing all exempt properties to the Governor and the Legislative Research
15 Commission within sixty (60) days of the close of the listing period.
16 (7) Each property valuation administrator, under the direction of the cabinet, shall
17 review annually all real property listed with him under subsection (6) of this section
18 and claimed to be exempt from taxation by Section 170 of the Constitution. The
19 property valuation administrator shall place on the tax rolls all property that is not
20 exempt. Any property valuation administrator who fails to comply with this
21 subsection shall be subject to the penalties prescribed in KRS 132.990(2).
22 Section 60. KRS 132.230 is amended to read as follows:
23 (1) Every person listing his property with the property valuation administrator shall
24 state:
25 (a) Each separate tract of land, with the number of acres in each tract; the value
26 per acre; each of the improvements thereon; the name of the nearest resident
27 thereto; where located, giving the election precinct in which it is located; the

1 number of each city lot and the improvements thereon, in what city, on which
2 street, the value of each, and the value of the improvements thereon to the
3 extent that they enhance the value of each lot; whether there is any land
4 adjoining his owned by a nonresident of the county or state, giving the name
5 and place of residence of any such owner, if known;
6 (b) The number of livestock, their type, species and value; ***and***
7 (c)~~[All other property including the number, denomination and fair cash value of~~
8 ~~all bonds subject to taxation owned by him with the value thereof on January~~
9 ~~1 of the year for which the assessment is made, unless otherwise provided by~~
10 ~~law; and~~
11 ~~(d)]~~ Such other facts as may be required in the blanks provided.
12 (2) An error or informality in the description or location of the property, or in the name
13 of the owner or person assessed, shall not invalidate the assessment if the property
14 can with reasonable certainty be located or identified from the description given, in
15 which case the collector may receive the taxes and by his receipt correct the error or
16 informality.
17 Section 61. KRS 132.320 is amended to read as follows:
18 (1) Any person who has failed to list for taxation~~[his intangible personal property or]~~
19 tangible personal property, in whole or in part, because he was not called upon by
20 the property valuation administrator or for any other reason, may at any time list the
21 property with the cabinet by reporting to the cabinet the full details and a correct
22 description of the omitted property and its value. The cabinet may determine and fix
23 the fair cash value, estimated at the price it would bring at a fair voluntary sale, of
24 the property so reported and listed for taxation.
25 (2) Any person dissatisfied with or aggrieved by the finding or ruling of the cabinet
26 may appeal the finding or ruling in the manner provided in KRS 131.110.
27 (3) The cabinet may promulgate administrative regulations, and develop forms for the

listing and assessment of the property assessed or to be assessed for taxation. The tax assessed shall be paid to and collected by the cabinet. Taxes collected by the cabinet on behalf of the county, school, and other local taxing districts shall be distributed to each district at least quarterly. From each distribution, the cabinet shall deduct a fee which represents an allocation of cabinet operating and overhead expenses incurred in assessing and collecting the omitted tax. The fee shall be determined by the cabinet and shall apply to all omitted taxes collected after December 31, 1997.

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest, and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission, or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the cabinet shall not apply, unless the taxpayer on an appeal from the action of the cabinet attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the cabinet, any taxpayer refuses to voluntarily list any~~[intangible or]~~ tangible personal property omitted from assessment, the cabinet shall make an estimate of the fair cash value of the omitted~~[intangible or]~~ tangible personal property from the information in its possession and assess the property for taxation and require payment of the taxes, penalties, and interest due to the state and local taxing districts from the person assessed. Notice of the assessment shall be mailed to the taxpayer or the taxpayer's agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110.

Section 62. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the Revenue Cabinet shall cause to be

1 listed for taxation all property omitted by the property valuation administrators, county
2 board of assessment appeals, cabinet or any other assessing authority, for any year
3 omitted. The agent, accountant or attorney proposing to have the property assessed shall
4 file in the office of the county clerk of the county in which the property may be liable to
5 assessment a statement containing a description and value of the property or corporate
6 franchise proposed to be assessed, the name and place of residence of the owner, his
7 agent or attorney, or person in possession of the property, if known, and the year the
8 property was unassessed. The county clerk shall thereupon issue a summons against the
9 owner, or person in possession of the property if the owner is unknown, to show cause
10 within ten (10) days after the service of the summons, why the property or corporate
11 franchise shall not be assessed at the value named in the statement filed. No decision shall
12 be rendered against the alleged owner unless the statement filed contains a description of
13 the property sought to be assessed that will enable the county judge/executive to identify
14 it. The summons shall be executed by the sheriff by delivering a copy thereof to the
15 owner, or if he is not in the county to his agent, attorney or person in possession of the
16 property. If the property is real property, and the owner is known but is absent from the
17 state and has no attorney or agent in this state and no one is in possession of the property,
18 the summons shall be served by posting it in a conspicuous place upon the property; if the
19 property consists of tangible personal property the summons shall be placed in a
20 conspicuous place where the property is located. In the case of tangible~~[and intangible]~~
21 personal property, where the owner and his place of residence are unknown and no one
22 (1) has possession of the property, an action for assessment shall be instituted by filing
23 the petition above mentioned and procuring constructive service against the owner under
24 the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of
25 the above cases an attachment of the property omitted from assessment may be procured
26 from the District Court against the owner, at the time of the institution of the action or
27 thereafter, and without the execution of a bond by the Commonwealth or its relator, by

1 the representative of the Revenue Cabinet making an affidavit that the property described
2 in the petition is subject to state, county, school or other taxing district tax, and is
3 unassessed for any taxable year.

4 Section 63. KRS 132.360 is amended to read as follows:

5 (1) Any assessment of~~[accounts receivable, notes, or bonds or other intangible or]~~
6 tangible personal property~~[that were]~~ listed with the property valuation
7 administrator or with the Revenue Cabinet as provided by KRS 132.220 may be
8 reopened by the Revenue Cabinet within five (5) years after the due date of the
9 return, unless the assessed value~~[thereof is the face value in the case of accounts~~
10 ~~receivable and notes or the quoted value in the case of bonds, or]~~ has been
11 established by a court of competent jurisdiction. If upon reopening the assessment
12 the cabinet finds that the assessment was less than the fair cash value and should be
13 increased, it shall give notice thereof to the taxpayer, who may within forty-five
14 (45) days thereafter protest to the cabinet and offer evidence to show that no
15 increase should be made. After the cabinet has disposed of the protest, the taxpayer
16 may appeal from any such additional assessment as provided by KRS 131.110 and
17 131.340.

18 (2) Upon such assessment becoming final the cabinet shall certify the amount due to the
19 taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the
20 additional tax shall be subject to the same penalties and interest as the tax on
21 omitted property voluntarily listed.

22 Section 64. KRS 132.450 is amended to read as follows:

23 (1) Each property valuation administrator shall assess at its fair cash value all property
24 which it is his duty to assess except as provided in paragraph (c) of subsection (2) of
25 this section.~~[In the case of securities which are regularly bought and sold through~~
26 ~~stock exchanges, the price at which such property closed on the last regular business~~
27 ~~day preceding the assessment day shall be prima facie evidence of the fair cash~~

1 ~~value of such property.]~~ The property of one (1) person shall not be assessed
2 willfully or intentionally at a lower or higher relative value than the same class of
3 property of another, and any grossly discriminatory valuation shall be construed as
4 an intentional discrimination. The property valuation administrator shall make every
5 effort, through visits with the taxpayer, personal inspection of the property, from
6 records, from his own knowledge, from information in property schedules, and from
7 such other evidence as he may be able to obtain, to locate, identify, and assess
8 property.
9 (2) (a) In determining the total area of land devoted to agricultural or horticultural
10 use, there shall be included the area of all land under farm buildings,
11 greenhouses and like structures, lakes, ponds, streams, irrigation ditches and
12 similar facilities, and garden plots devoted to growth of products for on-farm
13 personal consumption but there shall be excluded, land used in connection
14 with dwelling houses including, but not limited to, lawns, drives, flower
15 gardens, swimming pools, or other areas devoted to family recreation. Where
16 contiguous land in agricultural or horticultural use in one (1) ownership is
17 located in more than one (1) county or taxing district, compliance with the
18 minimum requirements shall be determined on the basis of the total area of
19 such land and not the area of land which is located in the particular county or
20 taxing district.
21 (b) Land devoted to agricultural or horticultural use, where the owner or owners
22 have petitioned for, and been granted, a zoning classification other than for
23 agricultural or horticultural purposes qualifies for the agricultural or
24 horticultural assessment until such time as the land changes from agricultural
25 or horticultural use to the use granted by the zoning classification.
26 (c) When the use of a part of a tract of land which is assessed as agricultural or
27 horticultural land is changed either by conveyance or other action of the

owner, the right of the remaining land to be retained in the agricultural or horticultural assessment shall not be impaired provided it meets the minimum requirements, except the minimum ten (10) contiguous acre requirement shall not be applicable if any portion of the agricultural or horticultural land has been acquired for a public purpose as long as the remaining land continues to meet the other requirements of this section.

(d) When in the opinion of the property valuation administrator any land has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

(3) When land which has been valued and taxed as agricultural land for five (5) or more consecutive years under the same ownership fails to qualify for the classification through no other action on the part of the owner or owners other than ceasing to farm the land, the land shall retain its agricultural classification for assessment and taxation purposes. Classification as agricultural land shall expire upon change of use by the owner or owners or upon conveyance of the property to a person other than a surviving spouse.

(4) If the property valuation administrator assesses any property~~[, except stocks and bonds at the market value listed in recognized publications,]~~ at a greater value than that listed by the taxpayer or assesses unlisted property, the property valuation administrator shall serve notice on the taxpayer of such action. The notice shall be given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

(5) Any taxpayer may designate on the property schedule any property which he does not consider to be subject to taxation, and it shall be the duty of the property

1 valuation administrator to obtain and follow advice from the cabinet relative to the
2 taxability of such property.
3 Section 65. KRS 132.486 is amended to read as follows:
4 (1) The Revenue Cabinet shall develop and administer a centralized ad valorem
5 assessment system for[~~ intangible personal property and~~] tangible personal property.
6 This system shall be designed to provide on-line computer terminals and accessory
7 equipment in every property valuation administrator's office in the state in order to
8 create and maintain a centralized personal property tax roll database.
9 (2)[~~ State income tax returns and return preparation instructions shall be revised to~~
10 ~~facilitate the preparation of the personal property tax return; however, the personal~~
11 ~~property tax return shall be a separate document and shall be listed with the property~~
12 ~~valuation administrator in the county of taxable situs according to the provisions of~~
13 ~~KRS 132.220(1) or with the Revenue Cabinet. The Revenue Cabinet shall~~
14 ~~promulgate administrative regulations and develop forms for the listing and~~
15 ~~assessment of personal property.~~
16 ~~(3)~~] Appeals of personal property assessments shall not be made to the county board of
17 assessment appeals. Personal property taxpayers shall be served notice under the
18 provisions of KRS 132.450(4) and shall have the protest and appeal rights granted
19 under the provision of KRS 131.110.
20 *(3)*[~~(4)~~] No appeal shall delay the collection or payment of taxes based upon the
21 assessment in controversy. The taxpayer shall pay all state, county, and district taxes
22 due on the valuation which the taxpayer claims as the true value as stated in a
23 protest filed under KRS 131.110. When the valuation is finally determined upon
24 appeal, the taxpayer shall be billed for any additional tax and interest at the tax
25 interest rate as defined in KRS 131.010(6), from the date the tax would have
26 become due if no appeal had been taken. The provisions of KRS 134.390 shall
27 apply to the tax bill.

1 Section 66. KRS 132.570 is amended to read as follows:

2 [~~(1)~~]No person shall willfully make a false statement[~~, or, to avoid taxation, make a~~
3 ~~temporary investment in securities exempt from taxation, or convert any intangible~~
4 ~~property into nontaxable property outside of this state,~~] or resort to any device to evade
5 taxation. Any person doing so shall be subject to three (3) times the amount of tax upon
6 his property, to be recovered by the sheriff by action in the name of the Commonwealth in
7 the county in which the property is liable for taxation, or by the Revenue Cabinet, when
8 the taxes are payable to it, in the Franklin Circuit Court.

9 [~~(2) No person shall transfer or assign of record any mortgage note, bond or other~~
10 ~~evidence of indebtedness, secured by any recorded instrument, for the sole purpose~~
11 ~~of evading the taxes thereon.~~]

12 SECTION 67. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO
13 READ AS FOLLOWS:

14 ***(1) A transient room tax shall be imposed at a rate of one percent (1%) of the rent for***
15 ***every occupancy of any suite, room, rooms, or cabins charged by all persons,***
16 ***companies, corporations, groups, or organizations doing business as motor***
17 ***courts, motels, hotels, inns, tourist camps or like or similar accommodations***
18 ***businesses. As used in this subsection, rent shall not include any other local or***
19 ***state taxes paid by the person or entity renting the accommodations.***

20 ***(2) The tax imposed by subsection (1) of this section shall not apply to the rental or***
21 ***lease of any room or set of rooms that is equipped with a kitchen, in an apartment***
22 ***building, and that is usually leased as a dwelling for a period of thirty (30) days***
23 ***or more by an individual or business that regularly holds itself out as exclusively***
24 ***providing apartments.***

25 SECTION 68. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO
26 READ AS FOLLOWS:

27 ***(1) On or before the twentieth day of every month, a taxpayer subject to the tax***

1 *provided in Section 67 of this Act shall submit a return and the tax due for the*
2 *preceding month to the Revenue Cabinet, in a form prescribed by the cabinet. To*
3 *facilitate administration, the cabinet may permit or require returns or tax*
4 *payments for other periods. Upon written request received on or before the due*
5 *date, the cabinet may extend the filing or tax payment due date up to thirty (30)*
6 *days.*
7 *(2) The Revenue Cabinet shall examine and audit each return as soon as practicable*
8 *after it is received. If the tax computed by the cabinet is greater than the tax paid*
9 *by the taxpayer, the cabinet shall assess the excess within four (4) years from the*
10 *filing deadline, including any extensions granted. If the taxpayer failed to file a*
11 *return or filed a fraudulent return, then the excess may be assessed at any time.*
12 *(3) A taxpayer may request a refund or credit for any overpayment of tax under*
13 *Section 67 of this Act within four (4) years after the tax due date, including any*
14 *extensions granted. The request shall be made to the Revenue Cabinet in writing*
15 *and shall state the amount requested, the applicable period, the basis for the*
16 *request, and any other information the cabinet reasonably requires.*
17 *(4) Any tax not paid on or before its due date shall bear interest at the tax interest*
18 *rate provided in KRS 131.183 from the date due until the date of payment. If an*
19 *extension is granted, and the tax is not paid within the extension period, then*
20 *interest shall accrue from the original due date.*
21 SECTION 69. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO
22 READ AS FOLLOWS:
23 *Notwithstanding any other provision of law to the contrary, the president, vice*
24 *president, secretary, treasurer, manager, partner, or any other person holding any*
25 *equivalent office or position in any corporation, limited liability company, or registered*
26 *limited liability partnership subject to Sections 67 and 68 of this Act shall be personally*
27 *and individually liable, both jointly and severally, for the tax imposed under Section 67*

1 *of this Act. Dissolution, withdrawal of the corporation, company, or partnership from*
2 *the state, or the cessation of holding any office shall not discharge the liability of any*
3 *person. The liability shall attach at the time the tax becomes or became due. No person*
4 *shall be held liable under this section if the person did not have authority to collect,*
5 *truthfully account for, or pay over the tax at the time it became due. "Taxes" as used*
6 *in this section shall include interest accrued under KRS 131.183 and all applicable*
7 *penalties imposed under this chapter or KRS 131.180, 131.410 to 131.445, and*
8 *131.990.*
9 SECTION 70. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO
10 READ AS FOLLOWS:
11 *(1) There is hereby created and established in the State Treasury a trust and*
12 *agency account to be known as the tourism, meeting, and convention*
13 *marketing fund. The fund shall be administered by the Tourism*
14 *Development Cabinet, with the approval of the Governor's Office for Policy*
15 *and Management.*
16 *(2) All tax receipts from the tax imposed under Section 67 of this Act shall be*
17 *deposited into the tourism, meeting, and convention marketing fund, and*
18 *shall be appropriated for the purposes set forth in subsection (3) of this*
19 *section. The fund shall also contain any other money contributed, allocated,*
20 *or appropriated to it from any other source. Money in the fund shall be*
21 *invested by the Finance and Administration Cabinet in instruments*
22 *authorized under KRS 42.500. Investment proceeds shall be deposited to the*
23 *credit of the fund. Money in the fund shall not lapse but shall be carried*
24 *forward to the next fiscal year or biennium.*
25 *(3) The tourism, meeting, and convention marketing fund shall be used for the sole*
26 *purpose of marketing and promoting tourism in the Commonwealth including*
27 *expenditures to market and promote events and venues related to meetings,*

1 ***conventions, trade shows, cultural activities, historical sites, recreation,***
2 ***entertainment, natural phenomena, areas of scenic beauty, craft marketing, and***
3 ***any other economic activity that brings tourists and visitors to the***
4 ***Commonwealth. Marketing and promoting tourism shall not include***
5 ***expenditures on capital construction projects.***
6 ***(4) By September 1 of each year, the secretary of the Tourism Development Cabinet***
7 ***shall report to the Governor and the Legislative Research Commission***
8 ***concerning the receipts, expenditures, and carryforwards of the fund for the***
9 ***preceding fiscal year.***
10 SECTION 71. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO
11 READ AS FOLLOWS:
12 ***Sections 67 to 71 of this Act may be cited as the Kentucky Tourism, Meeting, and***
13 ***Convention Marketing Act.***
14 Section 72. KRS 139.200 is amended to read as follows:
15 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross
16 receipts derived from:
17 (1) Retail sales, regardless of the method of delivery, made within this Commonwealth;
18 and
19 (2) The furnishing of the following:
20 (a) The rental of any room or rooms, lodgings, or accommodations furnished by
21 any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which
22 rooms, lodgings, or accommodations are regularly furnished to transients for a
23 consideration. The tax shall not apply to rooms, lodgings, or accommodations
24 supplied for a continuous period of thirty (30) days or more to a person;
25 (b) Sewer services;
26 (c) The sale of admissions except those taxed under KRS 138.480;
27 (d) ***Prepaid calling service, which means the right to access exclusively***

1 ***communications services, which are paid for in advance and which enable***
2 ***the origination of calls using an access number or authorization code,***
3 ***whether manually or electronically dialed, and that is sold in predetermined***
4 ***units or dollars of which the number declines in a known amount with use;***
5 *(e)* Communications service to a service address in this state, other than mobile
6 telecommunications services as defined in KRS 139.195, regardless of where
7 those services are billed or paid, when the communications service:
8 1. Originates and terminates in this state;
9 2. Originates in this state; or
10 3. Terminates in this state; and
11 *(f)*[~~(e)~~] Mobile telecommunications services as defined in KRS 139.195, to a
12 purchaser whose place of primary use is in this state.
13 Section 73. KRS 139.340 is amended to read as follows:
14 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
15 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
16 give to the purchaser a receipt therefor in the manner and form prescribed by the
17 cabinet. The taxes collected or required to be collected by the retailer under this
18 section shall be deemed to be held in trust for and on account of the Commonwealth
19 of Kentucky.
20 (2) "Retailer engaged in business in this state" as used in this chapter includes any of
21 the following:
22 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,
23 directly or indirectly, or through a subsidiary ***or any other related entity,***
24 ***representative***, or agent, by whatever name called, an office, place of
25 distribution, sales or sample room or place, warehouse or storage place, or
26 other place of business. Property owned by a person who has contracted with a
27 printer for printing, which consists of the final printed product, property which

1 becomes a part of the final printed product, or copy from which the printed
2 product is produced, and which is located at the premises of the printer, shall
3 not be deemed to be an office, place of distribution, sales or sample room or
4 place, warehouse or storage place, or other place of business maintained,
5 occupied, or used by the person;
6 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
7 operating in this state under the authority of the retailer or its subsidiary for
8 the purpose of selling, delivering, or the taking of orders for any tangible
9 personal property. An unrelated printer with which a person has contracted for
10 printing shall not be deemed to be a representative, agent, salesman,
11 canvasser, or solicitor for the person;
12 (c) Any retailer soliciting orders for tangible personal property from residents of
13 this state on a continuous, regular, or systematic basis in which the solicitation
14 of the order, placement of the order by the customer or the payment for the
15 order utilizes the services of any financial institution, telecommunication
16 system, radio or television station, cable television service, print media, or
17 other facility or service located in this state;
18 (d) Any retailer deriving receipts from the lease or rental of tangible personal
19 property situated in this state;~~[or]~~
20 (e) Any retailer soliciting orders for tangible personal property from residents of
21 this state on a continuous, regular, systematic basis if the retailer benefits from
22 an agent ***or representative*** operating in this state under the authority of the
23 retailer to repair or service tangible personal property sold by the retailer***; or***
24 ***(f) Any retailer located outside Kentucky that uses a representative in***
25 ***Kentucky, either full-time or part-time, if the representative performs any***
26 ***activities that help establish or maintain a marketplace for the retailer,***
27 ***including receiving or exchanging returned merchandise***.

1 Section 74. KRS 243.884 is amended to read as follows:
2 (1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine,
3 or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and
4 distilled spirits at the rate of ***eleven***[~~nine~~] percent ***(11%)***[~~(9%)~~] and upon all
5 distributors of beer at the rate of ***eleven***[~~nine~~] percent ***(11%)***[~~(9%)~~] of the gross
6 receipts of any such wholesaler or distributor derived from "sales at wholesale" or
7 "wholesale sales" made within the Commonwealth except as provided in subsection
8 (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt
9 beverages shall pay and report the tax levied by this section on or before the 20th
10 day of the calendar month next succeeding the month in which possession or title of
11 the distilled spirits, wine or malt beverages is transferred from the wholesaler or
12 distributor to retailers or consumers in this state, in accordance with rules and
13 regulations of the Revenue Cabinet designed reasonably to protect the revenues of
14 the Commonwealth.
15 (2) Gross receipts from sales at wholesale or wholesale sales shall not include the
16 following sales:
17 (a) Sales made between wholesalers or between distributors;
18 (b) Sales made by a small winery or farm winery or wholesaler of wine produced
19 by a small winery or farm winery, if the grapes, grape juice, other fruits, other
20 fruit juices, or honey from which the wine is made are produced in Kentucky;
21 (c) Until June 30, 2004, sales from a small winery or wholesaler of wine
22 produced by a small winery, if the grapes, grape juice, other fruits, other fruit
23 juices, or honey from which the wine is made are not produced in Kentucky.
24 Section 75. KRS 144.132 is amended to read as follows:
25 (1) Subject to the provisions of subsection (2) of this section, any certificated air carrier
26 which is engaged in the air transportation of persons or property for hire shall be
27 entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel,

1 including jet fuel, purchased after June 30, 2000, as determined under subsection
2 (2) of this section.
3 (2) For fiscal years beginning after June 30, 2000, certificated air carriers shall pay the
4 first one million dollars ($1,000,000) in Kentucky sales and use tax due that is
5 applicable to the purchase of aircraft fuel, including jet fuel. ***The one million***
6 ***dollars ($1,000,000) shall be increased to reflect the sales and use tax on aviation***
7 ***fuel attributable to operations of any other company when such company is***
8 ***purchased, merged, acquired, or otherwise combined with the certificated air***
9 ***carrier after the base period. The increase shall be based on the tax applicable to***
10 ***aircraft fuel purchased during the twelve (12) month period immediately***
11 ***preceding the purchase, merger, or other acquisition by or in combination with***
12 ***the certificated air carrier.*** The sales and use tax credit shall be an amount equal to
13 the Kentucky sales and use tax otherwise applicable to the purchase of aircraft fuel,
14 including jet fuel, purchased by the certificated air carrier during each fiscal year
15 beginning after June 30, 2000, in excess of one million dollars ($1,000,000).
16 (3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which
17 Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one
18 million dollars ($1,000,000) shall report and pay directly to the Revenue Cabinet
19 the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for
20 storage use or other consumption during the fiscal year.
21 (4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant
22 to this section shall file an annual sales and use tax reconciliation report with the
23 Revenue Cabinet on or before October 15 of the fiscal year following the fiscal year
24 for which the credit is claimed. The report shall be filed as provided in KRS
25 144.137.
26 Section 76. KRS 160.483 is amended to read as follows:
27 *(1)* The license fees imposed under KRS 160.482 to 160.488 on businesses, trades,

occupations, and professions shall be at a single, uniform percentage rate not to exceed one-half of one percent (0.5%) of (a) salaries, wages, and commissions, and other compensations earned by persons within the county for work done and services performed or rendered in the county, and (b) the net profits of all businesses, trades, occupations, and professions, for activities conducted in the county. The license fees, once imposed, shall continue from year to year until changed as prescribed in KRS 160.484.

(2) No public service company which pays an ad valorem tax is required to pay a license fee hereunder.

(3) (a) It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on the effective date of this section for providers of multichannel video programming services or communications services as defined in Section 89 of this Act that were taxed under KRS 136.120 prior to the effective date of this section.

(b) To further this intent, no company providing multichannel video programming services or communications services as defined in Section 89 of this Act shall be required to pay a license fee. If only a portion of an entity's business is providing multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.

(4) No license fee shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in

1 this state, any savings and loan association whether state or federally chartered.
2 ***(5) No license fee shall be imposed***~~[, or]~~ upon income received by members of the
3 Kentucky National Guard for active duty training, unit training assemblies, and
4 annual field training, or upon income received by precinct workers for election
5 training or work at election booths in state, county, and local primary, regular, or
6 special elections.
7 ***(6)*** No license tax shall be collected from any individual who is not a resident of the
8 county of the tax-levying authority imposing the tax.
9 Section 77. KRS 134.060 is amended to read as follows:
10 ~~[Except as provided in subsection (5) of KRS 132.190,]~~The holder of the legal title, the
11 holder of the equitable title, and the claimant or bailee in possession of the property on
12 the assessment date provided by law shall be liable for taxes thereon; but, as between
13 themselves, the holder of the equitable title shall list the property and pay the taxes
14 thereon, whether the property is in possession or not at the time of the payment.
15 Section 78. KRS 134.810 is amended to read as follows:
16 (1) All state, county, city, urban-county government, school, and special taxing district
17 ad valorem taxes shall be due and payable on or before the earlier of the last day of
18 the month in which registration renewal is required by law for a motor vehicle
19 renewed or the last day of the month in which a vehicle is transferred.
20 (2) All state, county, city, urban-county government, school, and special taxing district
21 ad valorem taxes due on motor vehicles shall become delinquent following the
22 earlier of the end of the month in which registration renewal is required by law or
23 the last day of the second calendar month following the month in which a vehicle
24 was transferred.
25 (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be
26 subject to a penalty of three percent (3%) on the taxes due. However, this penalty
27 shall be waived if the tax bill is paid within five (5) days of the tax bill being

1 declared delinquent. Any taxes which are not paid within thirty (30) days of
2 becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes
3 due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on
4 said taxes and penalty from the date of delinquency. A penalty or interest shall not
5 accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.
6 (4) When a motor vehicle has been transferred before registration renewal or before
7 taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on
8 January 1 of any year shall be liable for the taxes on the motor vehicle, except as
9 hereinafter provided.
10 (5) If an owner obtains a certificate of registration for a motor vehicle valid through the
11 last day of his second birth month following the month and year in which he applied
12 for a certificate of registration, all state, county, city, urban-county government,
13 school, and special tax district ad valorem tax liabilities arising from the assessment
14 date following initial registration shall be due and payable on or before the last day
15 of the first birth month following the assessment date or date of transfer, whichever
16 is earlier. Any taxes due under the provisions of this subsection and not paid as set
17 forth above shall be considered delinquent and subject to the same interest and
18 penalties found in subsection (3) of this section.
19 (6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a
20 licensed Kentucky dealer and all motor vehicles with a salvage title held by an
21 insurance company on January 1 of any year shall not be taxed as a motor vehicle
22 pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for
23 sale in the regular course of business under the provisions of KRS
24 132.020***(1)(m)***[~~(10)~~] and 132.220.
25 (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor
26 vehicle becomes delinquent, the state and each county, city, urban-county
27 government, or other taxing district shall have a lien on all motor vehicles owned or

1 acquired by the person who owned the motor vehicle at the time the tax liability
2 arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle
3 transferred while the taxes are due on that vehicle. For the purpose of delinquent ad
4 valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be
5 attached to another vehicle owned by the lessor.
6 (8) The lien required by subsection (7) of this section shall be filed and released by the
7 automatic entry of appropriate information in the AVIS database. For the filing and
8 release of each lien or set of liens arising from motor vehicle ad valorem property
9 tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax
10 account. The fee shall be collected and retained by the county clerk who collects the
11 delinquent tax.
12 (9) The implementation of the automated lien system provided in this section shall not
13 affect the manner in which commercial liens are recorded or released.
14 Section 79. KRS 132.990 is amended to read as follows:
15 (1) Any person who willfully fails to supply the property valuation administrator or the
16 Revenue Cabinet with a complete list of his property and such facts with regard
17 thereto as may be required or who violates any of the provisions of KRS 132.570
18 shall be fined not more than five hundred dollars ($500).
19 (2) Any property valuation administrator who willfully fails or neglects to perform any
20 duty legally imposed upon him shall be fined not more than five hundred dollars
21 ($500) for each offense.
22 (3) Any county clerk who willfully fails or neglects to perform any duty required of him
23 by KRS 132.480[~~ or by KRS 132.490~~] shall be fined not more than fifty dollars
24 ($50) for each offense.
25 (4) Any person who willfully falsifies application for exemption or who fails to notify
26 the property valuation administrator of any changes in qualifying requirements
27 under the provision of KRS 132.810 shall be fined not more than five hundred

1 dollars ($500).

2 Section 80. KRS 138.130 is amended to read as follows:

3 As used in KRS 138.130 to 138.205, unless the context requires otherwise:

4 (1) "Cabinet" means the Revenue Cabinet.

5 (2) "Manufacturer" means any person who manufactures or produces cigarettes***, snuff,***
6 ***or other tobacco products*** within or without this state.

7 (3) "Retailer" means any person who sells to a consumer or to any person for any
8 purpose other than resale.

9 (4) "Sale at retail" ***means***~~[shall mean]~~ a sale to any person for any other purpose other
10 than resale.

11 (5) "Cigarettes" ***means***~~[shall mean and include]~~ any roll for smoking made wholly or in
12 part of tobacco, or any substitute for tobacco, irrespective of size or shape and
13 whether or not ***the***~~[such]~~ tobacco is flavored, adulterated or mixed with any other
14 ingredient, the wrapper or cover of which is made of paper or any other substance or
15 material, excepting tobacco.

16 (6) "Sale" or "sell" ***means***~~[shall mean]~~ any transfer for a consideration, exchange,
17 barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes***,***
18 ***other tobacco products, or snuff,*** and distribution in any manner or by any means
19 whatsoever.

20 (7) "Tax evidence" ***means***~~[shall mean and include]~~ any stamps, metered impressions or
21 other indicia prescribed by the cabinet by regulation as a means of denoting the
22 payment of tax.

23 (8) "Person" ***means***~~[shall mean and include]~~ any individual, firm, copartnership, joint
24 venture, association, municipal or private corporation whether organized for profit
25 or not, ***the*** Commonwealth of Kentucky or any of its political subdivisions, ***an***
26 estate, trust or any other group or combination acting as a unit, and the plural as
27 well as the singular.

1 (9) "Resident wholesaler" ***means***[~~shall mean~~] any person who purchases at least
2 seventy-five percent (75%) of all cigarettes***, other tobacco products, or snuff***
3 purchased by ***the wholesaler***[~~him~~] directly from the[~~ cigarette~~] manufacturer on
4 which the[~~ cigarette~~] tax provided for in KRS 138.130 to 138.205 is unpaid, and
5 who maintains an established place of business in this state where ***the***
6 ***wholesaler***[~~he~~] attaches cigarette tax evidence, or receives untaxed cigarettes***, other***
7 ***tobacco products, or snuff***.
8 (10) "Nonresident wholesaler" ***means***[~~shall mean~~] any person who purchases cigarettes***,***
9 ***other tobacco products, or snuff*** directly from the manufacturer and maintains a
10 permanent location or locations outside this state where Kentucky cigarette tax
11 evidence is attached or from where Kentucky cigarette tax is reported and paid.
12 (11) "Sub-jobber" ***means***[~~shall mean~~] any person who purchases cigarettes***, other***
13 ***tobacco products, or snuff*** from a wholesaler licensed under KRS 138.195 on
14 which the ***tax imposed by KRS 138.140***[~~Kentucky cigarette tax~~] has been paid and
15 makes them available to retailers for resale. No person shall be deemed to make
16 cigarettes***, other tobacco products, or snuff*** available to retailers for resale unless
17 ***the***[~~such~~] person certifies and establishes to the satisfaction of the cabinet that firm
18 arrangements have been made to regularly supply at least five (5) retail locations
19 with Kentucky tax-paid cigarettes***, other tobacco products, or snuff*** for resale in the
20 regular course of business.
21 (12) "Vending machine operator" ***means***[~~shall mean~~] any person who operates one (1) or
22 more cigarette***, other tobacco products, or snuff*** vending machines.
23 (13) "Transporter" ***means***[~~shall mean~~] any person transporting untax-paid cigarettes***,***
24 ***other tobacco products, or snuff*** obtained from any source to any destination
25 within this state, other than cigarettes***, other tobacco products, or snuff*** transported
26 by the manufacturer thereof.
27 (14) "Unclassified acquirer" ***means***[~~shall mean~~] any person in this state who acquires

1 cigarettes, ***other tobacco products, or snuff*** from any source on which the ***tax***
2 ***imposed by KRS 138.140***[~~Kentucky cigarette tax~~] has not been paid, and who is not
3 a person otherwise required to be licensed under the provisions of KRS 138.195.
4 ***(15) "Other tobacco products" means cigars, cheroots, stogies, periques, granulated,***
5 ***plug cut, crimp cut, ready rubbed, and other smoking tobacco, cavendish, plug***
6 ***and twist tobacco, fine-cut, and other chewing tobacco, shorts, refuse scraps,***
7 ***clippings, cuttings and sweepings of tobacco, and other kinds and forms of***
8 ***tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or***
9 ***otherwise, or both for chewing or smoking but does not include cigarettes as***
10 ***defined in subsection (5) of this section, or snuff.***
11 ***(16) "Wholesale sale" means a sale made for the purpose of resale in the regular***
12 ***course of business.***
13 Section 81. KRS 138.140 is amended to read as follows:
14 *(1)* A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of
15 three cents ($0.03) on each twenty (20) cigarettes. This tax shall be paid only once,
16 regardless of the number of times the cigarettes may be sold in this state.
17 ***(2) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in***
18 ***subsection (1) of this section at a proportionate rate of twenty-six cents ($0.26) on***
19 ***each twenty (20) cigarettes. This tax shall be paid only once, at the same time the***
20 ***tax imposed by subsection (1) of this section is paid, regardless of the number of***
21 ***times the cigarettes may be sold in the state.***
22 ***(3) (a) Effective August 1, 2005, a tax shall be imposed upon all wholesalers of***
23 ***other tobacco products at the rate of seven and one-half percent (7.5%) of***
24 ***the gross receipts of any wholesaler derived from wholesale sales made***
25 ***within the Commonwealth.***
26 ***(b) This tax shall be paid only once, regardless of the number of times the***
27 ***tobacco product may be sold in the state.***

1 *(4) Effective August 1, 2005, a tax shall be imposed upon all wholesalers of snuff at*
2 *a rate of nine and one-half cents ($0.095) per unit. As used in this section unit*
3 *means a hard container not capable of containing more than one and one-half*
4 *(1-1/2) ounce.*
5 *In determining the quantity subject to the tax under this subsection, if a package*
6 *on which the tax is levied, contains more than an individual unit, the taxable*
7 *quantity shall be calculated by multiplying the total number of individual units by*
8 *the rate set in this subsection. The tax imposed under this subsection shall be*
9 *paid only once, regardless of the number of times the snuff may be sold in this*
10 *state.*
11 *(5) The General Assembly recognizes that increasing taxes on tobacco products*
12 *should reduce consumption, and therefore result in healthier lifestyles for*
13 *Kentuckians. The relative taxes on tobacco products proposed in this section*
14 *reflect the growing data from scientific studies suggesting that although*
15 *smokeless tobacco poses some risks, those health risks are significantly less than*
16 *the risks posed by other forms of tobacco products. Moreover, the General*
17 *Assembly acknowledges that some in the public health community recognize that*
18 *tobacco harm reduction should be a complementary public health strategy*
19 *regarding tobacco products. Taxing tobacco products according to relative risk is*
20 *a rational tax policy and may well serve the public health goal of reducing*
21 *smoking-related mortality and morbidity and lowering health care costs*
22 *associated with tobacco-related disease.*
23 SECTION 82. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED
24 TO READ AS FOLLOWS:
25 *Every retailer, resident wholesaler, nonresident wholesaler and unclassified acquirer*
26 *shall:*
27 *(1) Take a physical inventory of all cigarettes in packages bearing Kentucky tax*

1 *stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in*
2 *their control at 11:59 p.m. on May 31, 2005. Inventory of cigarettes in vending*
3 *machines may be accomplished by:*
4 *(a) Taking an actual physical inventory;*
5 *(b) Estimating the cigarettes in vending machines by reporting one-half (1/2) of*
6 *the normal fill capacity of the machines, as reflected in individual inventory*
7 *records maintained for vending machines; or*
8 *(c) Using a combination of the methods in prescribed paragraphs (a) and (b) of*
9 *this subsection;*
10 *(2) File a return with the Revenue Cabinet on or before June 10, 2005, showing the*
11 *entire wholesale and retail inventories of cigarettes in packages bearing Kentucky*
12 *tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or*
13 *in their control at 11:59 p.m. on May 31, 2005; and*
14 *(3) Pay a floor stock tax at a rate equal to that imposed by KRS 138.140(2), with the*
15 *calculation based upon a proportionate rate of twenty-six cents ($0.26) on each*
16 *twenty (20) cigarettes in packages bearing a Kentucky tax stamp and unaffixed*
17 *Kentucky tax stamps in their possession or control at 11:59 p.m. on May 31,*
18 *2005.*
19 *(a) The tax imposed by this section shall be paid in three (3) equal installments,*
20 *with the first installment to be remitted with the return on or before June*
21 *10, 2005. The second installment shall be paid on or before July 10, 2005,*
22 *and the third installment shall be paid on or before August 10, 2005.*
23 *(b) Interest shall not be imposed against any outstanding installment payment*
24 *not yet due from any retailer, resident wholesaler, nonresident wholesaler*
25 *or unclassified acquirer who files the return and makes payments as*
26 *required under this section. Any retailer, resident wholesaler, nonresident*
27 *wholesaler or unclassified acquirer who fails to file a return or make a*

1 ***payment on or before the dates provided in this section shall, in addition to***
2 ***the tax, pay interest at the tax interest rate as defined in KRS 131.010(6)***
3 ***from the date on which the return was required to be filed.***
4 Section 83. KRS 138.146 is amended to read as follows:
5 (1) The[~~ cigarette~~] tax imposed by KRS 138.130 to 138.205 shall be due when any
6 licensed wholesaler or unclassified acquirer takes possession within this state of
7 untax-paid cigarettes.
8 (2) The tax shall be paid by the purchase of stamps by a resident wholesaler within
9 forty-eight (48) hours after the ***wholesaler receives the*** cigarettes[~~ are received by~~
10 ~~him~~]. A stamp shall be affixed to each package of an aggregate denomination not
11 less than the amount of the tax ***on the package***[~~upon the contents thereof~~]. The
12 ***affixed*** stamp[~~, so affixed,~~] shall be prima facie evidence of payment of tax. Unless[~~
13 such~~] stamps have been previously affixed, they shall be[~~ so~~] affixed by each
14 resident wholesaler prior to the delivery of any cigarettes to a retail location or any
15 person in this state. The evidence of tax payment shall be affixed to each individual
16 package of cigarettes by a nonresident wholesaler prior to the introduction or
17 importation of the cigarettes into the territorial limits of this state. The evidence of
18 tax payment shall be affixed by an unclassified acquirer within twenty-four (24)
19 hours after the cigarettes are received by ***the unclassified acquirer***[~~him~~].
20 (3) The cabinet shall by regulation prescribe the form of cigarette tax evidence, the
21 method and manner of the sale and distribution of[~~ such~~] cigarette tax evidence, and
22 the method and manner that ***tax***[~~such~~] evidence shall be affixed to the cigarettes.
23 All cigarette tax evidence prescribed by the cabinet shall be designed and furnished
24 in a fashion to permit identification of the person that affixed the cigarette tax
25 evidence to the particular package of cigarettes, by means of numerical rolls or
26 other mark on the cigarette tax evidence. The cabinet shall maintain for at least
27 three (3) years information identifying the person that affixed the cigarette tax

1 evidence to each package of cigarettes. This information shall not be kept
2 confidential or exempt from disclosure to the public through open records.
3 (4) *(a)* Units of cigarette tax evidence shall be sold at their face value, but the cabinet
4 shall allow as compensation to any licensed wholesaler an amount of tax
5 evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of
6 tax evidence purchased at face value ***and attributable to the tax assessed in***
7 ***subsection (1) of Section 81 of this Act. No compensation shall be allowed***
8 ***for tax evidence purchased at face value attributable to the tax assessed in***
9 ***subsection (2) of Section 81 of this Act.***
10 ***(b) 1. Notwithstanding the provisions of paragraph (a) of this subsection, for***
11 ***purposes of offsetting the costs associated with paying the tax imposed***
12 ***under subsection (2) of Section 81 of this Act, the cabinet shall allow a***
13 ***limited amount of compensation in addition to the compensation***
14 ***provided in paragraph (a) for a restricted time to any licensed***
15 ***wholesaler. The additional compensation shall be an amount of tax***
16 ***evidence, attributable to the tax assessed in subsection (1) of Section***
17 ***81 of this Act, equal to twelve cents ($0.12) face value for each three***
18 ***dollars ($3) of tax evidence purchased at face value on or after June 1,***
19 ***2005, and before December 1, 2005. The additional compensation***
20 ***provided shall sunset 12 midnight November 30, 2005.***
21 ***2. During the six (6) month period beginning on June 1, 2005, and***
22 ***ending before December 1, 2005, no licensed wholesaler or stamping***
23 ***agent shall receive the additional compensation provided under***
24 ***subparagraph 1. of this subsection on the purchase of an amount of***
25 ***stamps over one hundred fifty percent (150%) of the total number of***
26 ***stamps purchased by the same licensed wholesaler or stamping agent***
27 ***for the period beginning on December 1, 2004, and ending before May***

1 ***31, 2005***.

2 ***(c)*** The cabinet shall have the power to withhold compensation ***as provided in***
3 ***paragraphs (a) and (b) of this subsection*** from any licensed wholesaler for
4 failure to abide by any provisions of KRS 138.130 to 138.205 or any
5 regulations promulgated thereunder. Any refund or credit for unused cigarette
6 tax evidence shall be reduced by the amount allowed as compensation at the
7 time of purchase.

8 (5) No tax evidence may be affixed, or used in any way, by any person other than the
9 person purchasing ***the***[~~such~~] evidence from the cabinet.[~~ Such~~] Tax evidence may
10 not be transferred or negotiated, and may not, by any scheme or device, be given,
11 bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be
12 returned to the cabinet for credit or refund for any reason satisfactory to the cabinet.

13 (6) In the event any retailer shall receive into his possession cigarettes to which
14 evidence of Kentucky tax payment is not properly affixed, he shall within twenty-
15 four (24) hours notify the cabinet of such fact. Such notice shall be in writing, and
16 shall give the name of the person from whom such cigarettes were received, and the
17 quantity of such cigarettes, and such written notice may be given to any field agent
18 of the cabinet. The written notice may also be directed to the secretary of revenue,
19 Frankfort, Kentucky. If such notice is given by means of the United States mail, it
20 shall be sent by certified mail. Any such cigarettes shall be retained by such retailer,
21 and not sold, for a period of fifteen (15) days after giving the notice provided in this
22 subsection. The retailer may, at his option, pay the tax due on any such cigarettes
23 according to rules and regulations to be prescribed by the cabinet, and proceed to
24 sell the same after such payment.

25 (7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time
26 be commingled with cigarettes on which the Kentucky cigarette tax evidence has
27 been affixed, but any licensed wholesaler, licensed sub-jobber, or licensed vending

1 machine operator may hold cigarettes stamped with the tax evidence of another
2 state for any period of time, subsection (2) of this section notwithstanding.
3 Section 84. KRS 138.165 is amended to read as follows:
4 (1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-
5 paid cigarettes held, owned, possessed, or in control of any person other than as
6 provided in KRS 138.130 to 138.205 are contraband and subject to seizure and
7 forfeiture as set out in this section.
8 (2) Whenever any peace officer of this state, or any representative of the cabinet, finds
9 any untax-paid cigarettes within the borders of this state in the possession of any
10 person other than a licensee authorized to possess untax-paid cigarettes by the
11 provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized
12 and stored in a depository to be selected by the officer or agent. At the time of
13 seizure, the officer or agent shall deliver to the person in whose custody the
14 cigarettes are found a receipt for the cigarettes. The receipt shall state on its face
15 that any inquiry concerning any goods seized shall be directed to the secretary of
16 revenue, Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall
17 notify the secretary of revenue of the nature and quantity of the goods seized. Any
18 seized goods shall be held for a period of twenty (20) days and if after such period
19 no person has claimed the cigarettes as his property, the secretary shall cause the
20 same to be exposed to public sale to any person authorized to purchase untax-paid
21 cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All
22 proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State
23 Treasury for general fund purposes.
24 (3) It is declared to be the legislative intent that any vending machine used for
25 dispensing cigarettes on which Kentucky cigarette tax has not been paid is
26 contraband and subject to seizure and forfeiture. In the event any peace officer or
27 agent of the cabinet finds any vending machine within the borders of this state

1 dispensing untax-paid cigarettes, he shall immediately seize the vending machine
2 and store the same in a safe place selected by him. He shall thereafter proceed as
3 provided in subsection (2) of this section and the secretary of revenue shall cause
4 the vending machine to be sold, and the proceeds applied, as set out in subsection
5 (2) of this section.
6 (4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been
7 paid, shall be transported within this state by any person other than a manufacturer
8 or a person licensed under the provisions of KRS 138.195. It is declared to be the
9 legislative intent that any motor vehicle used to transport any such cigarettes by
10 other persons is contraband and subject to seizure and forfeiture. ***If***[~~In the event~~]
11 any peace officer or agent of the cabinet finds any such motor vehicle, ***the vehicle***
12 ***shall be seized immediately and stored in a safe place***[~~he shall immediately seize~~
13 ~~the motor vehicle and store it in a safe place specified by him~~]. ***The peace officer or***
14 ***agent of the department***[~~He~~] shall thereafter proceed as provided in subsection (2)
15 of this section and the secretary of revenue shall cause the motor vehicle to be sold,
16 and the proceeds applied, as set out in subsection (2) of this section.
17 (5) The owner or any person having an interest in any goods, machines or vehicles
18 seized as provided under subsections (1) to (4) of this section may apply to the
19 secretary of revenue for remission of the forfeiture for good cause shown. If it is
20 shown to the satisfaction of the Revenue Cabinet that the owner was without fault
21 in the possession, dispensing or transportation of the untax-paid cigarettes, ***the***
22 ***Revenue Cabinet***[~~he~~] shall remit the forfeiture. ***If the Revenue Cabinet***[~~In the event~~
23 ~~he~~] determines that the possession, dispensing or transportation of untax-paid
24 cigarettes was willful or intentional ***the Revenue Cabinet***[~~he~~] may nevertheless
25 remit the forfeiture on condition that the owner pay a penalty to be prescribed by ***the***
26 ***Revenue Cabinet***[~~him~~] of not more than fifty percent (50%) of the value of the
27 ***property***[~~thing~~] forfeited. All taxes due on untax-paid cigarettes shall be paid in

1 addition to the penalty, if any.
2 (6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky
3 Board of Tax Appeals in the manner provided by law.
4 Section 85. KRS 138.195 is amended to read as follows:
5 (1) No person other than a manufacturer shall acquire cigarettes in this state on which
6 the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler,
7 nonresident wholesaler, vending machine operator, sub-jobber, transporter or
8 unclassified acquirer of such cigarettes without first obtaining a license from the
9 cabinet as set out in this section.
10 (2) Each resident wholesaler shall secure a separate license for each place of business at
11 which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky
12 cigarette tax has not been paid are received. Each nonresident wholesaler shall
13 secure a separate license for each place of business at which evidence of Kentucky
14 cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid.
15 Such a license or licenses shall be secured on or before July 1 of each year, and each
16 licensee shall pay the sum of five hundred dollars ($500) for each such year or
17 portion thereof for which such license is secured.
18 (3) Each sub-jobber shall secure a separate license for each place of business from
19 which Kentucky tax-paid cigarettes are made available to retailers, whether such
20 place of business is located within or without this state. Such license or licenses
21 shall be secured on or before July 1 of each year, and each licensee shall pay the
22 sum of five hundred dollars ($500) for each such year or portion thereof for which
23 such license is secured.
24 (4) Each vending machine operator shall secure a license for the privilege of dispensing
25 Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on
26 or before July 1 of each year, and each licensee shall pay the sum of twenty-five
27 dollars ($25) for each year or portion thereof for which such license is secured. No

1 vending machine shall be operated within this Commonwealth without having
2 prominently affixed thereto the name of its operator, together with the license
3 number assigned to such operator by the cabinet. The cabinet shall prescribe by
4 regulation the manner in which the information shall be affixed to the vending
5 machine.
6 (5) Each transporter shall secure a license for the privilege of transporting cigarettes
7 within this state. Such license shall be secured on or before July 1 of each year, and
8 each licensee shall pay the sum of fifty dollars ($50) for each such year or portion
9 thereof for which such license is secured. No transporter shall transport any
10 cigarettes without having in actual possession an invoice or bill of lading therefor,
11 showing the name and address of the consignor and consignee, the date acquired by
12 the transporter, the name and address of the transporter, the quantity of cigarettes
13 being transported, together with the license number assigned to such transporter by
14 the cabinet.
15 (6) Each unclassified acquirer shall secure a license for the privilege of acquiring
16 cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall
17 be secured on or before July 1 of each year, and each licensee shall pay the sum of
18 fifty dollars ($50) for each such year or portion thereof for which such license is
19 secured.
20 (7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the cabinet from
21 requiring a person to purchase more than one (1) license if the nature of such
22 person's business is so diversified as to justify such requirement.
23 (8) The cabinet may by regulation require any person licensed under the provisions of
24 this section to supply such information concerning his business, sales or any
25 privilege exercised, as is deemed reasonably necessary for the regulation of such
26 licensees, and to protect the revenues of the state. Failure on the part of such
27 licensee to comply with the provisions of KRS 138.130 to 138.205 or any

1 regulations promulgated thereunder, or to permit an inspection of premises,
2 machines or vehicles by an authorized agent of the cabinet at any reasonable time
3 shall be grounds for the revocation of any license issued by the cabinet, after due
4 notice and a hearing by the cabinet. The secretary of revenue may assign a time and
5 place for such hearing and may appoint a conferee who shall conduct a hearing,
6 receive evidence and hear arguments. Such conferee shall thereupon file a report
7 with the secretary together with a recommendation as to the revocation of such
8 license. From any revocation made by the secretary of revenue on such report, the
9 licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as
10 provided by law. Any person whose license has been revoked for the willful
11 violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any
12 license provided for in this section, or have any interest in any such license, either
13 disclosed or undisclosed, either as an individual, partnership, corporation or
14 otherwise, for a period of one (1) year after such revocation.
15 (9) No license issued pursuant to the provisions of this section shall be transferable or
16 negotiable except that a license may be transferred between an individual and a
17 corporation, if that individual is the exclusive owner of that corporation, or between
18 a subsidiary corporation and its parent corporation.
19 (10) Every manufacturer located or doing business in this state shall keep written records
20 of all shipments of cigarettes***, other tobacco products, or snuff*** to persons within
21 this state, and shall submit reports of such shipments as the cabinet may require by
22 regulation.
23 (11) No person licensed under this section except nonresident wholesalers shall either
24 sell to or purchase from any other such licensee untax-paid cigarettes.
25 ***(12) Wholesalers of other tobacco products and snuff shall pay and report the tax***
26 ***levied by subsections (3) and (4) of Section 81 of this Act on or before the***
27 ***twentieth day of the calendar month following the month in which the possession***

1 *or title of the other tobacco products or smokeless tobacco products are*
2 *transferred from the wholesaler to retailers or consumers in this state. The*
3 *Revenue Cabinet shall promulgate administrative regulations setting forth the*
4 *details of the reporting requirements.*
5 *(13) A tax return shall be filed for each reporting period whether or not tax is due.*
6 SECTION 86. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED
7 TO READ AS FOLLOWS:
8 *(1) Notwithstanding any other provision of this chapter to the contrary, the president,*
9 *vice president, secretary, treasurer, or any other person holding any equivalent*
10 *corporate office of any corporation subject to the provisions of KRS 138.130 to*
11 *138.205 shall be personally and individually liable, both jointly and severally, for*
12 *the taxes imposed under KRS 138.130 to 138.205.*
13 *(2) Corporate dissolution, withdrawal of the corporation from the state, or the*
14 *cessation of holding any corporate office shall not discharge the liability of any*
15 *person. The personal and individual liability shall apply to every person holding a*
16 *corporate office at the time the tax becomes or became due.*
17 *(3) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS*
18 *362.220(2) to the contrary, the managers of a limited liability company and the*
19 *partners of a registered limited liability partnership or any other person holding*
20 *any equivalent office of a limited liability company or a registered limited liability*
21 *partnership subject to the provisions of KRS 138.130 to 138.205 shall be*
22 *personally and individually liable, both jointly and severally, for the tax imposed*
23 *under KRS 138.130 to 138.205.*
24 *(4) Dissolution, withdrawal of the limited liability company or registered limited*
25 *liability partnership from the state, or the cessation of holding any office shall not*
26 *discharge the liability of any person. The personal and individual liability shall*
27 *apply to every manager of a limited liability company and partner of a registered*

1 ***limited liability partnership at the time the tax becomes or became due.***
2 ***(5) No person shall be personally and individually liable under this section who had***
3 ***no authority to collect, truthfully account for, or pay over any tax imposed by***
4 ***KRS 138.130 to 138.205 at the time the tax imposed becomes or became due.***
5 ***(6) "Taxes" as used in this section include interest accrued at the rate provided by***
6 ***KRS 131.183, all applicable penalties imposed under the provisions of this***
7 ***chapter, and all applicable penalties imposed under the provisions of KRS***
8 ***131.180, 131.410 to 131.445, and 131.990.***
9 Section 87. KRS 248.652 is amended to read as follows:
10 There is established in the State Treasury a permanent and perpetual fund to be known as
11 the "Agricultural Diversification and Development Fund" to which shall be credited any
12 increase in the cigarette excise tax levied under KRS 138.140***(1)*** subsequent to July 15,
13 1998; gifts; bequests; endowments; grants from the United States government, its
14 agencies and instrumentalities; any funds from the tobacco settlement agreement or
15 related federal legislation for tobacco farmers or tobacco-dependent communities
16 specifically appropriated to this fund by the General Assembly from the fund created in
17 KRS 248.654; and funds received from any other sources, public or private. The fund
18 shall be administered by the Agricultural Diversification and Development Council
19 created under KRS 248.650.
20 SECTION 88. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
21 READ AS FOLLOWS:
22 ***The General Assembly hereby finds that the enactment of the tax and distribution***
23 ***system created by Sections 88 to 118 and 119 of this Act:***
24 ***(1) Addresses an important state interest in providing a fair, efficient and uniform***
25 ***method for taxing communications services sold in this Commonwealth;***
26 ***(2) Overcomes limitations placed upon the taxation of communications service by***
27 ***federal legislation that has resulted in inequities and unfairness among providers***

1 *and consumers of similar services in the Commonwealth;*
2 *(3) Simplifies an existing system that includes a myriad of levies, fees and rates*
3 *imposed at all levels of government making it easier for communications*
4 *providers to understand and comply with the provisions of the law;*
5 *(4) Provides enough flexibility to address future changes brought about by industry*
6 *deregulation, convergence of service offerings, and continued technological*
7 *advances in communications; and*
8 *(5) Enhances administrative efficiency for communications service providers, the*
9 *state, and local governments by drastically reducing the number of returns that*
10 *must be filed and processed on an annual basis.*
11 SECTION 89. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
12 READ AS FOLLOWS:
13 *As used in Sections 88 to 118 of this Act:*
14 *(1) "Cabinet" means the Revenue Cabinet;*
15 *(2) "Cable service" means the provision of video, audio, or other programming*
16 *service to purchasers, and the purchaser interaction, if any, required for the*
17 *selection or use of the video or other programming service, regardless of whether*
18 *the programming is transmitted over facilities owned or operated by the provider*
19 *or by one (1) or more other communications service providers. Included in this*
20 *definition are basic, extended, and premium service, pay-per-view service, digital*
21 *or other music services, and other similar services;*
22 *(3) "Communications service" means the provision, transmission, conveyance, or*
23 *routing, for consideration, of voice, data, video, or any other information signals*
24 *of the purchaser's choosing to a point or between or among points specified by*
25 *the purchaser, by or through any electronic, radio, light, fiber-optic, or similar*
26 *medium or method now in existence or later devised.*
27 *(a) "Communications service" includes but is not limited to:*

1 *1. Local and long-distance telephone services;*
2 *2. Telegraph and teletypewriter services;*
3 *3. Prepaid calling services, and postpaid calling services;*
4 *4. Private communications services involving a direct channel*
5 *specifically dedicated to a customer's use between specific points;*
6 *5. Channel services involving a path of communications between two (2)*
7 *or more points;*
8 *6. Data transport services involving the movement of encoded*
9 *information between points by means of any electronic, radio, or other*
10 *medium or method;*
11 *7. Caller ID services, voice mail and other electronic messaging services;*
12 *8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7);*
13 *and*
14 *9. Voice over Internet Protocol (VOIP);*
15 *(b) "Communications services" do not include information services, cable*
16 *service or satellite broadcast and wireless cable service;*
17 *(4) "End user" means the person who utilized the multichannel video programming*
18 *service. In the case of an entity, "end user" means the individual who used the*
19 *service on behalf of the entity;*
20 *(5) "Engaged in business" means:*
21 *(a) Having any employee, representative, agent, salesman, canvasser, or*
22 *solicitor operating in this state, under the authority of the provider, its*
23 *subsidiary, or related entity, for the purpose of selling, delivering, taking*
24 *orders, or performing any activities that help establish or maintain a*
25 *marketplace for the provider;*
26 *(b) Maintaining, occupying, or using permanently or temporarily, directly or*
27 *indirectly, or through a subsidiary or any other related entity, agent or*

1 *representative, by whatever name called, an office, place of distribution,*
2 *sales or sample room or place, warehouse or storage place, or other place of*
3 *business;*
4 *(c) Having real or tangible personal property in this state;*
5 *(d) Providing communications service by or through a customer's facilities*
6 *located in this state;*
7 *(e) Soliciting orders from residents of this state on a continuous, regular, or*
8 *systematic basis in which the solicitation of the order, placement of the*
9 *order by the customer or payment of the order utilizes the services of any*
10 *financial institution, communications system, radio or television station,*
11 *cable service, direct broadcast satellite or wireless cable service, print media,*
12 *or other facility or service located in this state; or*
13 *(f) Soliciting orders from residents of this state on a continuous regular,*
14 *systematic basis if the provider benefits from an agent or representative*
15 *operating in this state under the authority of the provider to repair or*
16 *service tangible personal property sold by the retailer;*
17 *(6) "Gross revenues" means all amounts received in money, credits, property, or*
18 *other money's worth in any form, by a provider for furnishing multichannel*
19 *video programming service or communications service in this state excluding*
20 *amounts received from:*
21 *(a) Charges for Internet access as provided in the federal Internet Tax*
22 *Nondiscrimination Act, 47 U.S.C. sec. 151; and*
23 *(b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the*
24 *United States or any state or local political subdivision upon the purchase,*
25 *sale, use, or other consumption of communications services or*
26 *multichannel video programming services that is permitted or required to be*
27 *added to the sales price of the communications service or multichannel*

1 *video programming service. This exclusion does not include any amount*
2 *that the provider has retained as a reimbursement for collecting and*
3 *remitting the tax to the appropriate taxing jurisdiction in a timely manner;*
4 *(7) "In this state" means within the exterior limits of the Commonwealth of*
5 *Kentucky and includes all territory within these limits owned by or ceded to the*
6 *United States of America;*
7 *(8) "Multichannel video programming service" means cable service and satellite*
8 *broadcast and wireless cable service;*
9 *(9) "Person" means and includes any individual, firm, corporation, joint venture,*
10 *association, social club, fraternal organization, general partnership, limited*
11 *partnership, limited liability partnership, limited liability company, nonprofit*
12 *entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative,*
13 *assignee, governmental unit or agency, or any other group or combination acting*
14 *as a unit;*
15 *(10) "Place of primary use" means the street address where the end user's use of the*
16 *multichannel video programming service primarily occurs;*
17 *(11) "Political subdivision" means a city, county, urban-county government,*
18 *consolidated local government, or charter county government;*
19 *(12) "Provider" means any person receiving gross revenues for the provision of*
20 *multichannel video programming service or communications service in this state;*
21 *(13) "Purchaser" means the person paying for multichannel video programming*
22 *service;*
23 *(14) "Resale" means the purchase of a multichannel video programming service by a*
24 *provider required to collect the tax levied by Section 90 of this Act for sale, or*
25 *incorporation into a multichannel video programming service for sale, including*
26 *but not limited to:*
27 *(a) Charges paid by multichannel video programming service providers for*

1 *transmission of video or other programming by another provider over*
2 *facilities owned or operated by the other provider; and*
3 *(b) Charges for use of facilities for providing or receiving multichannel video*
4 *programming services;*
5 *(15) "Retail purchase" means any purchase of a multichannel video programming*
6 *service for any purpose other than resale;*
7 *(16) "Sale" means the furnishing of a multichannel video programming service for*
8 *consideration;*
9 *(17) (a) "Sales price" means the total amount billed by or on behalf of a provider*
10 *for the sale of multichannel video programming services in this state valued*
11 *in money, whether paid in money or otherwise, without any deduction on*
12 *account of the following:*
13 *1. Any charge attributable to the connection, movement, change, or*
14 *termination of a multichannel video programming service; or*
15 *2. Any charge for detail billing;*
16 *(b) "Sales price" does not include any of the following:*
17 *1. Charges for installation, reinstallation, or maintenance of wiring or*
18 *equipment on a customer's premises;*
19 *2. Charges for the sale or rental of tangible personal property;*
20 *3. Charges for billing and collection services provided to another*
21 *multichannel video programming service provider;*
22 *4. Bad check charges;*
23 *5. Late payment charges;*
24 *6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by*
25 *the United States or any state or local political subdivision, upon the*
26 *purchase, sale, use, or consumption of any multichannel video*
27 *programming service, that is permitted or required to be added to the*

1 *sales price of the multichannel video programming service; or*

2 *7. Internet access as provided in the federal Internet Tax*

3 *Nondiscrimination Act, 47 U.S.C. sec. 151;*

4 *(18) "Satellite broadcast and wireless cable service" means point-to-point or point-to-*

5 *multipoint distribution services that include, but are not limited to, direct*

6 *broadcast satellite service and multichannel multipoint distribution services, with*

7 *programming or voice transmitted or broadcast by satellite, microwave, or any*

8 *other equipment directly to the purchaser's premises. Included in this definition*

9 *are basic, extended, and premium service, pay-per-view service, digital or other*

10 *music services, two (2) way service, and other similar services;*

11 *(19) "School district" means a school district as defined in KRS 160.010 and 160.020;*

12 *and*

13 *(20) "Special district" means a special district as defined in KRS 65.005(1)(a) that*

14 *currently levies on any provider or its customers the public service corporation*

15 *property tax under KRS 136.120.*

16 SECTION 90. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO

17 READ AS FOLLOWS:

18 *(1) An excise tax is hereby imposed on the retail purchase of multichannel video*

19 *programming service provided to a person whose place of primary use is in this*

20 *state, regardless of where or to whom those services are billed or paid.*

21 *(2) The multichannel video programming excise tax rate shall be three percent (3%)*

22 *of the sales price charged for multichannel video programming service that is*

23 *billed on or after January 1, 2006.*

24 *(3) Providers shall source multichannel video programming services to the end*

25 *user's place of primary use.*

26 SECTION 91. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO

27 READ AS FOLLOWS:

1 *(1) The tax imposed by Section 90 of this Act shall be collected by every provider*
2 *engaged in business in this state from the purchaser. To the extent that the*
3 *provisions of KRS Chapter 279 are inconsistent with the provisions of Sections 88*
4 *to 118 of this Act, Sections 88 to 118 of this Act shall control. The provider shall*
5 *give the purchaser a receipt for the tax collected. The provider shall separately*
6 *state the tax billed from all other charges on the receipt.*
7 *(2) Every purchaser is liable for the tax imposed by Section 90 of this Act. The*
8 *liability is not extinguished until the tax has been paid to this state, except that a*
9 *receipt from a provider registered under Section 97 of this Act reflecting that the*
10 *provider has billed the tax, with evidence that the purchaser has paid the tax, is*
11 *sufficient to relieve the purchaser from further liability for the tax to which the*
12 *receipt refers.*
13 *(3) The tax or any part thereof required by this section to be collected by the*
14 *multichannel video programming service provider from the purchaser shall:*
15 *(a) Be deemed to be held in trust by the provider for and on account of the*
16 *Commonwealth of Kentucky; and*
17 *(b) Constitute a debt owed by the provider to this state.*
18 SECTION 92. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
19 READ AS FOLLOWS:
20 *There are excluded from the tax imposed by Section 90 of this Act:*
21 *(1) Multichannel video programming services the purchase of which is prohibited*
22 *from taxation under the Constitution or laws of the United States;*
23 *(2) Multichannel video programming services purchased by any cabinet, department,*
24 *bureau, commission, board, or other statutory or constitutional agency of the*
25 *state, and multichannel video programming services purchased by counties,*
26 *cities, schools, or special districts as defined in KRS 65.005. This exclusion shall*
27 *apply only to purchases for use solely in the governmental function. A purchaser*

1 *not qualifying as a governmental agency or unit shall not be entitled to the*
2 *exemption even though the purchaser may be the recipient of public funds or*
3 *grants; and*
4 *(3) Multichannel video programming services purchased by resident, nonprofit*
5 *educational, charitable, and religious institutions which have qualified for*
6 *exemption from income taxation under Section 501(c)(3) of the Internal Revenue*
7 *Code, provided that the service is to be used solely within the educational,*
8 *charitable, or religious function of the institution.*
9 SECTION 93. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
10 READ AS FOLLOWS:
11 *To prevent actual multistate taxation of a multichannel video programming service*
12 *subject to taxation under Section 90 of this Act, any provider or purchaser, upon proof*
13 *that the provider or purchaser has paid a tax in another state on the same*
14 *multichannel video programming service, shall be allowed a credit against the tax*
15 *imposed by Section 90 of this Act to the extent of the amount of the tax legally paid in*
16 *the other state.*
17 SECTION 94. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
18 READ AS FOLLOWS:
19 *A provider is authorized to take as a deduction from the tax due under Section 90 of*
20 *this Act the amount of multichannel video programming excise tax paid in a prior*
21 *reporting period on any debt or account receivable arising from the sale of*
22 *multichannel video programming service that has become worthless and charged off*
23 *for income tax purposes. If any charged-off multichannel video programming excise*
24 *tax is thereafter in whole or in part collected by the provider, the amount so collected*
25 *shall be included in the first return filed after collection.*
26 SECTION 95. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
27 READ AS FOLLOWS:

1 *To reimburse the provider for the cost of collecting and remitting the tax imposed*
2 *under Section 90 of this Act, the provider may deduct on each return one and three-*
3 *fourths percent (1.75%) of the first one thousand dollars ($1,000) of tax due and one*
4 *percent (1%) of the tax due in excess of one thousand dollars ($1,000), provided that*
5 *the total reimbursement claimed per taxpayer in any month shall not exceed one*
6 *thousand five hundred dollars ($1,500), if the amount due is not delinquent at the time*
7 *of payment. This section does not apply to purchasers who report the tax directly to the*
8 *cabinet under subsection (2) of Section 91 of this Act.*
9 SECTION 96. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
10 READ AS FOLLOWS:
11 *(1) A tax is hereby imposed on the gross revenues received by all providers.*
12 *(2) The tax rate shall be:*
13 *(a) Two and four-tenths percent (2.4%) of the gross revenues received for the*
14 *provision of multichannel video programming service billed on or after*
15 *January 1, 2006; and*
16 *(b) One and three-tenths percent (1.3%) of the gross revenues received for the*
17 *provision of communications services billed on or after January 1, 2006.*
18 *(3) The provider shall not collect the tax directly from the purchaser or separately*
19 *state the tax on the bill to the purchaser.*
20 *(4) (a) The tax imposed by this section shall apply to all providers except a*
21 *municipal utility. "Municipal utility" as used in this section means a utility*
22 *owned, operated, and controlled directly or indirectly by a city of the first,*
23 *second, third, fourth, fifth or sixth class.*
24 *(b) To the extent that the provisions of KRS Chapter 279 are inconsistent with*
25 *the provisions of Sections 88 to 118 of this Act, the provisions of Sections 88*
26 *to 118 of this Act shall control.*
27 SECTION 97. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO

1 READ AS FOLLOWS:

2 ***Every provider shall file an application for a certificate of registration with the cabinet.***
3 ***The application shall be in the form prescribed by the cabinet. The application shall be***
4 ***signed by the owner if a natural person; in the case of an association or partnership,***
5 ***by a member or partner; and in the case of a corporation, by an executive officer or***
6 ***some person specifically authorized by the corporation to sign the application.***

7 SECTION 98. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
8 READ AS FOLLOWS:

9 ***(1) The taxes imposed by Sections 90 and 96 of this Act are due and payable monthly***
10 ***and shall be remitted on or before the twentieth day of the next succeeding***
11 ***calendar month.***

12 ***(2) On or before the twentieth day of each month, every provider shall file a return***
13 ***for the preceding month with the cabinet in the form prescribed by the cabinet,***
14 ***together with payment of any tax due. The cabinet may allow a provider subject***
15 ***to the taxes imposed under Sections 90 and 96 of this Act to file a single return***
16 ***reporting tax liabilities under both taxes for each reporting period.***

17 ***(3) The return shall show the:***

18 ***(a) Gross revenues received subject to the tax imposed under Section 96 of this***
19 ***Act;***

20 ***(b) Amount billed by the provider for multichannel video programming service***
21 ***subject to the tax imposed under Section 90 of this Act;***

22 ***(c) Amount of the tax due under Sections 90 and 96 of this Act; and***

23 ***(d) Any other information as the cabinet deems necessary for the proper***
24 ***administration of Sections 88 to 118 of this Act.***

25 ***(4) In the case where the purchaser is liable for the payment of the tax under***
26 ***subsection (2) of Section 91 of this Act, the purchaser shall file the return***
27 ***showing the total amount paid for multichannel video programming service that***

1 *is subject to tax during the reporting period.*
2 *(5) The return shall be signed by the person required to file the return or a duly*
3 *authorized agent.*
4 *(6) The person required to file the return shall deliver the return, together with a*
5 *remittance of the amount of tax due, to the cabinet.*
6 *(7) For the purpose of facilitating the administration, payment, or collection of the*
7 *taxes levied under Sections 88 to 118 of this Act, the cabinet may permit or*
8 *require returns to be filed or tax payments to be made other than as specifically*
9 *required by the provisions of this section.*
10 *(8) For purposes of calculating the excise tax imposed under Section 90 of this Act,*
11 *if tangible personal property normally subject to sales and use tax under KRS*
12 *Chapter 139 is sold with multichannel video programming service as a single*
13 *package for one (1) price, and the tangible personal property is necessary for the*
14 *provision of the multichannel video programming service, the tax required to be*
15 *collected by the provider shall be the tax imposed by Section 90 of this Act.*
16 *(9) For purposes of calculating the excise tax imposed under Section 90 of this Act,*
17 *if communications services subject to sales and use tax under KRS Chapter 139 is*
18 *sold with multichannel video programming service as a single package for one*
19 *(1) price, the tax required to be collected by the provider shall be the sales and use*
20 *tax under KRS Chapter 139.*
21 *(10) For purposes of calculating the gross revenues tax imposed under Section 96 of*
22 *this Act, if communications service is sold with multichannel video programming*
23 *service as a single package for one (1) price, the gross revenues shall be taxed at*
24 *the rate of two and four-tenths percent (2.4%).*
25 *(11) For purposes of calculating the gross revenues tax imposed under Section 96 of*
26 *this Act, if tangible personal property is sold with:*
27 *(a) Multichannel video programming service for one (1) price, the gross*

1 ***revenues shall be taxed at the rate of two and four-tenths percent (2.4%);***
2 ***and***
3 ***(b) Communications service for one (1) price, the gross revenues shall be taxed***
4 ***at the rate of one and three-tenths percent (1.3%).***
5 SECTION 99. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
6 READ AS FOLLOWS:
7 ***(1) The cabinet shall, upon written request received on or prior to the due date of the***
8 ***return or tax, for good cause satisfactory to the cabinet, extend the time for filing***
9 ***the return or paying the taxes imposed by Sections 90 and 96 of this Act for a***
10 ***period not to exceed thirty (30) days.***
11 ***(2) Any person for which the extension is granted shall pay, in addition to the tax,***
12 ***interest at the tax interest rate as defined in KRS 131.010(6) from the date on***
13 ***which the tax would otherwise have been due.***
14 SECTION 100. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
15 READ AS FOLLOWS:
16 ***(1) As soon as practicable after each return is received, the cabinet shall examine it.***
17 ***If the amount of tax computed by the cabinet is greater than the amount returned***
18 ***by the taxpayer, the excess shall be assessed by the cabinet within four (4) years***
19 ***from the later of the date the return was filed or due, except that in the case of a***
20 ***failure to file a return or a fraudulent return, the excess may be assessed at any***
21 ***time. A notice of assessment shall be mailed to the provider. The provider and the***
22 ***cabinet may agree to extend this time period.***
23 ***(2) Any provider aggrieved by any action of the cabinet may request a review and***
24 ***shall have the rights of appeal as set forth in KRS Chapter 131.***
25 SECTION 101. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
26 READ AS FOLLOWS:
27 ***In making a determination of tax liability under Sections 90 or 96 of this Act, the***

1 ***cabinet may offset overpayments for a period or periods, together with interest on the***
2 ***overpayments, against underpayments for another period or periods, against penalties,***
3 ***and against the interest on the underpayments.***
4 SECTION 102. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
5 READ AS FOLLOWS:
6 ***Every provider shall keep records, receipts, invoices, and other pertinent papers in a***
7 ***form required by the cabinet for not less than four (4) years from the making of the***
8 ***records unless the cabinet in writing authorizes their destruction at an earlier date.***
9 SECTION 103. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
10 READ AS FOLLOWS:
11 ***In every case, any tax not paid on or before the due date shall bear interest at the tax***
12 ***interest rate as defined in KRS 131.010(6) from the date due until the date of payment.***
13 SECTION 104. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
14 READ AS FOLLOWS:
15 ***(1) The taxes paid under Sections 90 or 96 of this Act shall be refunded or credited in***
16 ***the manner provided in KRS 134.580.***
17 ***(2) A claim for refund or credit shall be made on a form prescribed by the cabinet***
18 ***and shall contain all information required by the cabinet.***
19 ***(3) No provider shall be entitled to a refund or credit of the taxes paid under Section***
20 ***90 of this Act where the taxes have been collected from a customer, unless the***
21 ***amount of taxes collected from the customer are refunded to the customer by the***
22 ***provider who paid the taxes to the State Treasury.***
23 SECTION 105. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
24 READ AS FOLLOWS:
25 ***The cabinet shall administer the provisions of Sections 88 to 118 of this Act and shall***
26 ***have all of the powers, rights, duties, and authority with respect to the assessment,***
27 ***collection, refunding, and administration of the taxes levied by this chapter, conferred***

1 *generally upon the cabinet by the Kentucky Revised Statutes, including KRS Chapters*
2 *131, 134, and 135.*
3 SECTION 106. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
4 READ AS FOLLOWS:
5 *(1) Whenever it is deemed necessary to ensure compliance with Sections 88 to 118 of*
6 *this Act, the cabinet may require any person required to collect the taxes imposed*
7 *by Section 90 or 96 of this Act to place security with the cabinet. The amount of*
8 *the security shall be fixed by the cabinet, but shall not be greater than three (3)*
9 *times the estimated average monthly liability of the provider. This limitation shall*
10 *apply regardless of the type of security placed with the cabinet.*
11 *(2) The amount of the security may be increased or decreased by the cabinet subject*
12 *to the limitations provided in subsection (1) of this section.*
13 *(3) If necessary, the cabinet may sell the security at public auction to recover any tax,*
14 *interest, or penalty due. However, security in the form of a bearer bond issued by*
15 *the United States or any state or local governmental unit that has a prevailing*
16 *market price may be sold by the cabinet at a private sale at a price not lower than*
17 *the prevailing market price.*
18 *(4) The cabinet shall provide notice of the date, time, and place of the sale to the*
19 *person who placed the security with the cabinet. Notice shall be sent by certified*
20 *mail to the person's last known address, as reflected in the records of the cabinet,*
21 *or delivered to the person.*
22 *(5) As used in this section, "delivery" or "delivered to" means mailing the notice to*
23 *the person to whom it is addressed, leaving it at his or her place of business with*
24 *the person in charge of the place of business, or, if there is no one in charge,*
25 *leaving it in a conspicuous place at the place of business. If the place of business*
26 *is closed or the person to be served has no place of business, delivery includes:*
27 *(a) Leaving it at the person's home with some person of suitable age and*

1 *discretion residing in the home;*

2 *(b) Serving it upon the person's agent for service process; or*

3 *(c) Any other method permitted by the Kentucky Revised Statutes.*

4 *(6) Notice by certified mail shall be postmarked no later than ten (10) days prior to*

5 *the sale.*

6 *(7) Any surplus above the amounts due to the cabinet after the sale shall be returned*

7 *to the person who placed the security.*

8 SECTION 107. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO

9 READ AS FOLLOWS:

10 *(1) Notwithstanding any other provision of law to the contrary, the president, vice*

11 *president, secretary, treasurer, or any other person holding any equivalent*

12 *corporate office of any corporation subject to the provisions of Sections 88 to 118*

13 *of this Act shall be personally and individually liable, both jointly and severally,*

14 *for the taxes imposed under Section 90 or 96 of this Act. Neither the corporate*

15 *dissolution or withdrawal of the corporation from the state nor the cessation of*

16 *holding any corporate office shall discharge the foregoing liability of any person.*

17 *The personal and individual liability shall apply to each and every person holding*

18 *the corporate office at the time the taxes become or became due. No person shall*

19 *be personally and individually liable under this subsection if that person did not*

20 *have authority to collect, account for, or pay over the tax at the time that the tax*

21 *imposed by Section 90 or 96 of this Act become or became due.*

22 *(2) Notwithstanding KRS 275.150, 362.220(2), or any other provision of law to the*

23 *contrary, the managers of a limited liability company and the partners of a*

24 *registered limited liability partnership or any other person holding any equivalent*

25 *office of a limited liability company or a registered limited liability partnership*

26 *subject to the provisions of Sections 88 to 118 of this Act shall be personally and*

27 *individually liable, both jointly and severally, for the taxes imposed under*

1 ***Sections 90 and 96 of this Act. Neither the dissolution or withdrawal of the***
2 ***limited liability company or registered limited liability partnership from the state***
3 ***nor the cessation of holding any office shall discharge the foregoing liability of***
4 ***any person. The personal and individual liability shall apply to each and every***
5 ***manager of a limited liability company and partner of a registered limited liability***
6 ***partnership at the time the taxes become or became due. No person shall be***
7 ***personally and individually liable under this subsection, if that person had no***
8 ***authority to collect, account for, or pay over the tax at the time that the taxes***
9 ***imposed by Section 90 of this Act become or became due or account for or pay***
10 ***over the tax at the time that the taxes imposed by Section 96 of this Act become or***
11 ***became due.***
12 ***(3) "Taxes," as used in this section, shall include interest accrued at the rate***
13 ***provided by KRS 131.183 and all applicable penalties and fees imposed under this***
14 ***chapter and under KRS 131.180, 131.410 to 131.445, and 131.990.***
15 SECTION 108. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
16 READ AS FOLLOWS:
17 ***To the extent that a provider experiences a tax savings as a result of the provisions of***
18 ***Sections 88 to 118 of this Act in the first year of tax collections under Sections 88 to***
19 ***118 of this Act, the savings shall be returned proportionately to all residential and***
20 ***business customers of the provider. The specific manner in which the savings are***
21 ***returned to its customers shall be at the discretion of the provider. The Office of the***
22 ***Attorney General is authorized to enforce the requirements of this section.***
23 SECTION 109. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
24 READ AS FOLLOWS:
25 ***No suit shall be maintained in any court to restrain or delay the collection or payment***
26 ***of the tax levied by Section 90 or 96 of this Act.***
27 SECTION 110. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO

1 READ AS FOLLOWS:

2 ***Any provider subject to the tax imposed by Section 90 or 96 of this Act that fails to file***
3 ***a return as required by Section 98 of this Act or fails to pay the tax as listed on the***
4 ***return shall not maintain an action, suit, or proceeding in any court or before any***
5 ***agency in this state or enforce in any way any obligation of any debt until the return is***
6 ***filed and the tax listed on the return is paid. This provision does not prohibit a provider***
7 ***from the rights afforded by KRS Chapter 131.***

8 SECTION 111. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
9 READ AS FOLLOWS:

10 ***Penalties shall be imposed and assessed in accordance with the provisions of KRS***
11 ***131.180.***

12 SECTION 112. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
13 READ AS FOLLOWS:

14 ***(1) There is established in the State Treasury a gross revenues and excise tax fund.***
15 ***The fund shall be held and administered by the Finance and Administration***
16 ***Cabinet. The cabinet shall invest money in the fund in the same manner as***
17 ***money in the state general fund.***
18 ***(2) There is established in the State Treasury a state baseline and local growth fund.***
19 ***The fund shall be held and administered by the Finance and Administration***
20 ***Cabinet. The cabinet shall invest money in the fund in the same manner as***
21 ***money in the state general fund.***
22 ***(3) All revenue from the tax imposed under Sections 90 and 96 of this Act, including***
23 ***all penalties and interest attributable to the nonpayment of the tax or for***
24 ***noncompliance with the provisions of Sections 88 to 118 or 119 of this Act shall***
25 ***be deposited into gross revenues and excise tax fund. Amounts deposited in the***
26 ***gross revenues and excise tax fund shall be allocated among the state, political***
27 ***subdivisions, school districts and special districts as provided in Sections 112 to***

1 *116 of this Act.*

2 *(4) All money in the gross revenues and excise tax fund designated for distribution to*

3 *political subdivisions under Sections 112 to 116 of this Act:*

4 *(a) Shall not be withheld or reduced by the General Assembly or any state*

5 *agency for any reason, except for adjustments provided for within Sections*

6 *88 to 118 and 119 of this Act; and*

7 *(b) Shall be used solely and exclusively for the provision of services to the*

8 *general public, including public protection, health services, education,*

9 *libraries, transportation services, and economic development. No amount*

10 *shall be used for purely local purposes affecting only the inhabitants of the*

11 *particular political subdivision, such as the administration of local*

12 *government. Neither the General Assembly nor any state agency shall*

13 *mandate how the funds are to be used.*

14 SECTION 113. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO

15 READ AS FOLLOWS:

16 *(1) Every political subdivision, school district, and special district shall participate in*

17 *the gross revenues and excise tax fund and the state baseline and local growth*

18 *fund. On or before December 1, 2005, each political subdivision, school district,*

19 *special district, and sheriff's department shall certify to the cabinet on a*

20 *prescribed form the amount of collections it received from the tax imposed under*

21 *KRS 136.120 attributable to the franchise portion of the operating property as*

22 *noted in KRS 136.115 and local franchise fees collected from communications*

23 *service and multichannel video programming service providers and other fees*

24 *collected to fund public educational and government access programming during*

25 *the period between July 1, 2004, and June 30, 2005. By certifying its participation*

26 *under this subsection, each political subdivision, school district, special district,*

27 *and sheriff's department:*

1 *(a) Consents to the hearing process provided in Section 117 of this Act; and*
2 *(b) Agrees to relinquish its right to enforce the portion of any contract or*
3 *agreement that requires the payment of a franchise fee or tax on*
4 *communications services and multichannel video programming services,*
5 *regardless of whether the tax or fee is imposed on the provider or its*
6 *customers.*
7 *(2) The monthly portion of the gross revenues and excise tax fund that shall be*
8 *distributed to political subdivisions, school districts and special districts under*
9 *Section 114 of this Act shall be computed as follows:*
10 *(a) Each political subdivision, school district and special district shall be*
11 *assigned a percentage based on the amount of its collections certified under*
12 *subsection (1) of this section as a ratio of the total certified amount of*
13 *collections of all parties participating in the fund. This percentage shall be*
14 *known as the "local historical percentage." The portion of the sheriff*
15 *departments' certified collections identified in subsection (1) of this section*
16 *from the tax imposed under KRS 136.120 attributable to the franchise*
17 *portion of the operating property, as noted in KRS 136.115, that was*
18 *imposed by county governments shall be added to each county's reported*
19 *collections to determine its local historical percentage;*
20 *(b) The sheriff departments' collections certified under subsection (1) of this*
21 *section that are retained by the sheriff departments as their fee for*
22 *collecting the taxes shall be the sheriff departments' fixed hold-harmless*
23 *amount;*
24 *(c) Three million, thirty-four thousand dollars ($3,034,000), which represents*
25 *one-twelfth (1/12) of the total potential collections, shall be designated as*
26 *the "monthly hold-harmless amount"; and*
27 *(d) Each political subdivision's, school district's, and special district's local*

1 ***historical percentage shall be multiplied by the monthly hold-harmless***
2 ***amount to determine its monthly distribution from the fund.***
3 ***(3) If during the period between June 30, 2005, and December 31, 2005, any political***
4 ***subdivision had a substantial change in its base revenue by enacting or modifying***
5 ***the rate of a local franchise fee prior to June 30, 2005, the political subdivision***
6 ***may request the cabinet to determine its certified collection amount.***
7 ***(4) If any political subdivision, school district, special district, or sheriff's department***
8 ***believes that the data used to determine its certified amount of collections are***
9 ***inaccurate, the political subdivision, school district, special district, or sheriff's***
10 ***department may request a redetermination by the oversight committee established***
11 ***by Section 117 of this Act. A redetermination shall be effective prospectively***
12 ***beginning with the next distribution cycle occurring ninety (90) days after the***
13 ***matter is finally settled.***
14 SECTION 114. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
15 READ AS FOLLOWS:
16 ***Money in the gross revenues and excise tax fund shall be distributed monthly as***
17 ***follows:***
18 ***(1) One percent (1%) shall be deposited in a trust and agency account created in the***
19 ***State Treasury to be used by the cabinet for administration costs associated with***
20 ***the implementation, collection, and distribution of the tax imposed by Sections 90***
21 ***and 96 of this Act.***
22 ***(2) After the distribution required under subsection (1) of this section, the cabinet***
23 ***shall distribute to each political subdivision, school district and special district the***
24 ***applicable monthly hold-harmless amount as calculated under Section 113 of this***
25 ***Act. In addition, the cabinet shall distribute one-twelfth (1/12) of the sheriff***
26 ***department's fixed hold-harmless amount as defined in subsection (2)(b) of***
27 ***Section 113 of this Act. For tax collections received in January and February of***

1 *2006, the cabinet shall make the distribution by April 25, 2006. For all other*
2 *periods, the cabinet shall make distribution by the twenty-fifth day of the next*
3 *calendar month following the tax receipts.*
4 *(3) After the distribution required by subsection (2) of this section, the cabinet shall*
5 *deposit one million two hundred fifty thousand dollars ($1,250,000) in the state*
6 *general fund. This amount shall be adjusted on a prospective basis after the*
7 *collection of the first twelve (12) months of tax receipts from the taxes imposed by*
8 *Sections 90 and 96 of this Act to equal the average monthly tax receipts*
9 *attributable to the taxation of satellite broadcast and wireless cable services under*
10 *Sections 90 and 96 of this Act. The amount shall then become the fixed amount*
11 *distributed to the general fund.*
12 *(4) Money remaining in the gross revenues and excise tax fund after the distribution*
13 *required by subsection (3) of this section shall be transferred to the state baseline*
14 *and local growth fund established in Section 112 of this Act.*
15 SECTION 115. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
16 READ AS FOLLOWS:
17 *(1) On or before December 1, 2005, and every January 31 thereafter, each*
18 *participating political subdivision shall certify to the cabinet its total tax receipts*
19 *for the prior fiscal year. This amount shall be used to calculate the percentage of*
20 *each political subdivision's portion of the account labeled under its county's*
21 *name within the state baseline and local growth fund as described in subsection*
22 *(3)(b) of this section. "Total tax receipts" shall not include revenue from nontax*
23 *sources, such as intergovernmental revenues, charges for services, tuition,*
24 *interfund transfers, interest and investment income, rental income, income from*
25 *asset sales, beginning balances, or revenue from licenses and permits. "Total tax*
26 *receipts" shall include the following:*
27 *(a) Real estate and tangible personal property taxes, including delinquent tax*

1 *receipts;*

2 *(b) Franchise fees or taxes on utilities, other than multichannel video*

3 *programming service and communications service utilities;*

4 *(c) Occupational and business license fees or taxes, including insurance*

5 *premium taxes, net profits taxes, gross receipts taxes, payroll taxes,*

6 *transient room taxes, restaurant taxes, and bank deposit taxes;*

7 *(d) Telephone emergency surcharge fees;*

8 *(e) Gross revenues tax hold-harmless and growth fund receipts; and*

9 *(f) Payments in lieu of taxes.*

10 *(2) On or before every January 31, each participating school district and special*

11 *district shall certify to the cabinet the amount of its prior year tax assessments*

12 *under KRS Chapter 132 on companies' providing of multichannel video*

13 *programming service and communications service. This amount shall be used to*

14 *calculate the percentage of each school district's and special district's portion of*

15 *the account labeled under its county's name within the state baseline and local*

16 *growth fund as described in subsection (3)(b) of this section. For tax years with*

17 *no assessments under KRS Chapter 132, the local historical percentage as*

18 *defined in Section 113 of this Act shall be used.*

19 *(3) Each political subdivision's, school district's, and special district's monthly*

20 *portion of the state baseline and local growth fund shall be computed as follows:*

21 *(a) A "local growth portion" shall be determined as an amount of money that*

22 *when added to the hold-harmless amount identified in paragraph (c) of*

23 *subsection (2) of Section 113 of this Act equals fifteen and six-tenths*

24 *percent (15.6%) of the total amount deposited in the gross revenues and*

25 *excise tax fund, minus the amount of distributions made under subsections*

26 *(1) and (3) of Section 114 of this Act.*

27 *(b) The local growth portion shall be accounted for by county within the state*

1 *baseline and local growth fund based on the ratio of the gross revenues tax*
2 *collected on multichannel video programming services and communications*
3 *services provided in each county to the total statewide collections of the*
4 *gross revenues tax. The county-by-county allotment of the local growth*
5 *portion shall be known as the "county growth portion."*
6 *(c) The county growth portion shall be further segregated into the political*
7 *subdivision allotment, the school district allotment, and the special district*
8 *allotment based upon the ratio of each allotment category's total historical*
9 *collections as calculated under subsection (2) of Section 113 of this Act to*
10 *the total overall county historical collections as calculated from the certified*
11 *collections under subsection (1) of Section 113 of this Act.*
12 *(d) On or before April 25, 2006, each political subdivision's share of the*
13 *political subdivision allotment shall be determined by multiplying the*
14 *political subdivision allotment of the local growth portion as determined in*
15 *paragraph (b) of this subsection by the percentage calculated in subsection*
16 *(1) of this section.*
17 *(e) On or before April 25, 2006, each school district's share of the school*
18 *district allotment shall be determined by multiplying the school district*
19 *allotment as determined in paragraph (c) of this subsection by the*
20 *percentage calculated in subsection (2) of this section.*
21 *(f) On or before April 25, 2006, each special district's share of the special*
22 *district allotment shall be determined by multiplying the special district*
23 *allotment as determined in paragraph (c) of this subsection by the*
24 *percentage calculated in subsection (2) of this section.*
25 *(g) The respective allotment share for each participating political subdivision,*
26 *school district, and special district shall be adjusted every July 1 following*
27 *the year 2006, to account for any change in its percentages based on annual*

1 *certifications required in subsections (1) and (2) of this section.*
2 *(h) Notwithstanding the annual certifications required in subsection (1) of this*
3 *section, following the year 2006, political subdivisions may choose to*
4 *determine their respective shares of the political subdivision allotment*
5 *pursuant to an interlocal agreement as authorized under KRS 65.240.*
6 *Activation or termination of an interlocal agreement shall comply with the*
7 *notification requirements of subsection (1) of this section and shall become*
8 *effective the following July 1. The terms of a timely interlocal agreement*
9 *governing the distribution of a political subdivision allotment shall remain*
10 *in effect until its timely termination by one of the participating political*
11 *subdivisions.*
12 SECTION 116. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
13 READ AS FOLLOWS:
14 *All money deposited in the state baseline and local growth fund created under Section*
15 *112 of this Act shall be distributed monthly, according to the same schedule for*
16 *distribution from the gross revenues and excise tax fund, as follows:*
17 *(1) The county growth portion shall be distributed in accordance with the formulas*
18 *established in Section 115 of this Act.*
19 *(2) After the distribution required under subsection (1) of this section, the remaining*
20 *balance shall be deposited in the general fund. This amount shall be known as*
21 *the "state baseline portion," which shall represent, if sufficient funds are*
22 *available, eighty-four and four-tenths percent (84.4%) of the total amount*
23 *deposited in the gross revenues and excise tax fund, minus the amount of*
24 *distributions made under subsections (1) and (3) of Section 114 of this Act.*
25 SECTION 117. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
26 READ AS FOLLOWS:
27 *(1) The Local Distribution Fund Oversight Committee is hereby created and*

1 *administratively attached to and staffed by the cabinet. The oversight committee*
2 *shall consist of nine (9) members appointed by the Governor and shall be*
3 *representative of local government and state government officials. The Governor*
4 *shall receive recommendations for four (4) members each from the Kentucky*
5 *Association of Counties and the Kentucky League of Cities from which the*
6 *Governor shall select two (2) members each. The Governor shall receive*
7 *recommendations for two (2) members each from the Kentucky School Board*
8 *Association, the Kentucky Superintendents Association, and the Kentucky School*
9 *Administrators Association from which the Governor shall select one (1) member*
10 *each. One (1) member shall be appointed by the Governor to represent the*
11 *interests of special districts other than school districts. The remaining member*
12 *shall be the commissioner of the Department of Local Government who shall*
13 *serve as chairperson of the oversight committee. The members shall serve for a*
14 *term of three (3) years. Five (5) members of the oversight committee shall*
15 *constitute a quorum. A member may be removed for cause in accordance with*
16 *procedures established by the oversight committee and shall serve without salary*
17 *but shall be reimbursed for expenses in the same manner as state employees. Any*
18 *vacancy occurring on the oversight committee shall be filled by the Governor for*
19 *the unexpired term.*
20 *(2) The duties of the oversight committee shall be:*
21 *(a) To monitor the cabinet's implementation and distribution of funds from the*
22 *gross revenues and excise tax fund and the state baseline and local growth*
23 *fund and to report its findings to the secretary of the cabinet; and*
24 *(b) To act as a finder of fact for the secretary of the cabinet in disputes in and*
25 *between political subdivisions, school districts, special districts, and sheriff*
26 *departments, and between political subdivisions, school districts, special*
27 *districts, and sheriff departments, and the cabinet regarding the*

1 *implementation and distribution of funds from the gross revenues and*
2 *excise tax fund and the state baseline and local growth fund.*
3 *(3) The cabinet shall provide the oversight committee with an annual report*
4 *reflecting the amounts distributed to each participating political subdivision,*
5 *school district, special district or sheriff department.*
6 *(4) Any political subdivision, school district, special district or sheriff department*
7 *may file a complaint and request a hearing with the oversight committee on a*
8 *form prescribed by the committee. The oversight committee shall give notice to*
9 *any political subdivision, school district, special district or sheriff department that*
10 *may be affected by the complaint. Any political subdivision, school district,*
11 *special district or sheriff department intending to respond to the complaint shall*
12 *do so in writing within thirty (30) days of notice of the complaint.*
13 *(5) In conducting its business:*
14 *(a) The oversight committee shall give due notice of the times and places of its*
15 *hearings;*
16 *(b) The parties shall be entitled to be heard, to present evidence, and to examine*
17 *and cross-examine witnesses;*
18 *(c) The oversight committee shall act by majority vote;*
19 *(d) The oversight committee shall adopt and publish rules of procedure and*
20 *practice regarding its hearings; and*
21 *(e) The oversight committee shall make written findings and recommendations*
22 *to the secretary.*
23 *(6) The secretary of the cabinet shall review the findings and recommendations of*
24 *the oversight committee and issue a final ruling within sixty (60) days of receipt*
25 *of the recommendations.*
26 *(7) The parties in the dispute shall have the rights and duties to appeal any final*
27 *ruling to the Kentucky Board of Tax Appeals under KRS 131.340.*

1 *(8) Nothing contained in this section shall prevent at any time a written compromise*
2 *of any matter or matters in dispute, if otherwise lawful, by the parties to the*
3 *hearing process.*
4 SECTION 118. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
5 READ AS FOLLOWS:
6 *(1) Except as provided in subsection (3) of this section, to the extent legally*
7 *permissible, every political subdivision of this state shall be prohibited from the*
8 *following:*
9 *(a) Levying any franchise fee or tax on multichannel video programming*
10 *service or communications service, or collecting any franchise fee or tax*
11 *from providers or purchasers of multichannel video programming service*
12 *or communications service;*
13 *(b) Requiring any provider to enter into or extend the term of any provision of a*
14 *franchise or other agreement that requires the payment of a franchise fee or*
15 *tax; or*
16 *(c) Enforcing any provision of any ordinance or agreement to the extent that*
17 *the provision obligates a provider to pay to the political subdivision a*
18 *franchise fee or tax.*
19 *(2) For purposes of this section, "franchise fee or tax" means:*
20 *(a) Any tax, charge, or fee, that is required by ordinance or agreement to be*
21 *paid to a political subdivision by or through a provider, in its capacity as a*
22 *provider, regardless of whether the tax, charge, or fee, is:*
23 *1. Designated as a franchise fee, sales tax, excise tax, user fee,*
24 *occupancy fee, subscriber charge, license fee, or otherwise;*
25 *2. Measured by the amounts charged for services, the type or amount of*
26 *equipment or facilities deployed, or otherwise;*
27 *3. Intended as compensation for the use of public or private rights-of-*

1 *way, the right to conduct business, or otherwise; or*
2 *4. Permitted or required to be separately stated on the purchaser's bill; or*
3 *(b) Any in-kind payment of property or services that is required to be furnished*
4 *by a provider by any ordinance that is enacted or agreement that is entered*
5 *into after the effective date of this Act.*
6 *(3) The prohibitions in this section shall not apply to:*
7 *(a) Ad valorem taxes levied under KRS 132.020;*
8 *(b) Emergency telephone surcharges;*
9 *(c) Surety bonds;*
10 *(d) In-kind payments of property or services provided under contracts or*
11 *agreements in existence prior to the effective date of this Act;*
12 *(e) Letters of credit designed to protect against damages to public rights-of-way*
13 *for violations of regulatory requirements;*
14 *(f) Permit or inspection fees of general applicability that are:*
15 *1. Related to construction in the rights-of-way; and*
16 *2. Levied solely to defray the actual costs of administering the permitting*
17 *process or inspection program;*
18 *(g) Pole attachment fees;*
19 *(h) Fees for the placement of antennas, towers, and other similar devices on*
20 *publicly owned property that are imposed by a political subdivision pursuant*
21 *to a written agreement;*
22 *(i) Any charge or fee that is imposed on a provider by a political subdivision*
23 *for the use of property or facilities owned by the political subdivision, if that*
24 *provider is imposing similar charges or fees on other providers for the use*
25 *of property or facilities owned or controlled by that provider;*
26 *(j) Any requirement by a political subdivision that a provider designate or set*
27 *aside channel capacity for public, educational, or governmental use; or*

1 *construct institutional networks; or provide similar services or facilities for*
2 *public use and benefit that political subdivisions are specifically authorized*
3 *to require by federal telecommunications laws; and*
4 *(k) Gross revenues utility taxes imposed under KRS 160.613 and 160.614.*
5 *(4) Notwithstanding any provision of law to the contrary, if a political subdivision*
6 *imposes or otherwise attempts to require the payment of a franchise fee or tax,*
7 *the political subdivision shall not receive any share of the proceeds of the tax*
8 *levied by Section 90 or 96 of this Act for the period that the imposition or attempt*
9 *occurs.*
10 *(5) To the extent that a provider actually pays a franchise fee or tax with respect to*
11 *multichannel video programming service or communications service that is also*
12 *subject to the taxes imposed by Sections 90 or 96 of this Act, the provider shall be*
13 *entitled to a credit against the amount payable to the cabinet under Sections 90*
14 *and 96 of this Act in the amount of the franchise fee or tax, up to the amount of*
15 *the total tax due with respect to the multichannel video programming service and*
16 *communications service provided in that political subdivision, school district, or*
17 *special district.*
18 *(6) Nothing in this section shall prohibit a provider from donating property or*
19 *services to a political subdivision, school district, or special district or prohibit a*
20 *political subdivision, school district, or special district from receiving donated*
21 *property or services.*
22 *(7) Nothing in this section shall prohibit a political subdivision from requiring*
23 *communications service providers or cable service providers to obtain a franchise*
24 *as required by Section 163 of the Constitution of Kentucky and from regulating*
25 *to the fullest extent authorized by state and federal law the use of local rights-of-*
26 *way by communications service providers or cable service providers.*
27 SECTION 119. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO

1 READ AS FOLLOWS:

2 *(1) It shall be the duty of all persons providing communications services or*
3 *multichannel video programming services defined under Section 89 of this Act*
4 *owning or having any interest in tangible personal property in this state to list or*
5 *have listed the property with the cabinet between January 1 and May 15 in each*
6 *year reporting the full details, a correct description of the property and its value.*
7 *(2) The cabinet shall have sole power to value and assess all tangible personal*
8 *property of multichannel video programming service providers and*
9 *communications service providers. Such property shall be valued and assessed in*
10 *accordance with procedures established for locally assessed tangible property.*
11 *The cabinet shall develop forms for reporting.*
12 *(3) Providers of multichannel video programming services or communications*
13 *services shall not be required to list and the cabinet shall not assess intangible*
14 *property as defined in KRS 132.010.*
15 *(4) It is the intent of the provisions of Sections 88 to 118 of this Act to relieve*
16 *communications service providers and multichannel video programming service*
17 *providers from the tax liability imposed under KRS 136.120 by:*
18 *(a) Requiring real, tangible, and intangible property owned by communications*
19 *service providers and multichannel video programming service providers to*
20 *be assessed and taxed in the same manner as real, tangible and intangible*
21 *property of all other taxpayers under KRS Chapter 132 excluding KRS*
22 *132.030; and*
23 *(b) Replacing revenues received from communications service providers and*
24 *multichannel video programming service providers under KRS 136.120,*
25 *attributable to the franchise portion of operating property as defined in KRS*
26 *136.115, with the levy imposed under Section 96 of this Act.*
27 *To the extent that any tangible or intangible property was considered a part of the*

1 franchise portion of operating property under KRS 136.115 and 136.120 for tax
2 periods ending prior to January 1, 2006, for a communications service provider
3 or a multichannel video programming service provider, such property shall be
4 exempt from taxation under KRS Chapter 132 and shall not be listed, valued or
5 assessed under this section for tax periods beginning on or after December 31,
6 2005.
7 (5) It is also the intent of the provisions of Sections 88 to 118 of this Act that for
8 communications service providers and multichannel video programming service
9 providers the following items, to the extent these items are intangible property,
10 shall be exempt from taxation under KRS Chapter 132 and shall not be listed,
11 valued, or assessed by the cabinet or local jurisdictions. The items include, but
12 shall not be limited to:
13 (a) Franchises;
14 (b) Certificates of public convenience and necessity;
15 (c) Licenses;
16 (d) Authorizations issued by the Federal Communications Commission or any
17 state public service commission;
18 (e) Customer lists;
19 (f) Assembled labor force;
20 (g) Goodwill;
21 (h) Managerial skills;
22 (i) Business enterprise value;
23 (j) Speculative value; and
24 (k) Any other type of personal property that is not tangible personal property.
25 (6) Any person dissatisfied with or aggrieved by the finding or ruling of the cabinet
26 may appeal the finding or ruling in the manners provided in KRS 131.110.
27 (7) All persons in whose name property is assessed shall remain bound for the tax,

1 *notwithstanding that they may have sold or parted with it.*
2 *(8) The cabinet shall allocate the assessed value of property described in subsection*
3 *(1) of this section among the counties, cities, and taxing districts. The assessed*
4 *value shall be allocated to the county, city, or taxing district where the property is*
5 *situated.*
6 *(9) The cabinet shall certify, unless otherwise specified, to the county clerk of each*
7 *county in which any of the property assessment listed by the corporation is liable*
8 *to local taxation, the amount of tangible personal property liable for county, city,*
9 *or district tax.*
10 *(10) No appeal shall delay the collection or payment of taxes based upon the*
11 *assessment in controversy. The taxpayer shall pay all state, county, and district*
12 *taxes due on the valuation that the taxpayer claims as the true value as stated in*
13 *the protest filed under KRS 131.110. When the valuation is finally determined*
14 *upon appeal, the taxpayer shall be billed for any additional tax and interest at the*
15 *tax interest rate as defined in KRS 131.010(6), from the date the tax would have*
16 *become due if no appeal had been taken. The provisions of KRS 134.390 shall*
17 *apply to the tax bill.*
18 *(11) The certification of valuation shall be filed by each county clerk in the clerk's*
19 *office and shall be certified by the county clerk to the proper collecting officer of*
20 *the county, city, or taxing district for collection. Any district that has the value*
21 *certified by the cabinet shall pay an annual fee to the cabinet that represents an*
22 *allocation of the cabinet's operating and overhead expenses incurred in*
23 *generating the valuations. This fee shall be determined by the cabinet and shall*
24 *apply to valuations for tax periods beginning on or after January 1, 2005.*
25 Section 120. KRS 136.120 is amended to read as follows:
26 (1) *(a) The following public service companies shall pay a tax on their operating*
27 *property to the state, and to the extent the operating property is subject to*

1 ***local taxation, shall pay a local tax to the county, incorporated city, and***
2 ***taxing district where its operating property is located:***
3 ***1.*** ~~[Every]~~Railway ***companies;***~~[company,]~~
4 ***2.*** Sleeping car ***companies;***~~[company,]~~
5 ***3.*** Chair car ***companies;***~~[company,]~~
6 ***4.*** Dining car ***companies;***~~[company,]~~
7 ***5.*** Gas ***companies;***~~[company,]~~
8 ***6.*** Water ***companies;***~~[company,]~~
9 ***7.*** Ferry ***companies;***~~[company,]~~
10 ***8.*** Bridge ***companies;***~~[company,]~~
11 ***9.*** Street railway ***companies;***~~[company,]~~
12 ***10.*** Interurban electric railroad ***companies;***~~[company,]~~
13 ***11.*** Express ***companies;***~~[company,]~~
14 ***12.*** Electric light ***companies;***~~[company,]~~
15 ***13.*** Electric power ***companies;***~~[company, telephone company, telegraph~~
16 ~~company,]~~
17 ***14.*** Commercial air ***carriers;***~~[carrier,]~~
18 ***15.*** Air freight ***carriers;***~~[carrier,]~~
19 ***16.*** Pipeline ***companies;***~~[company,]~~
20 ***17.*** Common carrier water transportation ***companies;***~~[company,]~~
21 ***18.*** Privately owned regulated sewer ***companies;***~~[company, cable television~~
22 ~~company,]~~
23 ***19.*** Municipal solid waste disposal ***facilities***~~[facility]~~, as defined by KRS
24 224.01-010(15), where solid waste is disposed by landfilling;~~[,]~~
25 ***20.*** Railroad car line ***companies***~~[company]~~, which means any company,
26 other than a railroad company, which owns, uses, furnishes, leases,
27 rents, or operates to, from, through, in, or across this state or any part

1 thereof, any kind of railroad car including, but not limited to, flat, tank,
2 refrigerator, passenger, or similar type car;[,] and
3 *21.* every other like company or business performing any public service.[,
4 except]
5 *(b) The following companies shall not be subject to the provisions of paragraph*
6 *(a) of this subsection:*
7 *1.* bus line companies;[,]
8 *2.* Regular and irregular route common carrier trucking companies;[, and]
9 *3.* Taxicab companies;[, shall annually pay a tax on its operating property
10 to the state and to the extent the property is liable to taxation shall pay a
11 local tax thereon to the county, incorporated city, and taxing district in
12 which its operating property is located]
13 *4. Providers of communications service as defined in Section 89 of this*
14 *Act; and*
15 *5. Providers of multichannel video programming services as defined in*
16 *Section 89 of this Act*.
17 (2) *(a)* The property of the taxpayers shall be classified as operating property,
18 nonoperating tangible property, and nonoperating intangible property.
19 *(b)* Nonoperating intangible property within the taxing jurisdiction of the
20 Commonwealth shall be taxable for state purposes only at the same rate as the
21 intangible property of other taxpayers not performing public services.[, and]
22 *(c)* Operating property and nonoperating tangible property shall be subject to state
23 and local taxes at the same rate as the tangible property of other taxpayers not
24 performing public services.
25 (3) *(a)* The Revenue Cabinet shall:
26 *1.* Have sole power to value and assess all of the property of every
27 corporation, company, association, partnership, or person performing

1 any public service, including those enumerated above and all others to
2 whom this section may apply, whether or not the operating property,
3 nonoperating tangible property, or nonoperating intangible property has
4 ***previously***[~~heretofore~~] been assessed by the cabinet;[~~, and shall~~]
5 ***2.*** Allocate the assessment as provided by KRS 136.170;[~~,~~] and[~~ shall~~]
6 ***3.*** Certify operating property ***subject***[~~liable~~] to local taxation and
7 nonoperating tangible property to the counties, cities, and taxing districts
8 as provided in KRS 136.180.
9 ***(b)*** All of the property assessed by the cabinet pursuant to this section shall be
10 assessed as of December 31 each year for the following year's taxes, and the
11 lien ***on the property***[~~therefor~~] shall attach as of the assessment date.
12 ***(c)*** In the case of a taxpayer whose business is predominantly nonpublic service
13 and the public service business in which he is engaged is merely incidental to
14 his principal business, the cabinet shall in the exercise of its judgment and
15 discretion determine, from evidence which it may have or obtain, what portion
16 of the operating property is devoted to the public service business subject to
17 assessment by the cabinet under this section and shall require the remainder of
18 the property not so engaged to be assessed by the local taxing authorities.
19 Section 121. KRS 68.180 is amended to read as follows:
20 (1) The fiscal court of each county having a population of three hundred thousand
21 (300,000) or more may by order or resolution impose license fees on franchises,
22 provide for licensing any business, trade, occupation, or profession, and the using,
23 holding, or exhibiting of any animal, article, or other thing.
24 (2) License fees on such business, trade, occupation, or profession for revenue
25 purposes, except those of the common schools, shall be imposed at a percentage
26 rate not to exceed one and one-fourth percent (1.25%) of:
27 (a) Salaries, wages, commissions, and other compensation earned by persons

1 within the county for work done and services performed or rendered in the
2 county; and
3 (b) The net profits of businesses, trades, professions, or occupations from
4 activities conducted in the county.
5 (3) *(a)* ~~[The provisions of subsection (2) of this section shall not apply to license fees~~
6 ~~imposed for regulatory purposes as to form and amount.]~~No public service
7 company that pays an ad valorem tax shall be required to pay a license tax.~~[,~~
8 ~~and]~~
9 *(b) 1. It is the intent of the General Assembly to continue the exemption*
10 *from local license fees and occupational taxes that existed on the*
11 *effective date of this section for providers of multichannel video*
12 *programming services or communications services as defined in*
13 *Section 89 of this Act that were taxed under KRS 136.120 prior to the*
14 *effective date of this section.*
15 *2. To further this intent, no company providing multichannel video*
16 *programming services or communications services as defined in*
17 *Section 89 of this Act shall be required to pay a license tax. If only a*
18 *portion of an entity's business is providing multichannel video*
19 *programming services or communications services, including products*
20 *or services that are related to and provided in support of the*
21 *multichannel video programming services or communications*
22 *services, this exclusion applies only to that portion of the business that*
23 *provides multichannel video programming services or*
24 *communications services, including products or services that are*
25 *related to and provided in support of the multichannel video*
26 *programming services or communications services or communications*
27 *services.*

1 ***(c)*** No license tax shall be imposed upon or collected from any bank, trust
2 company, combined bank and trust company, combined trust, banking and
3 title business in this state, any savings and loan association, whether state or
4 federally chartered.[~~, or~~]
5 ***(d) No license tax shall be imposed*** upon income received by members of the
6 Kentucky National Guard for active duty training, unit training assemblies,
7 and annual field training.[~~, or~~]
8 ***(e) No license tax shall be imposed*** upon income received by precinct workers
9 for election training or work at election booths in state, county, and local
10 primary, regular, or special elections.[~~, or~~]
11 ***(f) No license tax shall be imposed*** upon any profits, earnings, or distributions of
12 an investment fund which would qualify under KRS 154.20-250 to 154.20-
13 284 to the extent any profits, earnings, or distributions would not be taxable to
14 an individual investor, or in other cases where the county is prohibited by law
15 from imposing a license tax.
16 (4) The provisions and limitations of subsection (2) of this section shall not apply to
17 ***license fees imposed for regulatory purposes as to form and amount, or to*** the
18 license fees authorized by KRS 160.482 to 160.488.
19 Section 122. KRS 68.197 is amended to read as follows:
20 (1) The fiscal court of each county having a population of thirty thousand (30,000) or
21 more may by ordinance impose license fees on franchises, provide for licensing any
22 business, trade, occupation, or profession, and the using, holding, or exhibiting of
23 any animal, article, or other thing.
24 (2) License fees on[~~ such~~] business, trade, occupation, or profession for revenue
25 purposes, except those of the common schools, may be imposed at a percentage rate
26 not to exceed one percent (1%) of:
27 (a) Salaries, wages, commissions, and other compensation earned by persons

1 within the county for work done and services performed or rendered in the
2 county;
3 (b) The net profits of self-employed individuals, partnerships, professional
4 associations, or joint ventures resulting from trades, professions, occupations,
5 businesses, or activities conducted in the county; and
6 (c) The net profits of corporations resulting from trades, professions, occupations,
7 businesses, or activities conducted in the county.
8 (3) In order to reduce administrative costs and minimize paperwork for employers,
9 employees, and businesses, the fiscal court may provide:
10 (a) For an annual fixed amount license fee which a person may elect to pay in lieu
11 of reporting and paying the percentage rate as provided in this subsection on
12 salaries, wages, commissions, and other compensation earned within the
13 county for work done and services performed or rendered in the county; and
14 (b) For an annual fixed amount license fee which an individual, partnership,
15 professional association, joint venture, or corporation may elect to pay in lieu
16 of reporting and paying the percentage rate as provided in this subsection on
17 net profits of businesses, trades, professions, or occupations from activities
18 conducted in the county.
19 (4) ***(a)*** Licenses imposed for regulatory purposes are not subject to~~[such]~~ limitations
20 as to form and amount.
21 ***(b)*** No public service company that pays an ad valorem tax is required to pay a
22 license tax.
23 ***(c) 1. It is the intent of the General Assembly to continue the exemption***
24 ***from local license fees and occupational taxes that existed on the***
25 ***effective date of this section for providers of multichannel video***
26 ***programming services or communications services as defined in***
27 ***Section 89 of this Act that were taxed under KRS 136.120 prior to the***

1 ***effective date of this section.***

2 ***2. To further this intent, no company providing multichannel video***
3 ***programming services or communications services as defined in***
4 ***Section 89 of this Act shall be required to pay a license tax. If only a***
5 ***portion of an entity's business is providing multichannel video***
6 ***programming services including products or services that are related***
7 ***to and provided in support of the multichannel video programming***
8 ***services or communications services, this exclusion applies only to***
9 ***that portion of the business that provides multichannel video***
10 ***programming services or communications services, including products***
11 ***or services that are related to and provided in support of the***
12 ***multichannel video programming services or communications***
13 ***services.***~~[, and]~~

14 ***(d)*** No license tax shall be imposed upon or collected from any insurance
15 company except as provided in KRS 91A.080, bank, trust company, combined
16 bank and trust company, combined trust, banking, and title business in this
17 state, or any savings and loan association whether state or federally chartered,
18 or in other cases where the county is prohibited by law from imposing a
19 license fee.

20 (5) No license fee shall be imposed or collected on income received by members of the
21 Kentucky National Guard for active duty training, unit training assemblies, and
22 annual field training, or on income received by precinct workers for election
23 training or work at election booths in state, county, and local primary, regular, or
24 special elections, or upon any profits, earnings, or distributions of an investment
25 fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any
26 profits, earnings, or distributions would not be taxable to an individual investor.

27 (6) Persons who pay a county license fee pursuant to this section and who also pay a

1 license fee to a city contained in the county may, upon agreement between the
2 county and the city, credit their city license fee against their county license fee.
3 (7) The provisions of subsection (6) of this section notwithstanding, effective with
4 license fees imposed under the provisions of subsection (1) of this section on or
5 after July 15, 1986, persons who pay a county license fee and a license fee to a city
6 contained in the county shall be allowed to credit their city license fee against their
7 county license fee.
8 (8) On July 14, 2000, the provisions of subsection (7) of this section notwithstanding,
9 city license fees not credited against county license fees enacted under this section
10 or KRS 67.083 as of January 1, 2000, shall not be credited against county license
11 fees. However, this exception shall not apply to county license fees enacted for the
12 first time, or increased, on or after January 1, 2000. This provision shall expire July
13 15, 2002, unless otherwise extended by the General Assembly.
14 (9) A county that enacted an occupational license fee under the authority of KRS
15 67.083 shall not be required to reduce its occupational tax rate when it is
16 determined that the population of the county exceeds thirty thousand (30,000).
17 Section 123. KRS 91.200 is amended to read as follows:
18 (1) The board of aldermen of every city of the first class, in addition to levying ad
19 valorem taxes, may by ordinance impose license fees on franchises, provide for
20 licensing any business, trade, occupation, or profession and the using, holding, or
21 exhibiting of any animal, article, or other thing.
22 (2) License fees on a business, trade, occupation, or profession for revenue purposes
23 may be imposed at a percentage rate not to exceed those hereinafter set forth on:
24 (a) Salaries, wages, commissions and other compensations earned by every
25 person within the city for work done and services performed or rendered in the
26 city (all of such being hereinafter collectively referred to as "wages"); and
27 (b) The net profits of all businesses, professions, or occupations from activities

1 conducted in the city (hereinafter collectively referred to as "net profits").
2 (3) *(a)* Licenses imposed for regulatory purposes shall not be subject to such
3 limitations as to form and amount.
4 *(b)* No company that pays an ad valorem tax and a franchise tax is required to pay
5 a license tax.[~~ and~~]
6 *(c)* *1. It is the intent of the General Assembly to continue the exemption*
7 *from local license fees and occupational taxes that existed on the*
8 *effective date of this section for providers of multichannel video*
9 *programming services or communications services as defined in*
10 *Section 89 of this Act that were taxed under KRS 136.120 prior to the*
11 *effective date of this section.*
12 *2. To further this intent, no company providing multichannel video*
13 *programming services or communications services as defined in*
14 *Section 89 of this Act shall be required to pay a license tax. If only a*
15 *portion of an entity's business is providing multichannel video*
16 *programming services or communications services, including products*
17 *or services that are related to and provided in support of the*
18 *multichannel video programming services or communications*
19 *services, this exclusion applies only to that portion of the business that*
20 *provides multichannel video programming services or*
21 *communications services including products or services that are*
22 *related to and provided in support of the multichannel video*
23 *programming services or communications services.*
24 *(d)* No license tax shall be imposed upon or collected from any bank, trust
25 company, combined bank and trust company or combined trust, banking and
26 title business in this state, any savings and loan association whether state or
27 federally chartered.[~~, or~~]

1 ***(e) No license tax shall be imposed*** upon income received by members of the
2 Kentucky national guard for active duty training, unit training assemblies, and
3 annual field training.~~[, or]~~
4 ***(f) No license tax shall be imposed*** on income received by precinct workers for
5 election training or work at election booths in state, county, and local primary,
6 regular, or special elections.~~[, or]~~
7 ***(g) No license tax shall be imposed*** upon any profits, earnings, or distributions of
8 an investment fund which would qualify under KRS 154.20-250 to 154.20-
9 284 to the extent any profits, earnings, or distributions would not be taxable to
10 an individual investor, or in any other case where the city is prohibited by
11 statute from imposing a license tax.
12 (4) The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent
13 (1.25%).
14 (5) License fees or taxes shall be collected by the commissioners of the sinking fund.
15 The proceeds from the taxes shall be paid to the secretary and treasurer of the
16 sinking fund until income from all sources of the sinking fund is sufficient to pay
17 the cost of administration and the interest charges for the current fiscal year of the
18 sinking fund in addition to a sum sufficient to amortize the outstanding principal
19 indebtedness of the city on a yearly basis in accordance with regularly used
20 amortization tables.
21 (6) Revenue remaining after meeting the foregoing requirements shall be transferred to
22 the city. Such revenues shall be credited to the general fund of the city as received
23 and may be expended for general purposes or for capital improvements.
24 (7) The term "capital improvements" as used in this section is limited to additions or
25 improvements of a substantial and permanent nature and services rendered in
26 connection therewith, and includes but is not limited to:
27 (a) The purchase of rights of way for highways, expressways, and the widening of

1 existing streets;
2 (b) The purchase of lands for park, recreational, and other governmental facilities
3 and for public off-street parking facilities;
4 (c) The purchase, construction, reconstruction, renovation, or remodeling of
5 municipal buildings, and facilities;
6 (d) The replacement of machinery, wires, pipes, structural members or fixtures,
7 and other essential portions of municipal buildings;
8 (e) The initial equipment of any newly acquired facility wherein any essential
9 governmental function of the municipality may be located or carried on;
10 (f) The purchase and installation of traffic control devices and fire alarm
11 equipment;
12 (g) The reconstruction and resurfacing, but not routine maintenance, of streets and
13 other public ways;
14 (h) The acquisition of motorized equipment purchased as additions to, but not
15 replacements for, existing equipment; and
16 (i) Engineering and other costs incurred by the city in connection with the
17 construction of public improvements financed under a special assessment
18 plan.
19 (8) Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the
20 income of the sinking fund is otherwise insufficient to meet such requirements.
21 (9) Licenses shall be issued and enforced on terms and conditions as prescribed by
22 ordinance.
23 Section 124. KRS 92.300 is amended to read as follows:
24 (1) The legislative body of any city of the second to sixth class may by ordinance
25 exempt manufacturing establishments from city taxation for a period not exceeding
26 five (5) years as an inducement to their location in the city. In cities of the third
27 class, two-thirds (2/3) of the members of the city legislative body must concur for

1 this purpose.

2 (2) *(a)* No city of the second to sixth class or urban-county government may impose

3 or collect any license tax upon:

4 *1.* Any bank, trust company, combined bank and trust company, or trust,

5 banking and title insurance company organized and doing business in

6 this state;[,]

7 *2.* Any savings and loan association whether state or federally chartered;[,]

8 or

9 ***3. The provision of multichannel video programming services or***

10 ***communications services as defined in Section 89 of this Act. It is the***

11 ***intent of the General Assembly to continue the exemption from local***

12 ***license fees and occupational taxes that existed on the effective date of***

13 ***this section for providers of multichannel video programming services***

14 ***or communications services as defined in Section 89 of this Act that***

15 ***were taxed under KRS 136.120 prior to the effective date of this***

16 ***section. If only a portion of an entity's business is providing***

17 ***multichannel video programming services or communications services***

18 ***including products or services that are related to and provided in***

19 ***support of the multichannel video programming services or***

20 ***communications services, this exclusion applies only to that portion of***

21 ***the business that provides multichannel video programming services***

22 ***or communications services including products or services that are***

23 ***related to and provided in support of the multichannel video***

24 ***programming services or communications services.***

25 ***(b) No city of the second to sixth class or urban-county government may impose***

26 ***or collect any license tax*** upon income received:

27 *1.* By members of the Kentucky national guard for active duty training, unit

1 training assemblies and annual field training;~~[,]~~ or
2 2. ~~[upon income received]~~By precinct workers for election training or
3 work at election booths in state, county, and local primary, regular, or
4 special elections.
5 (3) Unpaid volunteer members of fire companies in cities of the fourth class shall be
6 exempt from city poll taxes so long as they remain active members.
7 Section 125. KRS 92.281 is amended to read as follows:
8 (1) Cities of all classes are authorized to levy and collect any and all taxes provided for
9 in Section 181 of the Constitution of the Commonwealth of Kentucky, and to use
10 the revenue therefrom for such purposes as may be provided by the legislative body
11 of the city.
12 (2) Nothing in this section shall be construed to repeal, amend, or affect in any way the
13 provisions of KRS 243.070.
14 (3) This section shall not in any wise repeal, amend, affect, or apply to any existing
15 statute exempting property from local taxation or fixing a special rate on proper
16 classification or imposing a state tax which is declared to be in lieu of all local
17 taxation, nor shall it be construed to authorize a city to require any company that
18 pays both an ad valorem tax and a franchise tax to pay a license tax.
19 (4) This section shall also be subject to the provisions of KRS 91.200 in cities of the
20 first class having a sinking fund and commissioners of a sinking fund.
21 (5) License fees on businesses, trades, occupations, or professions may not be imposed
22 by a city of the sixth class at a percentage rate on salaries, wages, commissions, or
23 other compensation earned by persons for work done or services performed within
24 said city of the sixth class nor the net profits of businesses, professions, or
25 occupations from activities conducted in said city of the sixth class.
26 (6) License fees or occupational taxes may not be imposed against or collected on
27 income received by precinct workers for election training or work at election booths

1 in state, county, and local primary, regular, or special elections.
2 (7) License fees or occupational taxes may not be imposed against or collected on any
3 profits, earnings, or distributions of an investment fund which would qualify under
4 KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions
5 would not be taxable to an individual investor.
6 ***(8) (a) It is the intent of the General Assembly to continue the exemption from***
7 ***local license fees and occupational taxes that existed on the effective date of***
8 ***this section for providers of multichannel video programming services or***
9 ***communications services as defined in Section 89 of this Act that were taxed***
10 ***under KRS 136.120 prior to the effective date of this section.***
11 ***(b) To further this intent, license fees or occupational taxes may not be imposed***
12 ***against any company providing multichannel video programming services***
13 ***or communications services as defined in Section 89 of this Act. If only a***
14 ***portion of an entity's business is providing multichannel video***
15 ***programming services or communications services including products or***
16 ***services that are related to and provided in support of the multichannel***
17 ***video programming services or communications services, this exclusion***
18 ***applies only to that portion of the business that provides multichannel video***
19 ***programming services or communications services including products or***
20 ***services that are related to and provided in support of the multichannel***
21 ***video programming services or communications services.***
22 Section 126. KRS 139.195 is amended to read as follows:
23 As used in KRS 139.105, 139.200, and 139.775:
24 (1) "Air-ground radiotelephone service" means a radio service, as defined in 47 C.F.R.
25 22.99, in which common carriers are authorized to offer and provide radio
26 telecommunications service for hire to subscribers in aircraft.
27 (2) "Call-by-call basis" means any method of charging for communications services

where the price is measured by individual calls.

(3) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(4) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to:

1. Local ***and***[~~telephone services,~~] long-distance telephone services;[~~,~~]

2. Telegraph ***and***[~~services,~~] teletypewriter services;[~~,~~]

3. Prepaid calling services ***and***[~~,~~] postpaid calling services;[~~,~~]

4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;[~~,~~]

5. Channel services involving a path of communications between two (2) or more points;[~~,~~]

6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;[~~,~~]

7. Caller ID services, voice mail and other electronic messaging services;[~~,~~]

8. Mobile telecommunications ***service as provided in 4 U.S.C. sec. 124(7);***[~~services,~~] and

9. ***Voice over*** Internet ***Protocol (VOIP)***[~~telephony involving telephone service in which messages originate or terminate over a public switched telephone network but are transmitted, in part, using transmission~~

1 ~~control protocol, Internet protocol, or other similar means~~].

2 (b) "Communications service" does not include any of the following if the
3 charges are separately itemized on the bill provided to the purchaser:

4 1. Information services;

5 2. Internet access ***as provided in the federal Internet Tax***
6 ***Nondiscrimination Act, 47 U.S.C. sec. 151***;

7 3. Installation, reinstallation, or maintenance of wiring or equipment on a
8 customer's premises. This exclusion does not apply to any charge
9 attributable to the connection, movement, change, or termination of a
10 communications service;

11 4. The sale of directory and other advertising and listing services;

12 5.[~~The sale of one-way paging services;~~

13 ~~6.~~] Billing and collection services provided to another communications
14 service provider;[~~and~~]

15 ***6.***[~~7.~~] Cable service, satellite broadcast, satellite master antenna television, and
16 wireless cable service, including direct-to-home satellite service as
17 defined in Section 602 of the federal Telecommunications Act of 1996***;***

18 ***7. The sale of communications service to a communications provider***
19 ***that is buying the communications service for sale or incorporation***
20 ***into a communications service for sale, including:***

21 ***a. Carrier access charges, excluding user access fees;***

22 ***b. Right of access charges;***

23 ***c. Interconnection charges paid by the provider of mobile***
24 ***telecommunications services or other communications providers;***

25 ***d. Charges for the sale of unbundled network elements as defined***
26 ***in 47 U.S.C. sec. 153(29) on January 1, 2001, to which access is***
27 ***provided on an unbundled basis in accordance with 47 U.S.C.***

1 ***sec. 251(c)(3); and***

2 ***e. Charges for use of facilities for providing or receiving***

3 ***communications service; and***

4 ***8. The sale of communications services provided to the public by means***

5 ***of a pay phone***.

6 (5) "Customer" means the person or entity that contracts with the seller of

7 communications services. If the end user of communications services is not the

8 contracting party, the end user of the communications service is the customer of the

9 communications service, but only as it applies to the sourcing of the sale of

10 communications services as provided in KRS 139.105. "Customer" does not include

11 a reseller of communications service or a serving carrier providing mobile

12 telecommunications service under an agreement to serve the customer outside the

13 home service provider's licensed service area.

14 (6) "Customer channel termination point" means the location where the customer or

15 other purchaser either inputs or receives communications.

16 (7) "End user" means the person who utilized the communications service. In the case

17 of an entity, "end user" means the individual who utilized the service on behalf of

18 the entity.

19 (8) "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).

20 (9) "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec.

21 124(7).

22 (10) "Place of primary use" means the street address where the customer's or other

23 purchaser's use of the communications service primarily occurs, and that is the

24 residential street address or the primary business street address of the customer or

25 other purchaser. In the case of mobile telecommunications service, "place of

26 primary use" shall be within the licensed service area of the home service provider.

27 (11) "Post-paid calling service" means a communications service obtained by making a

1 payment on a call-by-call basis either through the use of a credit card or payment
2 mechanism such as a bank card, travel card, credit card, or debit card, or by charge
3 made to a telephone number not associated with the origination or termination of
4 the communications service. A post-paid calling service includes a communications
5 service that would be a prepaid service except that it is not exclusively a
6 communications service.
7 (12) "Prepaid calling service" means the right to access exclusively communications
8 services, which are paid for in advance and which enable the origination of calls
9 using an access number or authorization code, whether manually or electronically
10 dialed, and that is sold in predetermined units or dollars of which the number
11 declines with use in a known amount.
12 (13) "Private communications service" means a communications service that entitles the
13 customer or other purchaser to exclusive or priority use of a communications
14 channel or group of channels between or among termination points, regardless of
15 the manner in which the channel or channels are connected, and includes switching
16 capacity, extension lines, stations, and any other associated services that are
17 provided in connection with the use of a channel or channels.
18 (14) (a) "Service address" means the location of communications equipment to which
19 a customer's or other purchaser's call is charged and from which the call
20 originates or terminates, regardless of where the call is billed or paid.
21 (b) If the location of the communications equipment is not known, "service
22 address" means the origination point of the signal of the communications
23 services first identified by either the seller's communications system or in
24 information received by the seller from its service provider, where the system
25 used to transport the signals is not that of the seller.
26 (c) If the location cannot be determined according to the guidelines set forth in
27 paragraphs (a) and (b) of this subsection, "service address" means the location

1 of the customer's or other purchaser's place of primary use.
2 Section 127. KRS 139.505 is amended to read as follows:
3 (1) For the purpose of this section, "gross receipts" means:
4 (a) Sales of tangible personal property in this state if:
5 1. The property is delivered or shipped to a purchaser, other than the
6 United States government, or to the designee of the purchaser within this
7 state regardless of the f.o.b. point or other conditions of the sale; or
8 2. The property is shipped from an office, store, warehouse, factory, or
9 other place of storage in this state and the purchaser is the United States
10 government; and
11 (b) Sales other than sales of tangible personal property in this state if the income-
12 producing activity is performed in this state; or the income-producing activity
13 is performed both in and outside this state and a greater proportion of the
14 income-producing activity is performed in this state than in any other state,
15 based on cost of performance, or gross receipt allocation method as provided
16 by statute and elected by the taxpayer.
17 (2) Any business whose ***interstate*** communications service, subject to the sales tax
18 imposed under KRS Chapter 139 and deducted for federal income tax purposes,
19 exceeds five percent (5%) of the business's Kentucky gross receipts during the
20 preceding calendar year is entitled to a refundable credit ***if:***
21 ***(a) The business's annual Kentucky gross receipts are equal to or more than***
22 ***one million dollars ($1,000,000); and***
23 ***(b) The majority of the interstate communications service billed to a Kentucky***
24 ***service address for the annual period is for communications service***
25 ***originating outside of this state and terminating in this state.***
26 ***(3)*** The refundable credit shall be equal to the sales tax paid on the difference by which
27 the ***interstate*** communications service purchased by the business exceeds five

1 percent (5%) of the business's Kentucky gross receipts.

2 *(4)*[~~(3)~~] Any business that qualifies for the refundable credit authorized by subsection
3 (2) of this section shall make an annual application for the refund on or after June 1,
4 2002, and on or after every June 1 thereafter. The application shall be made to the
5 cabinet on forms as the cabinet may prescribe and shall contain ***information***
6 ***regarding interstate communications service purchases and*** any ***other*** information
7 deemed necessary for the cabinet to determine the business's eligibility to receive a
8 refund.

9 *(5)*[~~(4)~~] Notwithstanding the provisions of KRS 134.580 to the contrary, the cabinet,
10 upon receipt of a properly documented refund application, shall cause a timely
11 refund to be made directly to the ***eligible*** business. Interest shall not be allowed or
12 paid on any refund made under this section.

13 ***(6) To facilitate the administration of the refundable tax credit, the cabinet shall***
14 ***grant eligible businesses that apply for the tax credit permission to directly report***
15 ***and pay the sales tax applicable to the purchase of communications service. Once***
16 ***the business receives permission to directly report and pay the tax, refunds issued***
17 ***according to subsection (2) of this section shall not include any sales tax collected***
18 ***and paid by a communications service provider.***

19 *(7)*[~~(5)~~] Any refund application submitted under this section is subject to examination
20 by the cabinet. The examination shall occur within four (4) years from the date the
21 refund application is received by the cabinet. Any overpayment resulting from the
22 examination shall be repaid to the State Treasury. In addition, the amount required
23 to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty
24 provisions of KRS 131.180.

25 *(8)*[~~(6)~~] If a business owns directly or indirectly fifty percent (50%) or more of another
26 business, the credit computed under subsection (2) of this section shall be computed
27 on a combined basis, excluding any intercompany Kentucky gross receipts.

1 Section 128. KRS 160.603 is amended to read as follows:
2 No school district board of education shall levy any of the school taxes authorized by
3 KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648***, except the levy***
4 ***required by subsection (3) of Section 130 of this Act,*** until after compliance with the
5 following:
6 (1) The school district board of education desiring to levy any one (1) of these taxes
7 shall give notice of any proposed levy of one (1) of the school taxes.
8 Notwithstanding any statutory provisions to the contrary, notice shall be given by
9 causing to be published, at least one (1) time in a newspaper of general circulation
10 published in the county or by posting at the courthouse door if there be no such
11 newspaper, the fact that such levy is being proposed. The advertisement shall state
12 that the district board of education will meet at a place and on a day fixed in the
13 advertisement, not earlier than one (1) week and not later than two (2) weeks from
14 the date of the advertisement, for the purpose of hearing comments and complaints
15 regarding the proposed increase and explaining the reasons for such proposal.
16 (2) The school district board of education shall conduct a public hearing at the place
17 and on the date advertised for the purpose of hearing comments and complaints
18 regarding the proposed levy and explaining the reasons for such proposal.
19 (3) In the event that a combined taxing district desires to levy any one (1) of these
20 taxes, the boards of education shall make a joint advertisement and hold a joint
21 hearing in the manner prescribed heretofore for an individual school district.
22 Section 129. KRS 160.6131 is amended to read as follows:
23 As used in KRS 160.613 to 160.617:
24 (1) "Cabinet" means the Revenue Cabinet.
25 (2) "Communications service" shall have the same meaning as provided in KRS
26 139.195 but does not include:
27 (a) Prepaid calling services;

1 (b) Interstate telephone service, if the interstate charge is separately itemized for
2 each call; and
3 (c) If the interstate calls are not itemized, the portion of telephone charges
4 identified and set out on the customer's bill as interstate as supported by the
5 provider's books and records.
6 (3) "Gross cost" means the total cost of utility services including the cost of the tangible
7 personal property and any services associated with obtaining the utility services
8 regardless from whom purchased.
9 (4) "Gross receipts" means all amounts received in money, credits, property, or other
10 money's worth in any form, as consideration for the furnishing of utility services.
11 (5) "Utility services" means the furnishing of communications services, electric power,
12 water, and natural, artificial, and mixed gas.
13 ***(6) "Cable service" has the same meaning as provided in Section 89 of this Act.***
14 ***(7) "Satellite broadcast and wireless cable service" has the same meaning as***
15 ***provided in Section 89 of this Act.***
16 Section 130. KRS 160.614 is amended to read as follows:
17 (1) A utility gross receipts license tax initially levied by a school district board of
18 education on or after July 13, 1990, shall be levied on the gross receipts derived
19 from the furnishing of cable ***service***[~~television services~~] in addition to the gross
20 receipts derived from the furnishing of the utility services defined in KRS 160.6131.
21 (2) A utility gross receipts license tax initially levied by a school district board of
22 education prior to July 13, 1990, shall be levied on the gross receipts derived from
23 the furnishing of cable ***service***[~~television services~~], in addition to the gross receipts
24 derived from the furnishing of the utility services defined in KRS 160.6131, if the
25 school district board of education repeats the notice and hearing requirements of
26 KRS 160.603, but only as to the levy of the tax on the gross receipts derived from
27 the furnishing of cable ***service***[~~television services~~].

1 *(3) A utility gross receipts license tax initially levied by a school district board of*
2 *education on or after July 1, 2005, shall include the gross receipts derived from*
3 *the furnishing of direct satellite broadcast and wireless cable service in addition*
4 *to the gross receipts derived from the furnishing of utility services defined in KRS*
5 *160.6131 and cable service.*
6 *(4) Any school district that has cable service included in the base of a utility gross*
7 *receipts tax levied prior to July 1, 2005, shall, as of July 1, 2005, include gross*
8 *receipts derived from the furnishing of direct satellite broadcast and wireless*
9 *cable service in the base of its utility gross receipts tax at the same rate as applied*
10 *to cable service, unless the school district board of education chooses to opt out of*
11 *this requirement by following the procedures set forth in subsection (5) of this*
12 *section.*
13 *(5) Any school district board of education may elect to opt out of the base expansion*
14 *required by subsection (4) of this section. However, any district electing to opt out*
15 *of the provisions of subsection (4) of this section shall also remove from the base*
16 *of its utility gross receipts tax all gross receipts from the furnishing of cable*
17 *service. To opt out of the provisions of subsection (4) of this section, a school*
18 *district board of education shall, before May 1, 2005:*
19 *(a) Determine the amount of revenue that will be lost from removing gross*
20 *receipts of cable service from the base of the utility gross receipts tax, and*
21 *how that revenue will be replaced; and*
22 *(b) Provide written notice of the intent to opt out of the base expansion required*
23 *by subsection (4) of this section to the Revenue Cabinet, the Department of*
24 *Education, all cable service providers operating in the district and the*
25 *public.*
26 *1. Notice to the public shall be accomplished through the publication at*
27 *least one (1) time in a newspaper of general circulation in the county,*

1 ***or by a posting at the courthouse door if there is no such newspaper,***
2 ***of the fact that the district board has elected to opt out of the base***
3 ***expansion required by subsection (4) of this section. The notice shall***
4 ***include the following information:***
5 ***a. The amount of revenue that will be lost from removing gross***
6 ***receipts of cable service from the base of the utility gross receipts***
7 ***tax, and how that revenue will be replaced; and***
8 ***b. The date, time and location of a meeting of the board, not earlier***
9 ***than one (1) week or later than two (2) weeks from the date of***
10 ***the notice, for the purpose of hearing comments regarding the***
11 ***proposed action of the board, and explaining the reasons for the***
12 ***proposed action.***
13 ***2. The board of education shall conduct a public hearing at the place***
14 ***and on the date and time provided in the notice for the purpose of***
15 ***hearing comments regarding the proposed action of the board, and***
16 ***explaining the reasons for the proposed action.***
17 Section 131. KRS 160.617 is amended to read as follows:
18 Notwithstanding the provisions of KRS 278.040(2), ***or any other provision to the***
19 ***contrary,*** any utility***, cable service provider or satellite broadcast and wireless cable***
20 ***service provider*** services provider required to pay the tax authorized by KRS 160.613 ***or***
21 ***KRS 160.614*** may increase its rates in any school district in which it is required to pay the
22 school tax by ***the amount of the school tax imposed, up to*** three percent (3%). Any
23 utility***, cable service provider, or satellite broadcast and wireless cable service provider***
24 so increasing its rates shall separately state on the bills sent to its customers the amount of
25 the increase and shall identify the amount as: "Rate increase for school tax."
26 Section 132. KRS 139.531 is amended to read as follows:
27 ***(1)*** Notwithstanding ***any***~~[all]~~ other provisions of this chapter ***to the contrary***, the taxes

1 imposed by this chapter shall apply to[~~ the horse industry as follows:~~

2 ~~(1) The taxes imposed under the provisions of this chapter shall apply to the following~~

3 ~~transactions~~]:

4 (a) Fees paid for breeding a stallion to a mare in this state;

5 (b) Sales of horses unless exempted under the provisions of subsections (2)(a) or

6 ***(2)(d)***[~~(2)(c)~~] of this section; ***and***

7 (c) ***The sales***[~~Claiming~~] price of any horse claimed at any race meeting within

8 this state.

9 (2) ***In addition to any other exemptions provided for the horse industry in this***

10 ***chapter,*** the taxes imposed under the provisions of this chapter shall not apply to

11 ***the following activities***[~~the sale or use of~~]:

12 (a) ***The sale or use of*** horses, or interests or shares in horses, provided the

13 purchase or use is made for breeding purposes only;

14 (b) ***The use of a stallion for breeding purposes by an owner or shareholder of***

15 ***the*** stallion[~~services, including the trading but not the sale thereof, providing~~

16 ~~the use or trading is made by the owner of the stallion or the owner of an~~

17 ~~interest or share in the stallion~~];

18 (c) ***The trading of stallion services by an owner or shareholder of the stallion;***

19 ***(d) The sale of*** horses less than two (2) years of age at the time of sale, provided

20 the sale is made to a nonresident of Kentucky[~~, and the horse is transported~~

21 ~~out of the state, either immediately following the sale or immediately~~

22 ~~following training within the state if the horse is kept temporarily within the~~

23 ~~state for training purposes following the sale~~]. ***For the purposes of this***

24 ***section, a nonresident means a person defined in KRS 141.010(15) who is***

25 ***not a resident in this state as defined by KRS 141.010(17) or who is not***

26 ***commercially domiciled in this state as defined in KRS 141.120(1)(b);***

27 ***(e)***[~~(3)~~] ***The***[~~ taxes imposed by this chapter shall not apply to receipts for~~]

1 boarding and training of horses within this state*; and*[~~, nor to~~]
2 *(f)* The temporary use of horses within this state for purposes of racing,
3 exhibiting, or performing.
4 SECTION 133. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO
5 READ AS FOLLOWS:
6 ***(1) There is hereby created in the State Treasury a trust and revolving fund***
7 ***designated as the "Kentucky thoroughbred breeders incentive fund". The fund***
8 ***shall be administered by the Kentucky Horse Racing Authority. For all tax***
9 ***periods beginning on or after June 1, 2005, eighty percent (80%) of all receipts***
10 ***collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for***
11 ***breeding a stallion to a mare in Kentucky shall be deposited in the fund together***
12 ***with any other money contributed, appropriated, or allocated to the fund from all***
13 ***other sources. The money deposited in the fund is hereby appropriated for the***
14 ***uses set forth in this section. Any money remaining in the fund at the close of any***
15 ***calendar year shall not lapse but shall be carried forward to the next calendar***
16 ***year. The fund may also receive additional state appropriations, gifts, grants, and***
17 ***federal funds. All interest earned on money in the fund shall be credited to the***
18 ***fund.***
19 ***(2) (a) The Kentucky Horse Racing Authority shall use moneys deposited in the***
20 ***Kentucky thoroughbred breeders incentive fund to administer the fund and***
21 ***provide rewards for breeders of horses bred and foaled in Kentucky.***
22 ***(b) By January 1, 2006, the Kentucky Horse Racing Authority shall promulgate***
23 ***administrative regulations establishing the conditions and criteria for the***
24 ***distribution of moneys from the fund.***
25 ***(c) The Revenue Cabinet may promulgate administrative regulations***
26 ***establishing the procedures necessary to determine the correct allocation of***
27 ***sales tax receipts described in subsection (1) of this section.***

1 *(d) As soon as practicable after the close of each calendar year, beginning with*
2 *the calendar year ending December 31, 2005, the authority shall disburse to*
3 *breeders of horses moneys in the Kentucky thoroughbred breeders incentive*
4 *fund pursuant to the administrative regulations promulgated pursuant to*
5 *paragraph (b) of this subsection.*
6 SECTION 134. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO
7 READ AS FOLLOWS:
8 *(1) There is hereby created in the State Treasury a trust and revolving fund*
9 *designated as the "Kentucky standardbred breeders incentive fund". The fund*
10 *shall be administered by the Kentucky Horse Racing Authority. For tax periods*
11 *beginning on or after June 1, 2005, thirteen percent (13%) of all receipts*
12 *collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for*
13 *breeding a stallion to a mare in Kentucky shall be deposited in the fund together*
14 *with any other money contributed, appropriated, or allocated to the fund from all*
15 *other sources. The money deposited in the fund is hereby appropriated for the*
16 *uses set forth in this section. Any money remaining in the fund at the close of any*
17 *calendar year shall not lapse but shall be carried forward to the next calendar*
18 *year. The fund may also receive additional state appropriations, gifts, grants, and*
19 *federal funds. All interest earned on money in the fund shall be credited to the*
20 *fund.*
21 *(2) (a) The Kentucky Horse Racing Authority shall use moneys deposited in the*
22 *Kentucky standardbred breeders incentive fund to administer the fund and*
23 *provide rewards for breeders or owners of Kentucky-bred standardbred*
24 *horses.*
25 *(b) By January 1, 2006, the Kentucky Horse Racing Authority shall promulgate*
26 *administrative regulations establishing the conditions and criteria for the*
27 *distribution of moneys from the fund.*

1 *(c) The Revenue Cabinet may promulgate administrative regulations*
2 *establishing the procedures necessary to determine the correct allocation of*
3 *sales tax receipts described in subsection (1) of this section.*
4 *(d) As soon as practicable after the close of each calendar year, beginning with*
5 *the calendar year ending December 31, 2005, the authority shall disburse*
6 *moneys in the Kentucky standardbred breeders incentive fund to be used to*
7 *promote, enhance, improve, and encourage the further and continued*
8 *development of the standardbred breeding industry in Kentucky, under the*
9 *administrative regulations promulgated pursuant to paragraph (b) of this*
10 *subsection.*
11 SECTION 135. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO
12 READ AS FOLLOWS:
13 *(1) There is hereby created in the State Treasury a trust and revolving fund*
14 *designated as the "Kentucky horse breeders incentive fund". The fund shall be*
15 *administered by the Kentucky Horse Racing Authority. For tax periods beginning*
16 *on or after June 1, 2005, seven percent (7%) of all receipts collected under KRS*
17 *139.531(1)(a) from the sales and use tax on the fees paid for breeding a stallion*
18 *to a mare in Kentucky shall be deposited in the fund together with any other*
19 *money contributed, appropriated or allocated to the fund from all other sources.*
20 *The money deposited in the fund is hereby appropriated for the uses set forth in*
21 *this section. Any money remaining in the fund at the close of any calendar year*
22 *shall not lapse but shall be carried forward to the next calendar year. The fund*
23 *may also receive additional state appropriations, gifts, grants, and federal funds.*
24 *All interest earned on money in the fund shall be credited to the fund.*
25 *(2) (a) The Kentucky Horse Racing Authority shall use moneys deposited in the*
26 *Kentucky horse breeders incentive fund to administer the fund and provide*
27 *rewards for breeders of horses bred and foaled in Kentucky.*

1 *(b) By January 1, 2006, the Kentucky Horse Racing Authority shall promulgate*
2 *administrative regulations establishing the conditions and criteria for the*
3 *distribution of moneys from the fund.*
4 *(c) The Revenue Cabinet may promulgate administrative regulations*
5 *establishing the procedures necessary to determine the correct allocation of*
6 *sales tax receipts described in subsection (1) of this section.*
7 *(d) As soon as practicable after the close of each calendar year, beginning with*
8 *the calendar year ending December 31, 2005, the authority shall disburse to*
9 *breeders of horses moneys in the Kentucky horse breeders incentive fund*
10 *pursuant to the administrative regulations promulgated pursuant to*
11 *paragraph (b) of this subsection.*
12 SECTION 136. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
13 READ AS FOLLOWS:
14 *As used in Sections 136 to 139 of this Act:*
15 *(1) "Annual biodiesel tax credit cap" means one million five hundred thousand*
16 *dollars ($1,500,000).*
17 *(2) "Biodiesel" means a renewable, biodegradable, mono alkyl ester combustible*
18 *liquid fuel derived from agriculture plant oils or animal fats that meets American*
19 *Society for Testing and Materials specification D6751-03 for biodiesel fuel*
20 *(B100) blend stock distillate fuels;*
21 *(3) "Biodiesel producer" means a business that uses agricultural crops, agricultural*
22 *residues, or waste products to manufacture biodiesel at a location in this*
23 *Commonwealth.*
24 *(4) "Blended biodiesel" means a blend of biodiesel with petroleum diesel so that the*
25 *percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater).*
26 SECTION 137. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
27 READ AS FOLLOWS:

1 *(1) A biodiesel producer or a blender of blended biodiesel shall be entitled to a*
2 *nonrefundable tax credit against the taxes imposed by KRS 141.020 and 141.040*
3 *in an amount certified by the cabinet under subsection (4) of this section. The*
4 *credit rate shall be one dollar ($1) per biodiesel and blended biodiesel gallons*
5 *unless the total amount of approved credit for all biodiesel producers and*
6 *blenders exceeds the annual biodiesel tax credit cap. If the total amount of*
7 *approved credit for all biodiesel producers and blenders exceeds the annual*
8 *biodiesel tax credit cap, the cabinet shall determine the amount of credit each*
9 *biodiesel producer and blender receives by multiplying the annual biodiesel tax*
10 *credit cap by a fraction, the numerator of which is the amount of approved credit*
11 *for the biodiesel producer and blender and the denominator of which is the total*
12 *approved credit for all biodiesel producers and blenders.*
13 *(2) Re-blending of blended biodiesel shall not qualify for the credit provided under*
14 *this section.*
15 *(3) The credit shall not be carried forward to a return for any other period.*
16 *(4) Each biodiesel producer and blender eligible for the credit provided under*
17 *subsection (1) of this section shall file a biodiesel tax credit claim for biodiesel*
18 *gallons produced or blended in this state on forms prescribed by the cabinet by*
19 *the fifteenth day of the first month following the close of the preceding calendar*
20 *year. The cabinet shall determine the amount of the approved credit based on the*
21 *amount of biodiesel produced or blended in this state during the preceding*
22 *calendar year and issue a credit certificate to the biodiesel producer or blender by*
23 *the fifteenth day of the fourth month following the close of the calendar year.*
24 *(5) In the case of a biodiesel producer or blender that has a fiscal year end for*
25 *purposes of computing the tax imposed by KRS 141.040, the amount of approved*
26 *credit shall be claimed on the return filed for the first fiscal year ending after the*
27 *close of the preceding calendar year.*

1 SECTION 138. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
2 READ AS FOLLOWS:
3 ***In the case of a biodiesel producer or blender which is a general partnership not***
4 ***subject to tax under KRS 141.040, the amount of approved credit shall be distributed to***
5 ***each partner based on the partner's distributive share of the income of the partnership.***
6 ***Each biodiesel producer or blender shall notify the cabinet electronically of all***
7 ***partners who may claim any amount of the approved credit. Failure to provide***
8 ***information to the cabinet in a manner prescribed by administrative regulation may***
9 ***constitute the forfeiture of available credits to all partners in the partnership.***
10 SECTION 139. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
11 READ AS FOLLOWS:
12 ***The cabinet may promulgate administrative regulations necessary to administer the***
13 ***provisions of Sections 136 to 138 of this Act.***
14 SECTION 140. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
15 READ AS FOLLOWS:
16 ***(1) As used in this section:***
17 ***(a) "Qualifying voluntary environmental remediation property" means real***
18 ***property subject to the provisions of KRS 224.01-400 and KRS 224.01-405***
19 ***for which the Natural Resources and Environmental Protection Cabinet***
20 ***has made a determination that:***
21 ***1. The responsible parties are financially unable to carry out the***
22 ***obligations in KRS 224.01-400 and KRS 224.01-405; and***
23 ***2. The property was acquired after the effective date of this Act by a bona***
24 ***fide prospective purchaser as defined in 42 U.S.C. sec. 9601(40);***
25 ***(b) "Expenditures" means payment for work to characterize the extent of***
26 ***contamination and to remediate the contamination at a qualifying***
27 ***voluntary environmental remediation property; and***

1 *(c) "Taxpayer" means an individual subject to tax under KRS 141.020 or a*
2 *corporation subject to tax under KRS 141.040.*
3 *(2) There shall be allowed a nonrefundable credit against the tax imposed under*
4 *KRS 141.020 or 141.040 for taxable years beginning after December 31, 2004, for*
5 *taxpayer expenditures made at a qualifying voluntary environmental remediation*
6 *property in order to meet the requirements of an agreed order entered into by the*
7 *taxpayer under the provisions of KRS 224.01-518, provided that the taxpayer has*
8 *obtained a covenant not to sue from the Natural Resources and Environmental*
9 *Protection Cabinet under KRS 224.01-526.*
10 *(3) The maximum total credit for each taxpayer shall not exceed one hundred fifty*
11 *thousand dollars ($150,000). For purposes of this section, an affiliated group of*
12 *taxpayers required to file a consolidated return under KRS 141.200 shall be*
13 *treated as one taxpayer*
14 *(4) A taxpayer claiming a credit under this section shall submit receipts to the*
15 *Finance and Administration Cabinet in proof of the expenditures claimed. The*
16 *Finance and Administration Cabinet shall forward the receipts to the Natural*
17 *Resources and Environmental Protection Cabinet for verification. After the*
18 *receipts are verified, the Finance and Administration Cabinet shall notify the*
19 *taxpayer of eligibility for the credit.*
20 *(5) The credit may be first claimed on the income tax return of the taxpayer filed in*
21 *the taxable year during which the credit was certified. The amount of the*
22 *allowable credit for any taxable year shall be twenty-five percent (25%) of the*
23 *maximum credit approved. The credit may be carried forward for ten (10)*
24 *successive taxable years.*
25 *(6) If the taxpayer is a general partnership, the credit shall pass through in the same*
26 *proportion as the distributive share of income or loss is passed through.*
27 Section 141. KRS 224.01-400 is amended to read as follows:

1 (1) As used in this section:

2 (a) "Hazardous substance" means any substance or combination of substances
3 including wastes of a solid, liquid, gaseous, or semi-solid form which, because
4 of its quantity, concentration, or physical, chemical, or infectious
5 characteristics may cause or significantly contribute to an increase in mortality
6 or an increase in serious irreversible or incapacitating reversible illness, or
7 pose a substantial present or potential hazard to human health or the
8 environment. The substances may include but are not limited to those which
9 are, according to criteria established by the cabinet, toxic, corrosive, ignitable,
10 irritants, strong sensitizers, or explosive, except that the term "hazardous
11 substance" shall not include petroleum, including crude oil or any fraction
12 thereof which is not otherwise specifically listed or designated as a hazardous
13 substance under this section, and shall not include natural gas, natural gas
14 liquids, liquified natural gas, or synthetic gas usable for fuel, or mixtures of
15 natural gas and synthetic gas;

16 (b) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying,
17 discharging, injecting, escaping, leaching, dumping, or disposing hazardous
18 substances, pollutants, or contaminants into the environment, including the
19 abandonment or discarding of barrels, containers, and other closed receptacles
20 containing any hazardous substance, pollutant, or contaminant, but excludes
21 emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft,
22 vessel, or pipeline pumping station engine; the release of source, by-product,
23 or special nuclear material from a nuclear incident, as those terms are defined
24 in the Atomic Energy Act of 1954, if the release is subject to requirements
25 with respect to financial protection established by the Nuclear Regulatory
26 Commission under Section 170 of the Act, or any release of source by-
27 product, or special nuclear material from any processing site designated under

1 Sections 102(a)(1) or 302(a) of the Uranium Mill Tailing Radiation Control
2 Act of 1978; and the normal application of fertilizer;
3 (c) "Site" means any building, structure, installation, equipment, pipe, or pipeline,
4 including any pipe into a sewer or publicly-owned treatment works, well, pit,
5 pond, lagoon, impoundment, ditch, landfill, storage containers, motor
6 vehicles, rolling stock, or aircraft, or any other place or area where a release or
7 threatened release has occurred. The term shall not include any consumer
8 product in consumer use;
9 (d) "Environmental emergency" means any release or threatened release of
10 materials into the environment in such quantities or concentrations as cause or
11 threaten to cause an imminent and substantial danger to human health or the
12 environment; the term includes, but is not limited to, discharges of oil and
13 hazardous substances prohibited by Section 311(b)(3) of the Federal Clean
14 Water Act - (Public Law 92-500), as amended;
15 (e) "Threatened release" means a circumstance which presents a substantial threat
16 of a release;
17 (f) "Pollutant or contaminant" shall include, but not be limited to, any element,
18 substance, compound, or mixture, including disease-causing agents, which
19 after release into the environment and upon exposure, ingestion, inhalation, or
20 assimilation into any organism, either directly from the environment or
21 indirectly by ingestion through food chains, will or may reasonably be
22 anticipated to cause death, disease, behavioral abnormalities, cancer, genetic
23 mutation, physiological malfunctions (including malfunctions in reproduction)
24 or physical deformations, in such organisms or their offspring; except that the
25 term "pollutant or contaminant" shall not include petroleum, including crude
26 oil or any fraction thereof which is not otherwise specifically listed or
27 designated as a hazardous substance under this section and shall not include

1 natural gas, liquified natural gas, or synthetic gas of pipeline quality (or
2 mixtures of natural gas and such synthetic gas);
3 (g) "Environment" means the waters of the Commonwealth, land surface, surface,
4 and subsurface soils and strata, or ambient air within the Commonwealth or
5 under the jurisdiction of the Commonwealth;
6 (h) "Financial institution" means, for purposes of subsections (26) and (27) of this
7 section, the following:
8 1. A bank or trust company defined by KRS Chapter 287;
9 2. A savings and loan association defined by KRS Chapter 289;
10 3. A credit union defined by KRS Chapter 290;
11 4. A mortgage loan company or loan broker defined by KRS Chapter 294;
12 5. An insurer defined by KRS Chapter 304; and
13 6. Any other financial institution engaged in the business of lending
14 money, the lending operations of which are subject to state or federal
15 regulation; and
16 (i) "Fiduciary" means, for purposes of subsections (26) and (27) of this section, a
17 fiduciary as defined by KRS Chapter 386.
18 (2) The cabinet may promulgate administrative regulations in accordance with the
19 provisions of KRS Chapter 13A designating individual hazardous substances,
20 pollutants, or contaminants; establishing their respective reportable quantities; and
21 establishing their respective release notification requirements, which differ from
22 those designated or established in subsections (3) to (9) of this section, if necessary
23 to:
24 (a) Protect human health and the environment;
25 (b) Maintain consistency with valid scientific development; or
26 (c) Maintain consistency with newly adopted federal regulations.
27 (3) The hazardous substances for which release notification is required shall be those

1 hazardous substances designated in 40 C.F.R. Part 302 under the Federal
2 Comprehensive Environmental Response Compensation and Liability Act of 1980,
3 as amended; those extremely hazardous substances designated in 40 C.F.R. Part 355
4 under Title III of the Superfund Amendments and Reauthorization Act of 1986;
5 nerve and blister agents designated under KRS 224.50-130(2); and any hazardous
6 substances designated by the cabinet in administrative regulations promulgated
7 pursuant to subsection (2) of this section.
8 (4) The reportable quantity for a release of a hazardous substance designated in 40
9 C.F.R. Part 302 under the Federal Comprehensive Environmental Response
10 Compensation and Liability Act of 1980, as amended, shall be the quantity
11 designated in 40 C.F.R. Part 302. The reportable quantity for a release of an
12 extremely hazardous substance designated in 40 C.F.R. Part 355 under Title III of
13 the Superfund Amendments and Reauthorization Act of 1986 shall be the quantity
14 designated in 40 C.F.R. Part 355. The reportable quantity for a release of a nerve or
15 blister agent designated under KRS 224.50-130(2) shall be any quantity. The
16 cabinet may establish reportable quantities for hazardous substances in
17 administrative regulations promulgated pursuant to subsection (2) of this section
18 which differ from those established in this subsection. The reportable quantity for
19 any hazardous substance designated by the cabinet in administrative regulations
20 promulgated pursuant to subsection (2) of this section shall be the reportable
21 quantity established by the cabinet.
22 (5) The release notification requirements for a release of a hazardous substance
23 designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental
24 Response Compensation and Liability Act of 1980, as amended, shall be the
25 notification requirements established in 40 C.F.R. Part 302. The release notification
26 requirements for a release of an extremely hazardous substance designated in 40
27 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization

1 Act of 1986 shall be the notification requirements established in 40 C.F.R. Part 355.
2 Whenever notification of a release or threatened release of a hazardous substance is
3 required pursuant to this section, any person possessing or controlling the hazardous
4 substance shall immediately notify the cabinet's twenty-four (24) hour
5 environmental response line. The cabinet may establish release notification
6 requirements by administrative regulation promulgated pursuant to subsection (2) of
7 this section which differ from those established in this subsection. The release
8 notification requirements for any hazardous substance designated by the cabinet in
9 administrative regulations promulgated pursuant to subsection (2) of this section
10 shall be the release notification requirements established in the cabinet's
11 administrative regulations.
12 (6) Any person possessing or controlling a pollutant or contaminant for which a
13 reportable quantity has been established by administrative regulation promulgated
14 pursuant to subsection (2) of this section shall immediately notify the cabinet's
15 twenty-four (24) hour environmental response line, as soon as that person has
16 knowledge of any release or threatened release, other than a permitted release or
17 application of a pesticide in accordance with the manufacturer's instructions, of a
18 pollutant or contaminant to the environment in a quantity equal to or exceeding the
19 reportable quantity. In the notice to be made to the cabinet, the person shall state, at
20 a minimum, the location of the release or threatened release, the material released or
21 threatened to be released, and the approximate quantity and concentration of the
22 release or threatened release.
23 (7) Any person possessing or controlling a pollutant or contaminant shall, as soon as
24 that person has knowledge of any release or threatened release of a pollutant or
25 contaminant from a site to the environment in a quantity which may present an
26 imminent or substantial danger to the public health or welfare, immediately notify
27 the cabinet's twenty-four (24) hour environmental response line. In the notice to be

1 made to the cabinet, the person shall state, at a minimum, the location of the release
2 or threatened release, the material released or threatened to be released, and the
3 approximate quantity and concentration of the release or threatened release. If a
4 person possessing or controlling a pollutant or contaminant for which a reportable
5 quantity has not been established in administrative regulations promulgated
6 pursuant to subsection (2) of the section fails to report a release or threatened
7 release because of a good-faith belief that the release did not present an imminent or
8 substantial danger to the public health or welfare, that person shall not be liable for
9 a violation of the release notification requirements of this section. In determining
10 whether a person has acted in good faith, the cabinet shall consider the
11 circumstances surrounding the release, including whether the release was a
12 permitted release or the application of a pesticide in accordance with the
13 manufacturer's instructions.
14 (8) The cabinet may require the person subject to the release notification requirements
15 of subsections (5) to (9) of this section to provide a written report on the release or
16 threatened release. This report shall be submitted to the environmental response
17 section of the cabinet within seven (7) days of the cabinet's demand for the report.
18 The report shall identify the following:
19 (a) The precise location of the release or threatened release;
20 (b) The name, address, and phone number of the person possessing or controlling
21 the material at the time of the release or threatened release;
22 (c) The name, address, and phone number of persons having actual knowledge of
23 the facts surrounding the release or threatened release;
24 (d) The specific pollutant or contaminant or hazardous substance released or
25 threatened to be released;
26 (e) The concentration and quantity of the pollutant or contaminant or hazardous
27 substance in the release or threatened release;

1 (f) The circumstances and cause of the release or threatened release;
2 (g) Efforts taken by the person to control or mitigate the release or threatened
3 release;
4 (h) To the extent known, the harmful effects of the release or threatened release;
5 (i) The transportation characteristics of the medium or matrix into which the
6 material was released or threatened to be released;
7 (j) Any present or proposed remedial action by the person at the site of the
8 release or threatened release;
9 (k) The name, address, and phone number of the person who can be contacted for
10 additional information concerning the release or threatened release; and
11 (l) Any other information that may facilitate remediation of the site.
12 (9) A person possessing or controlling a hazardous substance, pollutant, or contaminant
13 shall immediately notify the cabinet pursuant to subsection (5) of this section when
14 release notification, including notification of a continuous release reported under
15 the Federal Comprehensive Environmental Response Compensation and Liability
16 Act of 1980, as amended, is provided to the United States Environmental Protection
17 Agency. Within seven (7) days of providing any written notification to the United
18 States Environmental Protection Agency, the person shall submit to the cabinet a
19 copy of the release notification submitted to the United States Environmental
20 Protection Agency. The cabinet shall not require additional information pursuant to
21 subsection (5) of this section if the release notification is in compliance with this
22 subsection, unless a written report is required under subsection (8) of this section or
23 the release or threatened release constitutes an environmental emergency.
24 (10) Any person in charge of a vessel or site from which oil is discharged in a harmful
25 quantity as defined by 40 C.F.R. Part 110 in contravention of Section 311 of the
26 Federal Clean Water Act shall immediately notify the cabinet's twenty-four (24)
27 hour environmental response line. In the notice to be made to the cabinet, the person

1 shall state, at a minimum, the location of the discharge, the material discharged, and
2 the approximate quantity and concentration of the discharge.
3 (11) Any person possessing or controlling petroleum or a petroleum product as defined
4 by KRS 224.60-115(15) shall, as soon as that person has knowledge of any release
5 or threatened release, other than a permitted release or application of a pesticide in
6 accordance with the manufacturer's instructions, in an amount of twenty-five (25)
7 gallons or more in a twenty-four (24) hour period, except for diesel fuel for which
8 the reportable quantity is seventy-five (75) gallons or more in a twenty-four (24)
9 hour period, or in contravention of Section 311 of the Federal Clean Water Act,
10 immediately notify the cabinet's twenty-four (24) hour environmental response line.
11 In the notice to be made to the cabinet, the person shall state, at a minimum, the
12 location of the release or threatened release, the material released or threatened to be
13 released, and the approximate quantity and concentration of the release or
14 threatened release.
15 (12) The cabinet may require the person subject to subsections (10) and (11) of this
16 section to provide a written report on the discharge or release. This report shall be
17 submitted to the environmental response section of the cabinet within seven (7)
18 days of the cabinet's demand for the report. The report shall identify the following:
19 (a) The precise location of the discharge or release;
20 (b) The name, address, and phone number of the person possessing or controlling
21 the material at the time of the discharge or release;
22 (c) The name, address, and phone number of persons having actual knowledge of
23 the facts surrounding the discharge or release;
24 (d) The concentration and quantity of the discharge or release;
25 (e) The circumstances and cause of the discharge or release;
26 (f) Efforts taken by the person to control or mitigate the discharge or release;
27 (g) To the extent known, the harmful effects of the discharge or release;

1 (h) The transportation characteristics of the medium or matrix into which the
2 material was discharged or released;
3 (i) Any present or proposed remedial action by the person at the site of the
4 discharge or release;
5 (j) The name, address, and phone number of the person who can be contacted for
6 additional information concerning the discharge or release; and
7 (k) Any other information that may facilitate an emergency spill response, or
8 remediation of the site.
9 (13) Timely notification received under the release notification requirements of this
10 section or information obtained in a notification received under the release
11 notification requirements of this section may not be used against the person making
12 the notification in any criminal proceeding, except in a prosecution for submitting a
13 false or untimely notification to the cabinet. Notification received by the cabinet of
14 a threatened release or discharge shall not be deemed a separate incident.
15 (14) The cabinet shall be the lead agency for hazardous substance, pollutant, or
16 contaminant emergency spill response and, after consultation with other affected
17 federal, state, and local agencies and private organizations, shall establish a
18 contingency plan for undertaking emergency actions in response to the release of a
19 hazardous substance, pollutant, or contaminant. The contingency plan shall:
20 (a) Provide for efficient, coordinated, and effective action to minimize damage to
21 the air, land, and waters of the Commonwealth caused by the release or
22 threatened release of hazardous substances, pollutants, or contaminants;
23 (b) Include containment, cleanup, and disposal procedures;
24 (c) Provide for remediation or restoration of the lands or waters affected
25 consistent with this section;
26 (d) Assign duties and responsibilities among state cabinets and agencies in
27 coordination with federal and local agencies;

1 (e) Provide for the identification, procurement, maintenance, and storage of
2 necessary equipment and supplies;
3 (f) Provide for designation of persons trained, prepared, and available to provide
4 the necessary services to carry out the plan; and
5 (g) Establish procedures and techniques for identifying, containing, removing,
6 and disposing of hazardous substances released or being released.
7 (15) The cabinet shall have the authority, power, and duty to:
8 (a) Recover from persons liable therefor for the benefit of the hazardous waste
9 management fund, the cabinet's actual and necessary costs expended in
10 response to a threatened release, an environmental emergency, or a release of
11 a hazardous substance that is reportable under this section. Except as provided
12 in paragraph (b) of this subsection, this section is intended solely to recognize
13 the existence of a cause of action on behalf of the cabinet and is not intended
14 to expand or contract the bases of liability, the elements of proof, or the
15 amount of liability of any person;
16 (b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in
17 the removal of oil or hazardous substances discharged in violation of Section
18 311(b)(3) of the Federal Clean Water Act from any person liable therefor
19 under Section 311 of the Federal Clean Water Act subject to limitations of
20 liability and defenses provided in the section. The limitations of liability shall
21 apply to the total of state and federal expenses; and
22 (c) In every case where action required under this section is not being adequately
23 taken or the identity of the person responsible for the release or threatened
24 release is unknown, the cabinet or its agent may contain, remove, or dispose
25 of the hazardous substance, pollutant, or contaminant or take any other action
26 consistent with this section, including, but not limited to, issuance of an
27 emergency order as provided in KRS 224.10-410 to the person possessing,

1 controlling, or responsible for the release or threatened release as necessary
2 for the protection of the environment and public health, safety, or welfare.
3 (16) Any duly authorized officer, employee, or agent of the cabinet may upon notice to
4 the owner or occupant enter any property, premises, or place at any time for the
5 purposes of this section, if the entry is necessary to prevent damage to the air, land,
6 or waters of the Commonwealth. Notice to the owner or occupant shall not be
7 required if the delay attendant upon providing it will result in imminent risk to
8 public health or safety.
9 (17) The cabinet shall prepare and annually update an inventory of all sites in the
10 Commonwealth at which there is or has been an environmental emergency or a
11 release of a hazardous substance, pollutant, or contaminant. In preparing the
12 inventory, the cabinet shall determine, based on information available to the
13 cabinet, the impact of each site on public health and the environment and identify
14 the relative priority for restoration or remedial action. Upon determining that no
15 further restoration or remedial action is necessary, the cabinet shall so designate the
16 site on the inventory. A separate designation of sites where a remedial action
17 involving on-site containment or treatment has been performed and other sites
18 where restoration of the environment has not been achieved shall be maintained. A
19 review of environmental conditions at sites remediated by on-site containment or
20 treatment and other sites where restoration or remediation of the environment is not
21 achieved shall be conducted by the cabinet every five (5) years to determine
22 whether additional action is necessary to protect human health or the environment.
23 (18) Any person possessing or controlling a hazardous substance, pollutant, or
24 contaminant which is released to the environment, or any person who caused a
25 release to the environment of a hazardous substance, pollutant, or contaminant,
26 shall characterize the extent of the release as necessary to determine the effect of the
27 release on the environment, and shall take actions necessary to correct the effect of

1 the release on the environment. Any person required to take action under this
2 subsection shall have the following options:
3 (a) Demonstrating that no action is necessary to protect human health, safety, and
4 the environment;
5 (b) Managing the release in a manner that controls and minimizes the harmful
6 effects of the release and protects human health, safety, and the environment,
7 provided that the management may include any existing or proposed
8 engineering or institutional controls and the maintenance of those controls;
9 (c) Restoring the environment through the removal of the hazardous substance,
10 pollutant, or contaminant; or
11 (d) Any combination of paragraphs (a) to (c) of this subsection.
12 (19) Unless otherwise required by the cabinet, a person required to characterize the
13 extent of a release and correct the effect of the release on the environment under
14 subsection (18) of this section may take those actions without making the
15 demonstrations to the cabinet required by subsections (18) to (21) of this section, if:
16 (a) The release is less than the reportable quantity of a hazardous substance,
17 pollutant, or contaminant;
18 (b) The release is of a pollutant or contaminant for which a reportable quantity
19 has not been established by administrative regulation promulgated pursuant to
20 subsection (2) of this section, if the release does not present an imminent or
21 substantial danger to the public health or welfare; or
22 (c) The release is authorized by a state or federal permit.
23 (20) If a person required to take action under subsection (18) of this section demonstrates
24 to the cabinet that, pursuant to subsection (18)(a) of this section, no action is
25 necessary to protect human health, safety, and the environment or, pursuant to
26 subsection (18)(b) of this section, the release will be managed in a manner that
27 controls and minimizes the harmful effects of the release and protects human health,

1 safety, and the environment, the cabinet shall not require restoration of the
2 environment through the removal of the hazardous substance, pollutant, or
3 contaminant pursuant to subsection (18)(c) of this section.
4 (21) A person required to take action under subsection (18) of this section who does not
5 restore the environment through removal of the hazardous substance, pollutant, or
6 contaminant in accordance with subsection (18)(c) of this section shall demonstrate
7 to the cabinet that the remedy is protective of human health, safety, and the
8 environment, by considering the following factors:
9 (a) The characteristics of the substance, pollutant, or contaminant, including its
10 toxicity, persistence, environmental fate and transport dynamics,
11 bioaccumulation, biomagnification, and potential for synergistic interaction
12 and with specific reference to the environment into which the substance,
13 pollutant, or contaminant has been released;
14 (b) The hydrogeologic characteristics of the facility and the surrounding area;
15 (c) The proximity, quality, and current and future uses of surface water and
16 groundwater;
17 (d) The potential effects of residual contamination of potentially impacted surface
18 water and groundwater;
19 (e) The chronic and acute health effects and environmental consequences to
20 terrestrial and aquatic life of exposure to the hazardous substance, pollutant,
21 or contaminant through direct and indirect pathways;
22 (f) An exposure assessment; and
23 (g) All other available information.
24 (22) A person who submits a proposal to the cabinet pursuant to subsection (18) of this
25 section may request in writing a final determination on the proposal no sooner than
26 thirty (30) days after its submission. When a final determination on the proposal is
27 requested, the cabinet shall make its final determination within sixty (60) working

1 days from the date the request is received by the cabinet. After a final determination
2 has been made, the person requesting the final determination may request a hearing
3 pursuant to the provisions of KRS 224.10-420. Nothing in this subsection shall
4 relieve any person of any obligations imposed by law during an environmental
5 emergency, nor shall it require the cabinet to approve a proposal which would
6 violate this chapter or the administrative regulations promulgated pursuant thereto.
7 (23) (a) The cabinet shall have a lien against the real and personal property of a person
8 liable for the actual and necessary costs expended in response to a release or
9 threatened release or an environmental emergency. The lien shall be filed with
10 the county clerk of the county in which the property of the person is located.
11 (b) If a financial institution exempted from liability by subsection (26) of this
12 section conveys the site it has acquired, then the cabinet shall have a lien
13 against the site for the actual and necessary costs expended in response to a
14 release or threatened release or an environmental emergency. The lien shall be
15 filed with the county clerk of the county in which the site is located.
16 (24) Nothing in this section shall replace the financial and technical assistance available
17 to the Commonwealth pursuant to Section 311 of the Federal Clean Water Act
18 (Public Law 92-500) as amended, but shall be used to provide the Commonwealth
19 with a mechanism for additional response to releases and threatened releases of
20 hazardous substances, pollutants, or contaminants.
21 (25) Defenses to liability, limitations to liability, and rights to contribution shall be
22 determined in accordance with Sections ***101(35), 101(40),*** 107(a) to (d)***, 107(q) and***
23 ***107(r),*** and 113(f) of the Comprehensive Environmental Response Compensation
24 and Liability Act, as amended, and the Federal Clean Water Act, as amended.
25 (26) In addition to the defenses and limitations provided in subsection (25) of this
26 section, a financial institution that acquired a site by foreclosure, by receiving an
27 assignment, by deed in lieu of foreclosure, or by otherwise becoming the owner as a

1 result of the enforcement of a mortgage, lien, or other security interest held by the
2 financial institution, shall not be liable under this section with respect to the site, if:
3 (a) The financial institution served only in an administrative, custodial, financial,
4 or similar capacity with respect to the site before its acquisition;
5 (b) The financial institution did not control or direct the handling of the material
6 causing the environmental emergency, or control or direct the handling of the
7 hazardous substance, pollutant, or contaminants, at the site before its
8 acquisition;
9 (c) The financial institution did not participate in the day-to-day management of
10 the site before its acquisition;
11 (d) The financial institution, at the time it acquired the site, did not know and had
12 no reason to know that a hazardous substance, pollutant, or contaminant was
13 disposed at the site. For purposes of this paragraph, the financial institution
14 shall have undertaken, at the time of acquisition, all appropriate inquiries into
15 the previous ownership and uses of the property consistent with good
16 commercial or customary practice in an effort to minimize liability. What
17 actions constitute all appropriate inquiries shall be determined by taking into
18 account any specialized knowledge or experience on the part of the financial
19 institution, the relationship of the market value of the site to the value of the
20 site if uncontaminated, commonly known or reasonably ascertainable
21 information about the site, the obviousness of the presence or likely presence
22 of contamination at the site, the ability to detect the contamination by
23 appropriate inspection, and any other relevant factor;
24 (e) The financial institution, when it undertakes actions to protect or preserve the
25 value of the site, undertakes those actions in accordance with this chapter and
26 the administrative regulations adopted pursuant thereto;
27 (f) The financial institution, its employees, agents, and contractors did not cause

1 or contribute to an environmental emergency, or to a release or threatened
2 release of a hazardous substance, pollutant, or contaminant; and
3 (g) The financial institution complies with the release notification requirements of
4 subsection (9) of this section.
5 (27) In addition to the defenses and limitations provided in subsection (25) of this
6 section, a financial institution serving as a fiduciary with respect to an estate or
7 trust, the assets of which contain a site, shall not be liable under this section with
8 respect to the site if:
9 (a) The financial institution served only in an administrative, custodial, financial,
10 or similar capacity with respect to the site before it became a fiduciary;
11 (b) The financial institution did not control or direct the handling of the material
12 causing the environmental emergency, or control or direct the handling of the
13 hazardous substance, pollutant, or contaminants, at the site before it became a
14 fiduciary;
15 (c) The financial institution did not participate in the day-to-day management of
16 the site before it became a fiduciary;
17 (d) The financial institution, at the time it became a fiduciary, did not know and
18 had no reason to know that a hazardous substance, pollutant, or contaminant
19 was disposed at the site. For purposes of this paragraph, the financial
20 institution shall have undertaken, at the time it became a fiduciary, all
21 appropriate inquiries into the previous ownership and uses of the property
22 consistent with good commercial or customary practice in an effort to
23 minimize liability. What actions constitute all appropriate inquiries shall be
24 determined by taking into account any specialized knowledge or experience
25 on the part of the financial institution, the relationship of the market value of
26 the site to the value of the site if uncontaminated, commonly known or
27 reasonably ascertainable information about the site, the obviousness of the

1 presence or likely presence of contamination at the site, the ability to detect
2 the contamination by appropriate inspection, and any other relevant factor;
3 (e) The financial institution, when it undertakes actions to protect or preserve the
4 value of the site, undertakes those actions in accordance with this chapter and
5 the administrative regulations adopted pursuant thereto;
6 (f) The financial institution, its employees, agents, and contractors did not cause
7 or contribute to an environmental emergency, or to a release or threatened
8 release of a hazardous substance, pollutant, or contaminant; and
9 (g) The financial institution complies with the release notification requirements of
10 subsection (9) of this section.
11 SECTION 142. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
12 READ AS FOLLOWS:
13 ***(1) As used in this section:***
14 ***(a) "Clean coal facility" means an electric generation facility beginning***
15 ***commercial operation on or after January 1, 2005, at a cost greater than***
16 ***one hundred fifty million dollars ($150,000,000) that is located in the***
17 ***Commonwealth of Kentucky and is certified by the Natural Resources and***
18 ***Environmental Protection Cabinet as reducing emissions of pollutants***
19 ***released during generation of electricity through the use of clean coal***
20 ***equipment and technologies;***
21 ***(b) "Clean coal equipment" means equipment purchased and installed for***
22 ***commercial use in a clean coal facility to aid in reducing the level of***
23 ***pollutants released during the generation of electricity from eligible coal;***
24 ***(c) "Clean coal technologies" means technologies incorporated for use within***
25 ***a clean coal facility to lower emissions of pollutants released during the***
26 ***generation of electricity from eligible coal;***
27 ***(d) "Eligible coal" means coal that is subject to the tax imposed under KRS***

1 *143.020;*
2 *(e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds;*
3 *and*
4 *(f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).*
5 *(2) Effective for tax years ending on or after December 31, 2006, a nonrefundable,*
6 *nontransferable credit shall be allowed for:*
7 *(a) Any electric power company as defined in KRS Chapter 136 and certified as*
8 *a clean coal facility or any taxpayer that owns or operates a clean coal*
9 *facility and purchases eligible coal that is used by the taxpayer in a certified*
10 *clean coal facility; or*
11 *(b) A parent company of an entity identified in paragraph (a) of this subsection*
12 *if the subsidiary is wholly owned.*
13 *(3) The credit may be taken against the taxes imposed by KRS 136.070, KRS 136.120,*
14 *KRS 141.020, or KRS 141.040. The credit shall not be carried forward and must*
15 *be used on the tax return filed for the period during which the eligible coal was*
16 *purchased. The Natural Resources and Environmental Protection Cabinet must*
17 *approve and certify use of the clean coal equipment and technologies within a*
18 *clean coal facility before any taxpayer may claim the credit.*
19 *(4) The amount of the allowable credit shall be two dollars ($2) per ton of eligible*
20 *coal purchased that is used to generate electric power at a certified clean coal*
21 *facility, except that no credit shall be allowed if the eligible coal has been used to*
22 *generate a credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary.*
23 *(5) Each taxpayer eligible for the credit provided under subsection (2) of this section*
24 *shall file a clean coal incentive credit claim on forms prescribed by the Revenue*
25 *Cabinet. At the time of filing for the credit, the taxpayer shall submit an*
26 *electronic report verifying the tons of coal subject to the tax imposed by KRS*
27 *143.020 purchased for each year in which the credit is claimed. The Revenue*

1 *Cabinet shall determine the amount of the approved credit and issue a credit*
2 *certificate to the taxpayer.*
3 *(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under*
4 *this section, the approved credit against its liability for the taxes, in consecutive*
5 *order as follows:*
6 *(a) KRS 141.040;*
7 *(b) KRS 141.020;*
8 *(c) KRS 136.070; and*
9 *(d) KRS 136.120.*
10 *The credit shall meet the entirety of the taxpayer's liability under the first tax*
11 *listed in consecutive order before applying any remaining credit to the next tax*
12 *listed. The taxpayer's total liability under each preceding tax must be fully met*
13 *before the remaining credit can be applied to the subsequent tax listed in*
14 *consecutive order.*
15 *(7) If the taxpayer is a general partnership not subject to tax under KRS 141.040, the*
16 *amount of approved credit shall be distributed to each partner based on the*
17 *partner's distributive share of the income of the partnership and shall be claimed*
18 *in the same manner as specified in subsection (6) of this section. Each general*
19 *partnership shall notify the Revenue Cabinet electronically of all partners who*
20 *may claim any amount of the approved credit. Failure to provide information to*
21 *the Revenue Cabinet in a manner prescribed by regulation may constitute the*
22 *forfeiture of available credits to all partners associated with the partnership.*
23 *(8) The taxpayer shall maintain all records associated with the credit for a period of*
24 *five (5) years. Acceptable verification of eligible coal purchased shall include*
25 *invoices that indicate the tons of eligible coal purchased from a Kentucky*
26 *supplier of coal and proof of remittance for that purchase.*
27 *(9) The Revenue Cabinet shall develop the forms required under this section,*

1 *specifying the procedure for claiming the credit, and applying the credit against*
2 *the taxpayer's liability in the order provided under subsections (6) and (7) of this*
3 *section.*
4 *(10) The Tourism Development Cabinet, Natural Resources and Environmental*
5 *Protection Cabinet, and the Revenue Cabinet shall promulgate administrative*
6 *regulations necessary to administer this section.*
7 *(11) This section shall be known as the Kentucky Clean Coal Incentive Act.*
8 SECTION 143. SUBCHAPTER 48 OF KRS CHAPTER 154 IS ESTABLISHED
9 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:
10 *As used in Sections 143 to 148 of this Act, unless the context clearly indicates*
11 *otherwise:*
12 *(1) "Activation date" means a date selected by an approved company in the tax*
13 *incentive agreement at any time within a two (2) year period after the date of final*
14 *approval of the tax incentive agreement by the authority;*
15 *(2) "Affiliate" means the following:*
16 *(a) Members of a family, including only brothers and sisters of the whole or*
17 *half blood, spouse, ancestors, and lineal descendants of an individual;*
18 *(b) An individual, and a corporation more than fifty percent (50%) in value of*
19 *the outstanding stock of which is owned, directly or indirectly, by or for that*
20 *individual;*
21 *(c) An individual, and a limited liability company of which more than fifty*
22 *percent (50%) of the capital interest or profits are owned or controlled,*
23 *directly or indirectly, by or for that individual;*
24 *(d) Two (2) corporations which are members of the same controlled group,*
25 *which includes and is limited to:*
26 *1. One (1) or more chains of corporations connected through stock*
27 *ownership with a common parent corporation if:*

1 *a. Stock possessing more than fifty percent (50%) of the total*
2 *combined voting power of all classes of stock entitled to vote or*
3 *more than fifty percent (50%) of the total value of shares of all*
4 *classes of stock of each of the corporations, except the common*
5 *parent corporation, is owned by one (1) or more of the other*
6 *corporations; and*
7 *b. The common parent corporation owns stock possessing more*
8 *than fifty percent (50%) of the total combined voting power of all*
9 *classes of stock entitled to vote or more than fifty percent (50%)*
10 *of the total value of shares of all classes of stock of at least one*
11 *(1) of the other corporations, excluding, in computing the voting*
12 *power or value, stock owned directly by the other corporations;*
13 *or*
14 *2. Two (2) or more corporations if five (5) or fewer persons who are*
15 *individuals, estates, or trusts own stock possessing more than fifty*
16 *percent (50%) of the total combined voting power of all classes of*
17 *stock entitled to vote or more than fifty percent (50%) of the total value*
18 *of shares of all classes of stock of each corporation, taking into*
19 *account the stock ownership of each person only to the extent the*
20 *stock ownership is identical with respect to each corporation;*
21 *(e) A grantor and a fiduciary of any trust;*
22 *(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is*
23 *a grantor of both trusts;*
24 *(g) A fiduciary of a trust and a beneficiary of that trust;*
25 *(h) A fiduciary of a trust and a beneficiary of another trust, if the same person*
26 *is a grantor of both trusts;*
27 *(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in*

1 *value of the outstanding stock of which is owned, directly or indirectly, by or*
2 *for the trust or by or for a person who is a grantor of the trust;*
3 *(j) A fiduciary of a trust and a limited liability company more than fifty percent*
4 *(50%) of the capital interest, or the interest in profits, of which is owned*
5 *directly or indirectly, by or for the trust or by or for a person who is a*
6 *grantor of the trust;*
7 *(k) A corporation and a partnership, including a registered limited liability*
8 *partnership, if the same persons own:*
9 *1. More than fifty percent (50%) in value of the outstanding stock of the*
10 *corporation; and*
11 *2. More than fifty percent (50%) of the capital interest, or the profits*
12 *interest, in the partnership, including a registered limited liability*
13 *partnership;*
14 *(l) A corporation and a limited liability company if the same persons own:*
15 *1. More than fifty percent (50%) in value of the outstanding stock of the*
16 *corporation; and*
17 *2. More than fifty percent (50%) of the capital interest or the profits in*
18 *the limited liability company;*
19 *(m) A partnership, including a registered limited liability partnership, and a*
20 *limited liability company if the same persons own:*
21 *1. More than fifty percent (50%) of the capital interest or profits in the*
22 *partnership, including a registered limited liability partnership; and*
23 *2. More than fifty percent (50%) of the capital interest or the profits in*
24 *the limited liability company;*
25 *(n) An S corporation and another S corporation if the same persons own more*
26 *than fifty percent (50%) in value of the outstanding stock of each*
27 *corporation, S corporation designation being the same as that designation*

1 *under the Internal Revenue Code of 1986, as amended; or*
2 *(o) An S corporation and a C corporation, if the same persons own more than*
3 *fifty percent (50%) in value of the outstanding stock of each corporation; S*
4 *and C corporation designations being the same as those designations under*
5 *the Internal Revenue Code of 1986, as amended;*
6 *(3) "Approved company" means any eligible company for which the authority has*
7 *granted final approval of its application pursuant to Section 146 of this Act;*
8 *(4) "Approved costs" means one hundred percent (100%) of the eligible skills*
9 *upgrade training costs and up to twenty-five percent (25%) of the eligible*
10 *equipment costs approved by the authority that an approved company may*
11 *recover through the inducements authorized by Sections 143 to 148 of this Act;*
12 *(5) "Authority" means the Kentucky Economic Development Finance Authority*
13 *created by KRS 154.20-010;*
14 *(6) "Average hourly wage" means the wage and employment data published by the*
15 *Office of Employment and Training Services in the Department for Workforce*
16 *Investment within the Education Cabinet collectively translated into wages per*
17 *hour based on a two thousand eighty (2,080) hour work year for the following*
18 *sectors:*
19 *(a) Manufacturing;*
20 *(b) Transportation, communications, and public utilities;*
21 *(c) Wholesale and retail trade;*
22 *(d) Finance, insurance, and real estate; and*
23 *(e) Services;*
24 *(7) "Commonwealth" means the Commonwealth of Kentucky;*
25 *(8) "Eligible company" means any entity that undertakes an environmental*
26 *stewardship project;*
27 *(9) "Eligible costs" means eligible equipment costs plus eligible skills upgrade*

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

1 *(11) "Eligible skills upgrade training costs" means:*

2 *(a) Fees or salaries required to be paid to instructors who are employees of the*
3 *approved company, instructors who are full-time, part-time, or adjunct*
4 *instructors with an educational institution, and instructors who are*
5 *consultants on contract with an approved company in connection with an*
6 *occupational training program sponsored by an approved company for its*
7 *full-time employees and specifically relating to an environmental*
8 *stewardship project;*

9 *(b) Administrative fees charged by educational institutions in connection with*
10 *an occupational training program sponsored by an approved company for*
11 *its full-time employees and specifically relating to an environmental*
12 *stewardship project;*

13 *(c) The cost of supplies, materials, and equipment used exclusively in an*
14 *occupational training program sponsored by an approved company for its*
15 *full-time employees and specifically relating to an environmental*
16 *stewardship project;*

17 *(d) The cost of leasing a training facility where space is unavailable at an*
18 *educational institution or at the premises of an approved company in*
19 *connection with an occupational training program sponsored by an*
20 *approved company for its full-time employees and specifically relating to an*
21 *environmental stewardship project;*

22 *(e) Employee wages to be paid in connection with an occupational training*
23 *program sponsored by an approved company for its full-time employees and*
24 *specifically relating to an environmental stewardship project;*

25 *(f) Travel expenses paid by the approved company as incurred by its full-time*
26 *employees resulting directly from the costs of transportation, lodging and*
27 *meals that are directly related to an occupational training program*

1 *necessary for the implementation of an environmental stewardship project;*
2 *and*
3 *(g) All other costs of a nature comparable to those described in this subsection.*
4 *(12) "Employee benefits" means nonmandated costs paid by an eligible company for*
5 *its full-time employees for health insurance, life insurance, dental insurance,*
6 *vision insurance, defined benefits, 401(k) or similar plans;*
7 *(13) "Environmental stewardship product" means any new manufactured product or*
8 *substantially improved existing manufactured product that has a lesser or*
9 *reduced adverse effect on human health and the environment or provides for*
10 *improvement to human health and the environment when compared with existing*
11 *products or competing products that serve the same purpose. Such products may*
12 *include, but are not limited to, those which contain recycled content, minimize*
13 *waste, conserve energy or water, and reduce the amount of toxics disposed or*
14 *consumed, but shall not include products that are the result of the production of*
15 *energy or energy producing fuels.*
16 *(14) "Environmental stewardship project" or "project" means:*
17 *(a) The acquisition, construction, and installation of new equipment and, with*
18 *respect thereto;*
19 *1. The construction, rehabilitation, and installation of improvements to*
20 *facilities necessary to house the new equipment, including surveys;*
21 *2. Installation of utilities including water, sewer, sewage treatment, gas,*
22 *electricity, communications, and similar facilities;*
23 *3. Off-site construction of utility extensions to the boundaries of the real*
24 *estate on which the facilities are located;*
25 *All of which are utilized by an approved company or its affiliate to*
26 *manufacture an environmental stewardship product as reviewed and*
27 *recommended to the authority by the Environmental and Public*

1 ***Protection Cabinet; and***

2 ***(b) The provision of an occupational training program to provide the employees***

3 ***of an approved company or its affiliate with the knowledge and skills***

4 ***necessary to manufacture the new product;***

5 ***(15) "Final approval" means the action taken by the authority designating an eligible***

6 ***company that has previously received a preliminary approval as an approved***

7 ***company and authorizing the execution of an environmental stewardship***

8 ***agreement between the authority and the approved company:***

9 ***(16) "Full-time employee" means a person employed by an approved company for a***

10 ***minimum of thirty-five (35) hours per week and subject to the state income tax***

11 ***imposed by KRS 141.020;***

12 ***(17) "Inducement" means the Kentucky tax credit as authorized by Sections 143 to***

13 ***148 of this Act;***

14 ***(18) "Manufacturing" means any activity involving the manufacturing, processing,***

15 ***assembling, or production of any property, including the processing that results***

16 ***in a change in the condition of the property and any related activity or function,***

17 ***together with the storage, warehousing, distribution, and related office facilities;***

18 ***(19) "Preliminary approval" means the action taken by the authority designating an***

19 ***eligible company as a preliminarily-approved company, and conditioning final***

20 ***approval by the authority upon satisfaction by the eligible company of the***

21 ***requirements set forth in the preliminary approval.***

22 SECTION 144. A NEW SECTION OF SUBCHAPTER 48 OF KRS CHAPTER

23 154 IS CREATED TO READ AS FOLLOWS:

24 ***The General Assembly finds and declares that the general welfare and material well-***

25 ***being of the citizens of the Commonwealth depends in large measure upon the***

26 ***investment and development of facilities that produce new environmental technologies***

27 ***in the Commonwealth, and that it is in the best interest of the Commonwealth to***

1 *induce the investment for production of new environmental technologies within the*
2 *Commonwealth in order to advance the public purposes of relieving unemployment by*
3 *preserving jobs that might otherwise no longer exist or creating new jobs and by*
4 *preserving and creating sources of tax revenues for the support of public services*
5 *provided by the Commonwealth. The General Assembly also find, that the authority*
6 *prescribed by Sections 143 to 148 of this Act, and the purposes to be accomplished*
7 *under the provisions of Sections 143 to 148 of this Act are proper governmental and*
8 *public purposes for which public moneys may be expended, and that the inducement of*
9 *the creation of projects is of paramount importance mandating that the provisions of*
10 *Sections 143 to 148 of this Act be liberally construed and applied in order to advance*
11 *public purpose.*
12 SECTION 145. A NEW SECTION OF SUBCHAPTER 48 OF KRS CHAPTER
13 154 IS CREATED TO READ AS FOLLOWS:
14 *(1) The authority may establish standards for the determination and preliminary*
15 *approval of eligible companies and their projects by the promulgation of*
16 *administrative regulations in accordance with the provisions of KRS Chapter*
17 *13A.*
18 *(2) The criteria for preliminary approval of eligible companies and environmental*
19 *stewardship projects shall include but not be limited to the need for the*
20 *inducements, the eligible costs to be expended by the eligible company, and the*
21 *number of employees whose jobs are to be created or retained as a result of the*
22 *project.*
23 *(3) Each eligible company making an application to the authority for the inducement*
24 *shall, in a manner acceptable to the authority, describe the nature of the product*
25 *to be manufactured as a result of the project, identify the eligible costs associated*
26 *with the project, identify the time schedule of the proposed project, set out*
27 *alternatives that are available to the eligible company, identify the influence this*

1 *incentive had on the company's decision to locate the project in the*
2 *Commonwealth, and provide any additional information relating to the project as*
3 *the authority may require.*
4 *(4) The project shall have eligible costs of at least five million dollars ($5,000,000).*
5 *(5) (a) Within six (6) months after the activation date, the approved company shall*
6 *compensate a minimum of ninety percent (90%) of its full-time employees*
7 *whose jobs were created or retained with base hourly wages equal to either:*
8 *1. Seventy-five percent (75%) of the average hourly wage for the*
9 *Commonwealth; or*
10 *2. Seventy-five percent (75%) of the average hourly wage for the county*
11 *in which the project is to be undertaken.*
12 *(b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this*
13 *subsection is less than one hundred fifty percent (150%) of the federal*
14 *minimum wage, then the base hourly wage shall be one hundred fifty*
15 *percent (150%) of the federal minimum wage. In addition to the applicable*
16 *base hourly wage calculated above, the eligible company shall provide*
17 *employee benefits equal to at least fifteen percent (15%) of the applicable*
18 *base hourly wage; however, if the eligible company does not provide*
19 *employee benefits equal to at least fifteen percent (15%) of the applicable*
20 *base hourly wage, the eligible company may qualify under this section if it*
21 *provides the employees hired by the eligible company as a result of the*
22 *economic development project total hourly compensation equal to or greater*
23 *than one hundred fifteen percent (115%) of the applicable base hourly wage*
24 *through increased hourly wages combined with employee benefits.*
25 *(6) After a review of relevant materials and completion of inquiries, the authority*
26 *may, by resolution, give its preliminary approval by designating an eligible*
27 *company as a preliminarily-approved company and authorize a conditional*

1 ***undertaking of the project pursuant to a memorandum of agreement negotiated***
2 ***between the eligible company and the authority.***
3 ***(7) The preliminarily approved company shall, in a manner acceptable to the***
4 ***authority and at certain times as the authority may require, provide***
5 ***documentation relating to the eligible costs expended or obligated in connection***
6 ***with the project. The authority shall review the preliminarily approved company's***
7 ***progress in connection with the project to determine if the conditions set forth in***
8 ***the memorandum of agreement have been met.***
9 ***(8) After a review of the documentation relating to the preliminarily approved***
10 ***company's compliance under the memorandum of agreement, the authority, by***
11 ***resolution, may give its final approval to the preliminarily approved company's***
12 ***application for a project and may grant to the preliminarily approved company***
13 ***the status of an approved company.***
14 ***(9) All meetings of the authority shall be held in accordance with KRS 61.805 to***
15 ***61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its***
16 ***meetings to discuss matters exempt from the open meetings law and pertaining to***
17 ***an eligible company.***
18 SECTION 146. A NEW SECTION OF SUBCHAPTER 48 OF CHAPTER 154 IS
19 CREATED TO READ AS FOLLOWS:
20 ***The authority, upon adoption of its final approval, may enter into with any approved***
21 ***company an environmental stewardship agreement with respect to its project. The***
22 ***terms and provisions of each agreement, including the amount of approved costs, shall***
23 ***be determined by negotiations between the authority and the approved company, except***
24 ***that each agreement shall include the following provisions:***
25 ***(1) The agreement shall set forth an activation date chosen by the approved***
26 ***company;***
27 ***(2) The agreement shall contain a completion date within the provisions of***

1 *subsection (5) of this section by which the approved company will have completed*
2 *the project. Within three (3) months after the completion date, the approved*
3 *company shall document its expenditures of the eligible costs attributable to the*
4 *project in a manner acceptable to the authority. The authority may employ an*
5 *independent consultant or utilize technical resources to verify the cost of the*
6 *project. The approved company shall reimburse the authority for the cost of a*
7 *consultant or other technical resources employed by the authority;*
8 *(3) In consideration of the execution of the agreement between the authority and*
9 *approved company, the approved company may be permitted a credit against the*
10 *Kentucky income tax imposed by KRS 141.020 or KRS 141.040 on the income of*
11 *the approved company generated by or arising out of the project as determined*
12 *under Section 145 of this Act;*
13 *(4) The total inducement authorized in the agreement for the benefit of the approved*
14 *company shall be equal to the lesser of the total amount of the tax credit against*
15 *the income as determined under this section through the term of the agreement*
16 *or the approved costs that have not yet been recovered. The inducement shall be*
17 *allowed for each taxable year of the approved company during the term of the*
18 *agreement and for which a tax return of the approved company is filed; however,*
19 *the maximum amount of inducement claimed by the approved company for any*
20 *single taxable year of the approved company may be up to twenty-five percent*
21 *(25%) of the total authorized inducement. An approved company under the*
22 *Environmental Stewardship Act shall not be entitled to the recycling credit*
23 *provided under the provisions of KRS 141.390 for equipment used in the*
24 *production of an environmental stewardship product.*
25 *(5) The agreement shall provide that the term shall not be longer than the earlier of:*
26 *(a) The date on which the approved company has received inducements equal*
27 *to the approved costs of its project; or*

1 *(b) Ten (10) years from the activation date;*
2 *(6) All eligible costs of the project shall be expended by the approved company within*
3 *three (3) years from the date of final approval by the authority. In the event that*
4 *all eligible costs of the project are not fully expended by the approved company*
5 *within the three (3) year period, the authority is authorized to:*
6 *(a) Reduce the inducements; or*
7 *(b) Suspend the inducements; or*
8 *(c) Terminate the agreement;*
9 *(7) If the agreement is terminated, the authority may require the approved company*
10 *to repay the Revenue Cabinet all or part of any inducements received by the*
11 *approved company prior to the termination of the agreement;*
12 *(8) The agreement shall specify that the approved company shall make available all*
13 *of its records pertaining to the project including but not limited to records*
14 *relating to the expenditure of eligible costs, payroll records and any other records*
15 *pertaining to the project as the authority may require;*
16 *(9) The agreement shall not be transferred or assigned by the approved company*
17 *without the expressed written consent of the authority.*
18 SECTION 147. A NEW SECTION OF SUBCHAPTER 48 OF KRS CHAPTER
19 154 IS CREATED TO READ AS FOLLOWS:
20 *By October 1 of each year, the Revenue Cabinet shall certify to the authority, in the*
21 *form of an annual report, aggregate income tax credits claimed on tax returns filed*
22 *during the fiscal year ending June 30 of that year by approved companies with respect*
23 *to their projects under Sections 143 to 148 of this Act, and shall certify to the authority,*
24 *within ninety (90) days from the date an approved company has filed its state income*
25 *tax return, when an approved company has taken inducements equal to its approved*
26 *costs.*
27 SECTION 148. A NEW SECTION OF SUBCHAPTER 48 OF KRS CHAPTER

1 154 IS CREATED TO READ AS FOLLOWS:

2 ***Sections 143 to 148 of this Act shall be known as the Kentucky Environmental***
3 ***Stewardship Act.***

4 SECTION 149. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
5 READ AS FOLLOWS:

6 ***(1) As used in this section, unless the context requires otherwise:***
7 ***(a) "Approved company" has the same meaning as set forth in Section 143 of***
8 ***this Act;***
9 ***(b) "Project" has the same meaning as set forth in Section 143 of this Act; and***
10 ***(c) "Tax credit" means the tax credit allowed in Section 146 of this Act.***
11 ***(2) An approved company shall determine the income tax credit as follows:***
12 ***(a) Compute the tax imposed by KRS 141.040 or the tax imposed by KRS***
13 ***141.020 on the taxable net income, gross receipts, or Kentucky gross profits***
14 ***of the corporation or taxable net income of the individual for the first***
15 ***taxable period after December 31, 2005, that ends immediately prior to the***
16 ***activation date defined in subsection (1) of Section 143 of this Act.***
17 ***(b) Compute the tax imposed by KRS 141.040 or the tax imposed by KRS***
18 ***141.020 on the taxable net income, gross receipts, or Kentucky gross profits***
19 ***in the case of a corporation or taxable net income in the case of an***
20 ***individual for the first taxable period ending after the activation date***
21 ***defined in subsection (1) of Section 143 of this Act.***
22 ***(c) The income tax credit shall be the amount that the computation under***
23 ***paragraph (b) of this subsection exceeds the amount computed under***
24 ***paragraph (a) of this subsection, subject to the limitations provided by***
25 ***Section 146 of this Act.***
26 ***(3) In the case of an approved company that is a general partnership, the tax credit***
27 ***shall be determined as follows:***

1 *(a) Compute the tax imposed by KRS 141.040 or the tax imposed by KRS*
2 *141.020 on the distributive share income of the general partnership for the*
3 *first taxable period after December 31, 2005 that ends immediately prior to*
4 *the activation date.*
5 *(b) Compute the tax imposed by KRS 141.040 or the tax imposed by KRS*
6 *141.020 on the distributive share income of the general partnership for the*
7 *first taxable period ending after the activation date.*
8 *(c) The income tax credit shall be the amount that the computation under*
9 *paragraph (b) of this subsection exceeds the amount computed under*
10 *paragraph (a) of this subsection, subject to the limitations provided by*
11 *Section 146 of this Act.*
12 *(4) The Revenue Cabinet may issue administrative regulations and require the filing*
13 *of forms designed by the Revenue Cabinet to reflect the intent of the provisions of*
14 *this section.*
15 SECTION 150. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO
16 READ AS FOLLOWS:
17 *As used in this section and Section 151 of this Act:*
18 *(1) "Certified historic structure" means a structure that is located within the*
19 *Commonwealth of Kentucky and is:*
20 *(a) Listed individually on the National Register of Historic Places; or*
21 *(b) Located in a historic district listed on the National Register of Historic*
22 *Places and is certified by the council as contributing to the historic*
23 *significance of the district;*
24 *(2) "Certified rehabilitation" means a completed substantial rehabilitation of a*
25 *certified historic structure that the council certifies meets the United States*
26 *Secretary of the Interior's Standards for Rehabilitation;*
27 *(3) "Certified rehabilitation credit cap" means three million dollars ($3,000,000);*

1 *(4) "Council" means the Kentucky Heritage Council;*
2 *(5) "Disqualifying work" means work that is performed within three (3) years of the*
3 *completion of the certified rehabilitation that, if performed as part of the*
4 *rehabilitation certified under this section, would have made the rehabilitation*
5 *ineligible for certification;*
6 *(6) "Exempt entity" means any tax exempt organization pursuant to sec. 501(c)(3) of*
7 *the Internal Revenue Code, any political subdivision of the Commonwealth, any*
8 *state or local agency, board, or commission, or any quasi-governmental entity;*
9 *(7) "Local government" means a city, county, urban-county, charter county, or*
10 *consolidated local government;*
11 *(8) "Owner-occupied residential property" means a building or portion thereof,*
12 *condominium, or cooperative occupied by the owner as his principal residence;*
13 *(9) "Qualified rehabilitation expense" means any amount that is properly*
14 *chargeable to a capital account, whether or not depreciation is allowed under*
15 *Section 168 of the Internal Revenue Code, and is expended in connection with*
16 *the certified substantial rehabilitation of a certified historic structure. It shall*
17 *include the cost of restoring landscaping and fencing that contributes to the*
18 *historic significance of this structure, but shall not include the cost of acquisition*
19 *of a certified historic structure, enlargement of or additions to an existing*
20 *building, or the purchase of personal property;*
21 *(10) "Substantial rehabilitation" means rehabilitation of a certified historic structure*
22 *for which the qualified rehabilitation expenses, during a twenty-four (24) month*
23 *period selected by the taxpayer or exempt entity, ending with or within the taxable*
24 *year, exceed:*
25 *(a) Twenty thousand dollars ($20,000) for an owner-occupied residential*
26 *property; or*
27 *(b) For all other property, the greater of:*

1 *1. The adjusted basis of the structure; or*

2 *2. Twenty thousand dollars ($20,000);*

3 *(11) "Taxpayer" means any individual, corporation, limited liability company,*

4 *business development corporation, partnership, limited partnership, registered*

5 *limited liability partnership, sole proprietorship, association, joint stock company,*

6 *receivership, trust, professional service organization, or other legal entity through*

7 *which business is conducted.*

8 *(12) "Qualified purchased historic home" means any substantially rehabilitated*

9 *certified historic structure if:*

10 *(a) The taxpayer claiming the credit authorized under Section 151 of this Act is*

11 *the first purchaser of the structure after the date of completion of the*

12 *substantial rehabilitation;*

13 *(b) The structure or a portion thereof will be the principal residence of the*

14 *taxpayer; and*

15 *(c) No credit was allowed to the seller under this section.*

16 *A qualified purchased historic home shall be deemed owner-occupied residential*

17 *property for purposes of this section.*

18 SECTION 151. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO

19 READ AS FOLLOWS:

20 *(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020,*

21 *141.040, 136.070, or 136.505, an amount equal to:*

22 *(a) Thirty percent (30%) of the qualified rehabilitation expenses, in the case of*

23 *owner-occupied residential property; and*

24 *(b) Twenty percent (20%) of the qualified rehabilitation expenses, in the case of*

25 *all other property.*

26 *In the case of an exempt entity that has incurred qualified rehabilitation*

27 *expenses, the credit provided in this subsection shall be available to transfer or*

1 *assign as provided under subsection (8) or (9) of this section.*
2 *(2) An application for credit must be submitted to the council within thirty (30) days*
3 *following the close of a calendar year. The council shall determine the amount of*
4 *credit approved for each taxpayer and notify the taxpayer and Revenue Cabinet*
5 *of the approved credit amount by the thirty first day of the third month following*
6 *the close of the calendar year.*
7 *(3) The maximum credit which may be claimed with regard to owner-occupied*
8 *residential property shall be sixty thousand dollars ($60,000) subject to the*
9 *provisions of subsection (5) of this section. The credit in this section shall be*
10 *claimed for the taxable year in which the certified rehabilitation is completed.*
11 *(4) In the case of a husband and wife filing separate returns or filing separately on a*
12 *joint return, the credit may be taken by either or divided equally, but the*
13 *combined credit shall not exceed sixty thousand dollars ($60,000) subject to the*
14 *provisions of subsection (5) of this section.*
15 *(5) The credit amount approved for a calendar year for all taxpayers under this*
16 *section shall be limited to the certified rehabilitation credit cap. The council shall*
17 *notify the taxpayer and the Revenue Cabinet when the total credit amount*
18 *approved exceeds the certified rehabilitation credit cap. The council shall*
19 *apportion the certified rehabilitation credit cap as follows: Three million dollars*
20 *($3,000,000) multiplied by a fraction, the numerator which is the approved credit*
21 *amount for an individual taxpayer for a calendar year and the denominator*
22 *which is the total approved credits for all taxpayers for a calendar year.*
23 *(6) If the credit amount that may be claimed in any tax year as determined under*
24 *subsections (3) to (5) of this section exceeds the taxpayer's total tax liabilities*
25 *under KRS 141.020, 141.040, 136.070, or 136.505, the taxpayer may carry the*
26 *excess tax credit forward until the tax credit is used, provided that any tax credits*
27 *not used within seven (7) years of the taxable year the certified rehabilitation was*

1 *complete shall be lost.*

2 *(7) If the taxpayer is a pass-through entity not subject to the tax imposed by KRS*
3 *141.040, the credit shall pass through in the same proportion as the distributive*
4 *share of income or loss is passed through.*

5 *(8) Credits received under this section may be transferred or assigned, for some or no*
6 *consideration, along with any related benefits, rights, responsibilities, and*
7 *liabilities to any entity subject to the tax imposed by KRS 136.505. Within thirty*
8 *(30) days of the date of any transfer of credits, the party transferring the credits*
9 *shall notify the Revenue Cabinet of:*

10 *(a) The name, address, employer identification number, and bank routing and*
11 *transfer number, of the party to which the credits are transferred;*

12 *(b) The amount of credits transferred; and*

13 *(c) Any additional information the Revenue Cabinet deems necessary.*

14 *The provisions of this subsection shall apply to any credits that pass through to a*
15 *successor or beneficiary of a taxpayer.*

16 *(9) For purposes of this section, a lessee of a certified historic structure shall be*
17 *treated as the owner of the structure if the remaining term of the lease is not less*
18 *than the minimum period promulgated by administrative regulation by the*
19 *council.*

20 *(10) The taxes imposed in KRS 141.020 and KRS 141.040 shall not apply to any*
21 *consideration received for the transfer, sale, assignment, or use of a tax credit*
22 *approved under this section.*

23 *(11) The Revenue Cabinet shall assess a penalty on any taxpayer or exempt entity that*
24 *performs disqualifying work on a certified historic structure for which a*
25 *rehabilitation has been certified under this section in an amount equal to one*
26 *hundred percent (100%) of the tax credit allowed on the rehabilitation.*

27 *(12) The council may impose fees for processing applications for tax credits, not to*

1 ***exceed the actual cost associated with processing the applications.***

2 ***(13) The council may authorize a local government to perform an initial review of***

3 ***applications for the credit allowed under this section and forward the***

4 ***applications to the council with its recommendations.***

5 ***(14) The council and the Revenue Cabinet may promulgate administrative regulations***

6 ***in accordance with the provisions of KRS Chapter 13A to establish policies and***

7 ***procedures to implement the provisions of subsections (1) to (13) of this section.***

8 ***(15) The tax credit authorized by this section shall apply to tax periods ending on or***

9 ***after December 31, 2005.***

10 SECTION 152. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO

11 READ AS FOLLOWS:

12 ***Consistent with the provisions of this Act, the Revenue Cabinet shall have the authority***

13 ***to interpret and carry out the provisions and intent of amendments made by the 2005***

14 ***Regular Session of the General Assembly relative to the imposition of the tax assessed***

15 ***under this chapter on individuals, entities taxable as individuals, entities taxable under***

16 ***KRS 141.040, the passed-through income of entities taxable under KRS 141.040,***

17 ***entities considered not taxable or exempt from tax, any other entity or taxable unit, and***

18 ***any related item of income, deduction, or credit, and shall promulgate administrative***

19 ***regulations necessary to explain or implement this section.***

20 Section 153. KRS 139.220 is amended to read as follows:

21 It is unlawful for any retailer to advertise or hold out or state to the public or to any

22 customer, directly or indirectly, that the tax levied by KRS 139.200 or required to be

23 collected under KRS 139.340 or any part thereof will be assumed or absorbed by the

24 retailer or that ***the tax***~~[it]~~ will not be added to the selling price of the property sold or that

25 if added ***the tax***~~[it]~~ or any part thereof will be refunded.

26 Section 154. KRS 160.470 is amended to read as follows:

27 (1) (a) Notwithstanding any statutory provisions to the contrary, no district board of

1 education shall levy a general tax rate which will produce more revenue,
2 exclusive of revenue from net assessment growth as defined in KRS 132.010,
3 than would be produced by application of the general tax rate that could have
4 been levied in the preceding year to the preceding year's assessment, except as
5 provided in ***subsections***[~~subsection~~] (9) ***and (10)*** of this section and KRS
6 157.440.
7 (b) If an election is held as provided for in KRS 132.017 and the question should
8 fail, such failure shall not reduce the "...general tax rate that could have been
9 levied in the preceding year...," referred to in subsection (1)(a) of this section,
10 for purposes of computing the general tax rate for succeeding years.
11 In the event of a merger of school districts, the limitations contained in this section
12 shall be based upon the combined revenue of the merging districts, as computed
13 under the provisions of this section.
14 (2) No district board of education shall levy a general tax rate within the limits imposed
15 in subsection (1) of this section which respectively exceeds the compensating tax
16 rate defined in KRS 132.010, except as provided in ***subsections***[~~subsection~~] (9) ***and***
17 ***(10)*** of this section, KRS 157.440, and KRS 157.621, until the district board of
18 education has complied with the provisions of subsection (7) of this section.
19 (3) Upon receipt of property assessments from the Revenue Cabinet, the commissioner
20 of education shall certify the following to each district board of education:
21 (a) The general tax rate that a district board of education could levy under the
22 provisions of subsection (1) of this section, and the amount of revenue
23 expected to be produced;
24 (b) The compensating tax rate as defined in KRS 132.010 for a district's general
25 tax rate the amount of revenue expected to be produced;
26 (c) The general tax rate which will produce, respectively, no more revenue from
27 real property, exclusive of revenue from new property, than four percent (4%)

1 over the amount of revenue produced by the compensating tax rate defined in
2 KRS 132.010, and the amount of revenue expected to be produced.
3 (4) Upon completion of action on property assessment data, the Revenue Cabinet shall
4 submit certified property assessment data as required in KRS 133.125 to the chief
5 state school officer.
6 (5) Within thirty (30) days after the district board of education has received its
7 assessment data, the rates levied shall be forwarded to the Kentucky Board of
8 Education for its approval or disapproval. The failure of the district board of
9 education to furnish the rates within the time prescribed shall not invalidate any
10 levy made thereafter.
11 (6) (a) Each district board of education shall, on or before January 31 of each
12 calendar year, formally and publicly examine detailed line item estimated
13 revenues and proposed expenditures for the subsequent fiscal year. On or
14 before May 30 of each calendar year, each district board of education shall
15 adopt a tentative working budget which shall include a minimum reserve of
16 two percent (2%) of the total budget.
17 (b) Each district board of education shall submit to the Kentucky Board of
18 Education no later than September 30, a close estimate or working budget
19 which shall conform to the administrative regulations prescribed by the
20 Kentucky Board of Education.
21 (7) (a) Except as provided in ***subsections***~~[subsection]~~ (9) ***and (10)*** of this section and
22 KRS 157.440, a district board of education proposing to levy a general tax rate
23 within the limits of subsection (1) of this section which exceed the
24 compensating tax rate defined in KRS 132.010 shall hold a public hearing to
25 hear comments from the public regarding the proposed tax rate. The hearing
26 shall be held in the principal office of the taxing district or, in the event the
27 taxing district has no office, or the office is not suitable for such a hearing, the

1 hearing shall be held in a suitable facility as near as possible to the geographic
2 center of the district.
3 (b) The district board of education shall advertise the hearing by causing the
4 following to be published at least twice for two (2) consecutive weeks, in the
5 newspaper of largest circulation in the county, a display type advertisement of
6 not less than twelve (12) column inches:
7 1. The general tax rate levied in the preceding year, and the revenue
8 produced by that rate;
9 2. The general tax rate for the current year, and the revenue expected to be
10 produced by that rate;
11 3. The compensating general tax rate, and the revenue expected from it;
12 4. The revenue expected from new property and personal property;
13 5. The general areas to which revenue in excess of the revenue produced in
14 the preceding year is to be allocated;
15 6. A time and place for the public hearing which shall be held not less than
16 seven (7) days nor more than ten (10) days after the day that the second
17 advertisement is published;
18 7. The purpose of the hearing; and
19 8. A statement to the effect that the General Assembly has required
20 publication of the advertisement and the information contained herein.
21 (c) In lieu of the two (2) published notices, a single notice containing the required
22 information may be sent by first-class mail to each person owning real
23 property, addressed to the property owner at his residence or principal place of
24 business as shown on the current year property tax roll.
25 (d) The hearing shall be open to the public. All persons desiring to be heard shall
26 be given an opportunity to present oral testimony. The district board of
27 education may set reasonable time limits for testimony.

1 (8) (a) That portion of a general tax rate, except as provided in
2 ***subsections***[~~subsection~~] (9) ***and (10)*** of this section, KRS 157.440, and KRS
3 157.621, levied by an action of a district board of education which will
4 produce, respectively, revenue from real property, exclusive of revenue from
5 new property, more than four percent (4%) over the amount of revenue
6 produced by the compensating tax rate defined in KRS 132.010, shall be
7 subject to a recall vote or reconsideration by the district board of education as
8 provided for in KRS 132.017, and shall be advertised as provided for in
9 paragraph (b) of this subsection.
10 (b) The district board of education shall, within seven (7) days following adoption
11 of an ordinance, order, resolution, or motion to levy a general tax rate, except
12 as provided in ***subsections***[~~subsection~~] (9) ***and (10)*** of this section and KRS
13 157.440, which will produce revenue from real property, exclusive of revenue
14 from new property as defined in KRS 132.010, more than four percent (4%)
15 over the amount of revenue produced by the compensating tax rate defined in
16 KRS 132.010, cause the following to be published, in the newspaper of largest
17 circulation in the county, a display type advertisement of not less than twelve
18 (12) column inches:
19 1. The fact that the district board of education has adopted such a rate;
20 2. The fact that the part of the rate which will produce revenue from real
21 property, exclusive of new property as defined in KRS 132.010, in
22 excess of four percent (4%) over the amount of revenue produced by the
23 compensating tax rate defined in KRS 132.010 is subject to recall; and
24 3. The name, address, and telephone number of the county clerk of the
25 county or urban-county in which the school district is located, with a
26 notation to the effect that that official can provide the necessary
27 information about the petition required to initiate recall of the tax rate.

1 (9) (a) Notwithstanding any statutory provisions to the contrary, effective for school
2 years beginning after June 30, 1990, the board of education of each school
3 district shall levy a minimum equivalent tax rate of thirty cents ($0.30) for
4 general school purposes. Equivalent tax rate is defined as the rate which
5 results when the income collected during the prior year from all taxes levied
6 by the district for school purposes is divided by the total assessed value of
7 property plus the assessment for motor vehicles certified by the Revenue
8 Cabinet. School districts collecting school taxes authorized by KRS 160.593
9 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve
10 (12) months during a school year shall have included in income collected
11 under this section the pro rata tax collection for twelve (12) months.
12 (b) If a board fails to comply with paragraph (a) of this subsection, its members
13 shall be subject to removal from office for willful neglect of duty pursuant to
14 KRS 156.132.
15 ***(10) A district board of education may levy a general tax rate that will produce***
16 ***revenue from real property, exclusive of revenue from new property, that is four***
17 ***percent (4%) over the amount of the revenue produced by the compensating tax***
18 ***rate as defined in KRS 132.010.***
19 Section 155. KRS 229.031 is amended to read as follows:
20 (1) Every person conducting a professional boxing or wrestling match or exhibition,
21 other than those holding a permit under subsection (1) of KRS 229.061, shall,
22 within twenty-four (24) hours after the termination of every match or exhibition,
23 furnish to the commission a written report, verified by the person, if an individual,
24 or by some officer, if a corporation or association, showing the number of tickets
25 sold for the match or exhibition, the amount of the gross receipts from such sale and
26 such other matters as the commission prescribes. He shall also, within the same
27 period, pay to the commission a tax of five percent (5%) of the gross receipts from

1 the sale of all tickets to the match or exhibition.

2 (2) He shall also pay to the commission, as soon as possible, a tax of five percent (5%)
3 of the gross receipts from all other sources, direct or indirect, ***except that the tax***
4 ***shall not apply to***[~~including but not by way of limitation~~] the gross receipts from
5 the sale, lease or other exploitation of broadcasting, television and motion picture
6 rights of such contests. He shall also, prior to any such professional boxing or
7 wrestling match or exhibition, file with the commission a copy of each contract
8 involving compensation of the contestants and a copy of each contract under which
9 he will receive, directly or indirectly, compensation from any source whatsoever.
10 Any person making payments under any such contract shall promptly report to the
11 commission the amount of any such payments.

12 (3) All taxes required to be paid by this section shall be computed on the gross receipts
13 without any deduction whatsoever for commissions, brokerage, distribution fees,
14 advertising or other expenses, charges or recoupments in respect thereto, exclusive
15 of any federal excise taxes.

16 (4) Any person supplying radio, television or cable facilities for the broadcast or
17 televising of any professional match shall, prior to the contest, notify the
18 commission.

19 Section 156. The following KRS sections are repealed:

20 154.45-001 Purpose of Enterprise Zone Program.

21 154.45-020 Application for designation as enterprise zone -- Interlocal governmental
22 agreement -- Application to amend boundaries of existing zone -- Joint applications.

23 154.45-030 Boundary changes effective upon written approval of authority -- Contents
24 of application -- Requirements for authority's approval.

25 154.45-040 Areas eligible for designation as enterprise zone.

26 154.45-080 Master business license.

27 154.45-100 Neighborhood enterprise association corporations -- Establishment --

1 Certification -- Land owned by state and local governments to be leased to
2 corporation -- Tax exemption.
3 Section 157. The following KRS sections are repealed effective June 1, 2005:
4 138.207 Refund of tax on cigarettes donated to institutions.
5 141.375 Definitions relating to qualifying energy property.
6 141.380 Tax credit for expenditures for qualifying energy property installed by taxpayer.
7 Section 158. The following KRS sections are repealed effective January 1, 2006:
8 141.0105 Adjustment of exclusion amount for retirement distributions for tax years after
9 1998.
10 132.043 Retirement plan, interest taxable by state -- Rate -- Collection --Not subject to
11 local taxes.
12 132.047 Credit union accounts -- Taxation -- Rate -- Collection -- Not subject to local
13 taxes.
14 132.050 Brokers' accounts receivable tax.
15 132.060 Marginal accounts tax -- Brokers' report to cabinet.
16 132.070 Assessment of marginal accounts tax.
17 132.080 Payment and collection of marginal accounts tax -- Penalty.
18 132.090 Credit to broker for services.
19 132.215 Right to receive income -- Basis of assessment -- Rate of tax.
20 132.216 Life insurance companies to report names and addresses of residents entitled to
21 proceeds of policies left on deposit and subject to right of withdrawal, and
22 beneficiaries of policies taxable under KRS 132.215.
23 132.240 Face value of intangibles to be stated.
24 132.300 Failure to list note or bond bars action to collect.
25 132.490 Annual reports of recorded evidences of indebtedness, by county clerk to
26 property valuation administrators -- Compensation of clerk.
27 132.500 Valuation of evidences of indebtedness.

1 132.520 Mortgage assignments to be reported by banks and other companies.
2 136.030 List of resident bondholders -- Information to be furnished to Revenue Cabinet.
3 Section 159. The following KRS sections are repealed effective December 31,
4 2007:
5 154.45-010 Definitions for KRS 154.45-020 to 154.45-110.
6 154.45-050 Number of enterprise zones limited -- Preferred areas -- Effect of revocation
7 -- Retention of certification and eligibility for tax exemption after removal of
8 designation.
9 154.45-060 Enterprise Zone Authority of Kentucky -- Membership -- Terms -- Meetings
10 -- Compensation -- Staff.
11 154.45-070 Duties of authority.
12 154.45-090 Tax advantages, credits, and exemptions for qualified businesses.
13 154.45-110 Duties of Revenue Cabinet -- Report to General Assembly on fiscal impact
14 of Enterprise Zone Program.
15 154.45-120 Cabinet for Workforce Development to verify employment information of
16 qualified businesses.
17 Section 160. The amendments made in Section 2 of this Act shall apply to
18 corporation license tax returns due without regard to extension on or after April 15, 2004.
19 Section 161. The Legislative Research Commission is directed to study the
20 effectiveness of the exemptions and exclusions from the sales and use tax imposed under
21 KRS Chapter 139 for enhancing economic development within the Commonwealth,
22 improving competitiveness with other states in the attraction of new capital investment
23 and job creation, and ensuring a balanced tax structure that generates additional receipts
24 proportionately with overall economic growth. The study shall make findings as to
25 changes needed to increase the effectiveness and efficiency of the sales and use tax
26 structure and determine whether the exemptions and exclusions merit continuation. The
27 findings shall be reported to the Legislative Research Commission no later than

1 December 1, 2006. The study shall be conducted with the assistance of the Finance and
2 Administration Cabinet. The Legislative Research Commission may retain a consultant.
3 Provisions of this section to the contrary notwithstanding, the Legislative Research
4 Commission shall have the authority to assign the responsibilities for the issues identified
5 in this section to an interim joint committee or subcommittee thereof, and to designate a
6 study completion date.

7 Section 162. (1) There is hereby created an eighteen (18) member task force
8 of the Legislative Research Commission on local taxation. The task force shall initially
9 meet no later than thirty (30) days after its co-chairs are selected, and shall report its
10 written recommendations and any proposed legislation in accordance with subsection (3)
11 of this section to the Interim Joint Committees on Appropriations and Revenue and Local
12 Government no later than November 1, 2005. The task force shall cease to exist upon the
13 making of its report.

14 (2) The task force shall review the current structure of local taxation, including:
15 (a) The constitutional requirements regarding local taxation;
16 (b) Current taxes imposed by local governments including the rates and tax base;
17 (c) The local tax burden in various Kentucky cities and counties;
18 (d) Revenues generated by type of tax, including all permissible local taxes; and
19 (e) Existing economic development incentives available to local governments and
20 how effectively those incentives are used by local governments.

21 (3) After reviewing the current structure of local taxation, the task force shall prepare a
22 report and recommendations that address at least the following areas:
23 (a) The identification of any constitutional impediments to the development of a
24 modern local tax system, and proposed constitutional amendments to address
25 any identified issues related to existing constitutional language;
26 (b) An analysis of the existing tax structure, including identification of the taxes
27 that are effective and those that are ineffective;

1 (c) The identification and recommendation of alternative methods for generating
2 a comparable amount of local revenue, including the imposition of a local
3 sales tax; and
4 (d) An analysis of the existing economic development incentive programs
5 available to local governments, and recommendation of alternative methods
6 for promoting capital investment and job creation on the local level.
7 (4) The task force shall consist of the following members:
8 (a) Four (4) members representing the League of Cities, two (2) each to be
9 selected by the Speaker of the House and the President of the Senate;
10 (b) Four (4) members from the Kentucky Association of Counties, two (2) each to
11 be selected by the Speaker of the House and the President of the Senate;
12 (c) Two (2) members representing the interests of local taxing districts, one (1)
13 each to be selected by the Speaker of the House and the President of the
14 Senate;
15 (d) Two (2) members representing local school districts, one (1) each to be
16 selected by the Speaker of the House and the President of the Senate;
17 (e) Two (2) members of the Kentucky House of Representatives to be selected by
18 the Speaker of the House;
19 (f) Two (2) members of the Kentucky Senate to be selected by the President of
20 the Senate;
21 (g) The secretary of the Economic Development Cabinet or a designee; and
22 (h) The commissioner of the Department of Local Government, or a designee.
23 (5) No later than thirty (30) days from the effective date of this Act, the President of the
24 Senate shall appoint one co-chair from among the Senate members of the task force,
25 and the Speaker of the House shall appoint the other co-chair from among the
26 Housemembers of the task force.
27 (6) Except as provided in KRS 18A.200, members of the task force shall receive actual

1 travel expenses while attending meetings.

2 (7) The task force may employ consultants if approved by the Legislative Research
3 Commission, request and hear testimony, and take other steps to ensure a thorough
4 and reasonable study of the issue. The task force shall be staffed by the Legislative
5 Research Commission.

6 (8) Provisions of this section to the contrary notwithstanding, the Legislative Research
7 Commission shall have the authority to alternatively assign the issues identified
8 herein to an interim joint committee or subcommittee thereof, and to designate a
9 study completion date.

10 Section 163. The taxes levied in this Act are for the purpose of supporting the
11 general expenditures of the Commonwealth and political subdivisions of the
12 Commonwealth.

13 Section 164. If any provision of this Act or the application thereof to any person or
14 circumstance is held invalid, the invalidity shall not affect other provisions or
15 applications of the Act that can be given effect without the invalid provision or
16 application, and to this end, the provisions of this Act are severable.

17 Section 165. Sections 3 to 34, 36 to 51, and 136 to 151 of this Act, relating to
18 income tax changes and incentives, shall apply to tax years beginning on or after January
19 1, 2005, except for the changes made in paragraph (c) of subsection (3) of Section 3 of
20 this Act, adoption of the Military and Family Tax Relief Act of 2003. The Military and
21 Family Tax Relief Act of 2003, Pub. L. No. 108-121, includes several effective dates,
22 some of which are retroactive. The effective dates as set forth in Pub. L. No. 108-121
23 shall apply to the adoption of Pub. L. No. 108-121 pursuant to this Act.

24 Section 166. Section 73 of this Act, relating to sales tax nexus, shall take effect
25 August 1, 2005.

26 Section 167. Sections 67 to 71 of this Act, relating to the lodging and tourism tax
27 and fund, Section 74 of this Act, relating to the wholesale tax on alcohol, Section 75 of

1 this Act, relating to tax credits, Sections 80, 81 and 83 to 87 of this Act, relating to
2 tobacco tax changes, Section 127 of this Act, relating to tax credits, and Sections 132 to
3 135 of this Act, relating to the horse breeders incentive program, take effect June 1, 2005.
4 Section 168. Sections 35, 52, 53, 56, 58 to 66, and 77 to 79 of this Act, relating to
5 property tax changes, and Sections 72, 76, and 88 to 126 of this Act, relating to the
6 telecommunications tax, take effect on January 1, 2006.
7 Section 169. Section 1 of this Act, relating to the repeal of the corporation license
8 tax, and Section 123 of this Act, relating to unit valuation, take effect on December 31,
9 2005.
10 Section 170. Subsection (18) of Section 54 of this Act, relating to property tax
11 changes, take effect January 1, 2006. Subsection (19) of Section 54 of this Act, relating to
12 the voluntary environmental remediation credit, takes effect January 1, 2005.
13 Section 171. Sections 55 and 57 of this Act, relating to property tax changes, take
14 effect on January 1, 2006, except the changes made to paragraph (c) of subsection (1) of
15 Section 55, relating to the voluntary environmental remediation credit, paragraph (a) of
16 subsection (2) of Section 55, and paragraph (a) of subsection (4) of Section 55 of this Act,
17 relating to new property and the state property assessment, and subsection (21) of Section
18 57 of this Act, which shall take effect on the effective date of this Act and which shall
19 apply to tax years beginning on or after January 1, 2005.
20 Section 172. Section 82 of this Act, relating to the floor stock tax for tobacco,
21 takes effect on May 31, 2005.
22 Section 173. Whereas Kentucky's tax structure is in urgent need of modernization,
23 an emergency is declared to exist, and this Act takes effect upon its passage and approval
24 by the Governor or upon its otherwise becoming a law.

Speaker-House of Representatives

President of the Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date March 18, 2005