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Amy Darnell
REGULATIONS COMPILER

STATEMENT OF EMERGENCY

307 KAR 1:080E.

This emergency amendment to an existing administrative regulation is necessary to immediately establish and implement the updates and changes to the Kentucky Film Office, Kentucky Film Leadership Council, and Kentucky Entertainment Incentive Program authorized by the General Assembly 2026 Ky. Acts ch. 194, secs. 2 through 6 (2026 SB 324). The emergency amendment to an existing administrative regulation sets forth the process, including eligibility, applications, approvals, certified audit, and fee obligations as required by the General Assembly.

This emergency amendment to an existing administrative regulation will be replaced by an ordinary amendment.

ANDY BESHEAR, Governor

JEFF NOEL, Secretary

CABINET FOR ECONOMIC DEVELOPMENT

Kentucky Film Office

(Emergency Amendment)

307 KAR 1:080E. Kentucky Entertainment Incentive Program (Effective July 15, 2026[~~July 1, 2025~~]).

RELATES TO: KRS 154.61-010, 154.61-020, 154.61-030

STATUTORY AUTHORITY: KRS 154.12-280, 154.61-030(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 154.12-280, 154.12-282, 154.61-010, 154.61-020, and 154-61-030 authorize the Kentucky Film Office and Kentucky Film Leadership Council, through the Cabinet for Economic Development and its Secretary, to establish procedures and standards for the Kentucky Entertainment Incentive Program. This administrative regulation establishes the application, criteria, fee structure, and economic analysis to evaluate applications for the KRS Chapter 154.61 incentives.

Section 1. Definitions.

(1) "Above-the-line production crew" is defined by KRS 154.61-010(1).

(2) "Applicant" means an eligible company submitting an application for incentives under KRS 154.61-030.

(3) "Application" means an Application for Kentucky Entertainment Incentive (KEI) for tax incentives filed with the Cabinet pursuant to KRS 154.61-030.

(4) "Approved company" is defined by KRS 154.61-010(3).

(5) "Below-the-line production crew" is defined by KRS 154.61-010(4).

(6) "Cabinet" is defined by KRS 154.61-010(5).

(7) "Certified audit" is defined by KRS 154.61-010(6)

(8) "Commercial" means an advertisement or promotional production created for the purpose of marketing, promoting, or publicizing a product, service, brand, or message, intended for distribution or exhibition on television, digital platforms, streaming services, or other national or multi-regional marketing campaigns. A commercial shall include a live-action component and may incorporate animation, visual effects, or other post-production elements, provided that such live-action component is a material and substantive part of the production.

(9) "Common ownership" means two (2) or more legal entities, such as corporations, limited liability companies, partnerships, and the like, where the:

(a) Entities are owned by the same person;

(b) Same person serves as an officer or director of the entities; or

(c) Majority of one (1) entity is owned by one (1) or more of the other entities.

(10)[~~(8)~~] "Commonwealth" is defined by KRS 154.61-010(7)[~~(6)~~].

(11)[~~(9)~~] "Compensation" is defined by KRS 154.61-010(8)[~~(7)~~].

(12)[~~(10)~~] "Continuous film production" is defined by KRS 154.61-010(9)[~~(8)~~].

(13)[~~(11)~~] "Council" is defined by KRS 154.61-010(10)[~~(9)~~].

(14)[~~(12)~~] "Eligible company" is defined by KRS 154.61-010(12)[~~(11)~~].

(15)[~~(13)~~] "Employee" is defined by KRS 154.61-010(13)[~~(12)~~].

(16)[~~(14)~~] [~~"Enhanced incentive county" is defined by KRS 154.61-010(13).~~ ~~(15)~~]"Financial interest" means a pecuniary interest that a reasonable person would expect to influence the impartiality of the transaction.

(17) "Heritage county" is defined by KRS 154.61-010(16).

(18)[~~(16)~~] "Kentucky-based company" is defined by KRS 154.61-010(18)[~~(16)~~].

(19)[~~(17)~~] "Kentucky Film Office" or "Office" means the office created by KRS 154.12-280.

(20)[~~(18)~~] "Kentucky vendor" means an individual or entity that:

(a) Sells or rents a type of property of which more than a de minimis amount is regularly held in its inventory in the ordinary course of business in Kentucky, or provides a service not performed at the filming or production site but in Kentucky, which is the subject of the production expenditure, in its ordinary course of business;

(b) Has a physical location in Kentucky with at least one (1) Kentucky resident employee working at the location on a regular basis. Registering with the Kentucky Secretary of State or appointing a registered agent in Kentucky does not establish a physical location in Kentucky for purposes of this definition;

(c) Is registered with the Kentucky Department of Revenue for collection of sales and use tax if required by law;

(d) Has a local Kentucky business license if required by law. The approved company shall be required to obtain a copy of the license from any Kentucky vendor if the total amount of purchases exceeds $50,000 for the vendor during the period considered in the application and approval by the council; and

(e) Provides services rendered on set or within the Commonwealth and:

1. Is identified on the daily production reports; or

2. Can provide other reasonable evidence that these services were rendered within the Commonwealth.

(21)[~~(19)~~] "Negotiated" means an arm's-length transaction between two (2) or more parties who are unrelated and unaffiliated, and entered into voluntarily in an open market where the parties acted in their own self-interest.

(22)[~~(20)~~] "Non-resident" means any individual not meeting the definition of a "resident" under KRS 154.61-010(28)[~~(22)~~].

(23)[~~(21)~~] "Pass-through entity" is defined by KRS 141.010(28).

(24)[~~(22)~~] "Person" is defined by KRS 154.61-010(24)[~~(20)~~].

(25)[~~(23)~~] "Program" means the Kentucky Entertainment Incentive Program established by KRS 141.383, 154.61-020, and 154.61-030.

(26)[~~(24)~~] "Qualifying expenditure" is defined by KRS 154.61-010(25)[~~(21)~~].

(27)[~~(25)~~] "Qualifying Kentucky crew training program" means a training program offered in conjunction with a motion picture or entertainment production, as defined by KRS 154.61-010(20)[~~(18)~~], in partnership with:

(a) An accredited Kentucky educational institution;

(b) A local trade association; or

(c) A regional educational or trade association.

(28)[~~(26)~~] "Qualifying payroll expenditure" is defined by KRS 154.61-010(26)[~~(22)~~].

(29)[~~(27)~~] "Resident" is defined by KRS 154.61-010(28)[~~(23)~~].

(30) "Script" means the written text, synopsis, and visual storyboard of a motion picture or entertainment production, including dialogue, narration, scene descriptions, stage directions, character descriptions, and other written content that serves as the basis for the production.

Section 2. The provisions of this administrative regulation shall be applicable on or after July 15, 2026[~~July 1, 2025~~].

Section 3. Qualifying Payroll Expenditures under the Kentucky Entertainment Incentive Program.

(1) Qualifying payroll expenditures submitted to the Cabinet by an approved company shall only include those expenditures made in Kentucky for services performed in the Commonwealth by above-the-line production crew or below-the-line production crew.

(2) When submitting qualifying payroll expenditures for above-the-line production crew, an approved company shall demonstrate to the Cabinet that the employee's salary was negotiated prior to commencement of the production. Salaries paid to above-the-line production crew with a financial interest in the approved company shall be disclosed and accompanied by supporting documentation demonstrating the payroll expenditure was reasonable within market rates. Financial interest shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the approved company. <u>Supporting documentation required under this subsection shall include:</u>

<u>(a) Disclosure of the total payroll expenditure related to the above-the-line production crew member for the project;</u>

<u>(b) A detailed description of the services performed in the Commonwealth, including dates; and</u>

<u>(c) Comparative rates from DGA, WGA, PGA, or other nationally recognized union or guild, as applicable, demonstrating the claimed qualifying payroll expenditure aligns with standard industry rates</u>.

(3) When submitting qualifying payroll expenditures made in the Commonwealth for services performed in the Commonwealth, an approved company shall demonstrate to the Cabinet that the employee rendered the service on-set or otherwise within the Commonwealth. Compensation for services conducted or rendered both in the Commonwealth and outside of the Commonwealth shall

only qualify as a qualified payroll expenditure to the extent the service is physically rendered in the Commonwealth. If an approved company is unable to track the cost of the services physically rendered in Commonwealth, then some other reasonable method which approximates the cost of the services rendered in the Commonwealth may be used to determine the amount attributable to the Commonwealth subject to adjustment by the Cabinet.

(4) For purposes of qualifying payroll expenditures attributable to an employee's salary or compensation, the includable amount shall not exceed the employee's annual salary and compensation divided by 365 then multiplied by the number of days upon which the employee actually performed services within the Commonwealth directly in connection with the motion picture or entertainment production. The approved company shall identify and document the specific dates on which such services were performed. No day for which salary or compensation is claimed for a particular employee shall overlap with any day for which incentivization is sought for that same employee's salary or compensation in connection with any other motion picture or entertainment production.

(5) Failing to provide documentation if requested by the Cabinet shall result in expenditures being disqualified and the claimed qualifying payroll expenditure being excluded.

Section 4. Qualifying Expenditures under the Kentucky Entertainment Incentive Program.

(1) An approved company submitting qualifying expenditures to the Cabinet shall only include expenditures made in the Commonwealth for one (1) or more of the categories listed in KRS 154.61-010(25)(a)(1) through (9)[~~KRS 154.61-010(21)(a)(1) through (9)~~].

(2) Expenditures shall be considered made in the Commonwealth if they are made to a Kentucky vendor.

(3) Expenditures shall not be considered to be made in the Commonwealth if those expenditures are paid to a Kentucky vendor acting as a conduit, waypoint, or pass-through entity solely to enable the purchases or rentals to qualify as qualifying expenditures.

(4) Expenditures made to persons with common ownership or a financial interest with an approved company shall be accompanied by supporting documentation demonstrating the expenditure was reasonable within market rates. Common ownership shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the approved company. Supporting documentation required under this subsection shall include:

(a) Disclosure of[~~disclose~~] the total value of goods and services provided for the project as well as a breakdown of all the related party transactions;

(b) Detailed itemization and description of the services and goods included within the expenditure; and

(c) At least two (2) competitive bids from unrelated vendors within the motion picture or entertainment production's geographic region. ~~Common ownership shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the approved company.~~

(5) Records submitted in support of a claimed qualifying expenditure shall contain sufficient detail to enable the Cabinet or office to verify the specific services, equipment, or facilities invoiced were directly utilized in connection with the motion picture or entertainment production. General descriptions, summary categories, or grouped charges that do not identify the specific services, equipment, or facilities provided shall result in the disqualification of the claimed qualifying expenditure.

(6) Goods, equipment, or other tangible assets purchased outside of the Commonwealth shall not qualify as qualifying expenditures. To the extent such goods, equipment, or other assets are included within the same invoice as other expenditures that may properly qualify under this section, that invoice shall have sufficient itemization for the Cabinet or office to exclude those out-of-state goods, equipment, or other assets. If an out-of-state vendor provides on-set services within the Commonwealth in conjunction with out-of-state goods, equipment, or other assets to be utilized in a motion picture or entertainment production, only the on-set services provided by the out-of-state vendor within the Commonwealth may qualify. Failure to separately itemize non-qualifying expenditures shall result in the disqualification of the entirety of the claimed qualifying expenditure.

(7) For goods, equipment, or other tangible assets, the following shall apply:

(a) For office, production, post-production, or effects equipment, including computers, hardware, printers, and similar items, the qualifying expenditure shall be the lesser of the net cost after any resale proceeds or twenty (20) percent of the original purchase price.

(b) For all other assets with an original purchase price exceeding $5,000, the qualifying expenditure shall be limited as follows:

1. If sold, the lesser of net cost after resale or twenty (20) percent of the original purchase price;

2. If retained, donated, or otherwise disposed of without sale, no more than twenty (20) percent of the original purchase price;

3. If destroyed as part of production, up to one hundred (100) percent of cost, provided sufficient documentation is maintained.

(c) For costumes, props, set pieces, and other non-fixed assets used in national touring productions of a Broadway show, only the portion of the cost attributable to use within the Commonwealth shall qualify, based on a reasonable allocation supported by production records and documentation.

(8) Failing to provide documentation [~~if~~]requested by the Cabinet shall result in expenditures being disqualified and the claimed qualifying expenditure being excluded.

Section 5. Application Requirements.

(1) Applicants seeking incentives under the program shall submit an Application for Kentucky Entertainment Incentive (KEI) to the Cabinet that includes:

(a) The name and address of the applicant;

(b) Verification that the applicant is a Kentucky-based company;

(c) The preliminary production script or a detailed synopsis of the script;

(d) The locations where the filming or production will occur;

(e) The anticipated date on which filming or production shall begin in Kentucky;

(f) The anticipated date on which the applicant will complete incurring expenditures in Kentucky;

(g) The total anticipated qualifying expenditures;

(h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;

(i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;

(j) The address of a Kentucky location at which records of the production will be kept;

(k) An affirmation that if not for the incentive offered under this subchapter, the eligible company would not film or produce the production in the Commonwealth;

(l) Proof of funding for the project. An applicant shall provide documentation demonstrating a minimum of[~~Proof shall demonstrate~~] fifty (50) percent [~~of funds raised through the following:~~

~~1. IATSE Bonds, SAG Bonds, Completion Bonds;~~

~~2. Payroll statements;~~

~~3. Bank statements;~~

~~4. Financing or funding contracts; or~~

~~5. Commitment letters.~~

~~a. Demonstrate twenty-five (25) percent~~]of committed funds are held in an escrow account under the applicant's name identified as for the purpose of the motion picture or entertainment production with an accompanying[~~; and~~

~~b. Present a balance sheet and~~] letter from an accredited financial institution[~~, attorney, or accountant holding the funds~~].

(m) Whether the applicant has a distribution contract for the project and supporting plans and documentation regarding distribution;

(n) Whether the applicant has previously received approval for incentives under the program, and, if so, specification of the year of the approval and amount of incentives received in each year. This information shall include incentives received by any other entity with common ownership or any individual with a financial interest in the applicant. Common ownership shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the applicant;

(o) The number of resident and nonresident above-the-line and below-the-line production crew members included by the applicant, or any other entity with common ownership or any individual with a financial interest in the applicant, on a previous application. This information shall include:

1. The date of the application;

2. Whether the application was approved;

3. The dates upon which the crew members were or are to be utilized; and

4. Each crew member's role in the production;

(p) Any deal memoranda between applicants and key personnel;

(q) A detailed episode-by-episode synopsis and committed talent;

(r) A detailed breakdown of the project's budget including all estimated line items used to support claimed qualifying payroll expenditures and qualifying expenditures. All budget line items shall be reasonable and within market rates;

(s) A detailed explanation of timing of the production if there are commonly held or financially interested applicants with overlapping personnel; and

(t) Whether there are one (1) or more qualifying Kentucky crew training programs offered in conjunction with the project.

(2) The office shall review applications on a project basis. For purposes of this administrative regulation, a television program may consist of a pilot episode or an entire season of a series. A television program shall not be divided into individual episodes or groups of episodes for purposes of establishing separate projects.[~~Applicants shall submit a completed application no later than thirty (30) calendar days prior to the date upon which applicant seeks to have the application reviewed by the council.~~]

(3) Within thirty (30)[~~twenty (20)~~] calendar days of receiving an application, the office shall notify the applicant:

(a) That the office received the application;

(b) Whether, upon initial review, the applicant appears to meet the criteria of an eligible company or whether the office requires additional verification or documentation; and

(c) That either:

1. Based upon the annual allocated funds for the program, enough uncommitted incentives remain in the program's calendar year to move forward with an economic analysis[~~, ranking of the application, and notification to the council~~]; or

2. Based upon the remaining annual allocated funds for the program, the office will not move forward with the application.

Section 6. Incentive Awards. To effectuate the purposes of the program set forth in KRS 154.61-020(1), the amount of incentive awards approved for all applicants in any single quarter of the calendar year[~~month~~], not otherwise meeting the definition of continuous film production, shall be limited to no more than twenty-five (25) percent[~~$10 million~~] of the total annual tax credit cap under KRS 154.61-020(4). If the amount of incentive awards approved does not meet the twenty-five (25) percent[~~$10 million~~] limitation set forth in this subsection, the remainder shall carry forward to the subsequent quarter of the calendar year[~~month~~]. The council may elect to commit more than this quarterly[~~monthly~~] allocation if a project:

(1) Has anticipated qualifying expenditures and payroll expenditures that exceed this amount; and

(2) Commitment of incentives to the project is supported by the economic analysis set forth in Section 7 of this administrative regulation.

Section 7. Economic Analysis.

(1) The Cabinet shall conduct an economic analysis of each application.

(2) The analysis shall evaluate each application on the:

(a) Percentage of spend in the Commonwealth in relation to the total amount anticipated to be spent on a project, favoring a higher percentage of the total budget allocated within Kentucky;

(b) Relative percentage of total production costs associated with above-the-line and below-the-line production crew costs, favoring a higher percentage of below-the-line production crew;

(c) Percentage of project filming or production in heritage[~~enhanced incentive~~] counties, favoring a higher percentage of project filming or production in heritage counties;

(d) Number of anticipated employed Kentucky residents compared to the total above-the-line and below-the-line production crew, favoring a higher percentage of employed Kentucky residents;

(e) Amount of time filming or production will occur in Kentucky, favoring a higher number of days filming in Kentucky;

(f) Presence of a distribution contract, favoring the presence of a distribution contract;

(g) Percentage of funding secured, favoring fully secured funding;

(h) Total amount of incentives sought compared to the number of Kentucky-based above-the-line and below-the-line production crew members employed;

(i) Percentage of incentives sought attributable to non-Kentucky-based production crew members, favoring a lower percentage of incentives attributable to non-Kentucky-based production crew; [~~and~~]

(j) Previous participation in the program, favoring those applicants with a demonstrated record of success with the program; and

(k) Availability of one (1) or more qualifying Kentucky crew training programs offered in conjunction with the project.

(3) The Cabinet shall conduct an economic analysis of each application submitted under the program based upon the program's purposes set forth in KRS 154.61-020(1)(a) through (d). Analysis shall prioritize applications with more Kentucky-based jobs, committed funding, spend to Kentucky-based vendors and residents, qualifying Kentucky crew training programs, and overall economic benefit to Kentucky in relation to the total amount of proposed spend on a project or incentives sought by an eligible company.

(4) For a national touring production of a Broadway show produced in Kentucky in accordance with KRS 154.61-010(18)(a)2., the number of anticipated employed Kentucky residents identified in subsection (2)(d) of this section shall include the number of Kentucky-based jobs at the production's performance venue supported by the production.

(5) Applications scoring fewer than sixty (60) of the available points shall be denied for failing to have an economic analysis in support of the project.

(6) Upon completion of the project, submission of qualifying expenditures and qualifying payroll expenditures, and submission of a certified audit report[~~certification of eligible expenditures by an independent certified public accountant~~], the Cabinet may reduce the approved incentive amount to an approved company based upon the variation between the approved company's application for incentives and actual expenditures submitted to the Cabinet.

(6) Applications scoring higher than ninety (90) of the available points based upon a minimum combined total of $7,500,000 in qualifying payroll expenditures and qualifying expenditures shall result in the application being designated as a high-impact motion picture or entertainment production.

Section 8. Certified audit. Any motion picture or entertainment production shall submit a certified audit to the Cabinet and office conducted in accordance with the Kentucky Entertainment Incentive Program Certified Audit Guidelines and all other applicable laws and regulations applicable thereto.

Section 9. Fees. Applicants seeking incentives under the program shall include with their application:

(1) A nonrefundable application fee in the amount of:

(a) $250 if the total amount of qualifying expenditures and qualifying payroll expenditures is less than $50,000;

(b) $500 if the total amount of qualifying expenditures and qualifying payroll expenditures is between $50,000 and $100,000; or

(c) $1,000 if the total amount of qualifying expenditures and qualifying payroll expenditures is more than $100,000; and

(2) An administrative fee of one-half of one percent (0.5%) of the estimated amount of tax incentive sought or $500, whichever is greater; and[~~.~~]

(3) A nonrefundable fee of $2,000 for expenses incurred as a result of preparation of the tax incentive agreement.

Section 10[9]. Incorporation by Reference. (1) "Application for Kentucky Entertainment Incentive (KEI)", July 2026[~~September 2025~~], is incorporated by reference.

(2) "The Kentucky Entertainment Incentive Program Certified Audit Guidelines," July 2026, is incorporated by reference.

(3) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Economic Development, Mayo-Underwood Building, 500 Mero Street, 5th Floor,

Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. or online at https://kentucky.location.pro/incentive[~~https://cedky.com/cdn/1980_KEI_Application_9-2025_CED_Sample.pdf~~].

307 KAR 1:080E
REVIEWED AND APPROVED:

Aug 15, 2026
DATE

Jeff Noel, Secretary
CABINET FOR ECONOMIC DEVELOPMENT

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The following is the application form that applicants are required to file in order to apply for economic development incentives under the Kentucky Entertainment Incentive Program administered through the Kentucky Film Leadership Council, Kentucky Film Office, and Cabinet for Economic Development under KRS 154.61-010 through 154.61-030. This application has been revised since the prior version to incorporate those changes mandated by 2026 Ky. Acts ch. 194 (SB 324). Applicants may provide credit or debit card number and expiration date to allow payments by MasterCard, Visa, or American Express for the fees associated therewith. Applicants may also submit payment with cash or personal check payable to the Kentucky State Treasurer. Applications may be found at ced.ky.gov. In addition, this regulation incorporates the Kentucky Entertainment Incentive Program's Certified Audit Guidelines, which were likewise required to be created pursuant to 2026 Ky. Acts ch. 194 (SB 324). There was no prior version of these Audit Guidelines.

(1) "Application for Kentucky Entertainment Incentive (KEI)", July 2026, is incorporated by reference;

(2) "The Kentucky Entertainment Incentive Program Certified Audit Guidelines," July 2026, is incorporated by reference;

(3) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Economic Development, Mayo-Underwood Building, 500 Mero Street, 5th Floor, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or online at https://kentucky.location.pro/incentive.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall be held on August 24, 2026, at 11:00 a.m. Eastern Time/10:00 a.m. Central Time at the Cabinet for Economic Development, Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Matthew Wingate, General Counsel, Cabinet for Economic Development, Mayo Underwood Building, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, phone: (502) 782-1948, fax (502) 564-3256, email: matthew.wingate@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 307 KAR 1:080E. Kentucky Entertainment Incentive Program (Effective July 15, 2026).
Agency Contact: Matthew Wingate
Phone Number: (502) 782-1948
Email: matthew.wingate@ky.gov

Subject Headings: Economic Development, Loans and Credit, Fees

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application, criteria, fee structure, certified audit, and economic analysis to evaluate applications for the Kentucky Entertainment Incentive Program pursuant to KRS 154.61-010 through 15.61-030.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to administer the Kentucky Entertainment Incentive Program and Kentucky Film Office as required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the application process and review criteria and requirements for the Kentucky Entertainment Incentive Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing a framework for prioritizing applications based upon the purpose of the Kentucky Entertainment Incentive Program statutes.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides additional safeguards to public funds by setting forth standard criteria for applications and including statutorily required audit guidelines.

(b) The necessity of the amendment to this administrative regulation: This amendment is required due to the passage of 2026 SB 324 during the 2026 Regular Session of the General Assembly, as codified in 2026 Ky. Acts ch. 194.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment updates the new definitions and requirements set forth in 2026 Ky. Acts ch. 194.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing a framework for prioritizing applications based upon the purpose of the Kentucky Entertainment

Incentive Program statutes and the changes implemented in 2026 Ky. Acts ch. 194.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, it implements 2026 Ky. Acts ch. 194 (SB 324).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: the regulation will assist persons and entities applying for incentives under the Kentucky Film Office's statutory program, the Kentucky Entertainment Incentive Program.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Regulated entities will be able to participate in the Kentucky Entertainment Incentive Program through the established process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): regulated entities applying for the Kentucky Entertainment Incentive Program will remit the fees as specified in 2026 Ky. Acts ch. 194 (SB 324).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Applicants may become qualified for incentives under the Kentucky Entertainment Incentive Program where such incentives have been approved by the Kentucky Film Leadership Council.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No expenses or an unknown amount will be incurred.

(b) On a continuing basis: No expenses or an unknown amount will be incurred.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Pursuant to KRS 154.61-020, the total tax incentive amount of the Kentucky Entertainment Incentive Program is $75,000,000. Sources of funding for staffing are provided from General Funds provided to the Cabinet and restricted funds from application fees as set by KRS 154.61-030(5) and two and one-half percent (2.5%) of the transient room tax collected pursuant to KRS 142.400, up to the maximum amount of five hundred thousand dollars ($500,000) in each fiscal year, for the period beginning July 1, 2025, and ending June 30, 2028, as set by KRS 154.12-280(4) and modified by 2026 Ky. Acts 194 (SB 324).

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or

indirectly increases any fees: this regulation establishes the fees set forth in KRS 154.12-280(3), 154.61-030(4)(s), and 154.61-030(5).

(10) TIERING: Is tiering applied? Tiering is not used as the application and fees apply to the same classes of individuals and entities.

FISCAL IMPACT STATEMENT

Administrative Regulation: 307 KAR 1:080E. Kentucky Entertainment Incentive Program (Effective July 15, 2026).
Agency Contact: Matthew Wingate
Phone Number: (502) 782-1948
Email: matthew.wingate@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 154.12-280, 154.61-010, 154.61-020, and 154.61-030.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Economic Development, Kentucky Film Office, other agencies have not been identified.

(a) Estimate the following for the first year:

Expenditures: Expenditures will depend on the number of applications and projects submitted, which is currently unknown. As the Kentucky Entertainment Incentive program is already in place, no additional expenditures are anticipated.

Revenues: Revenues will depend on the number of applications and projects submitted, which is currently unknown. As the Kentucky Entertainment Incentive program, no additional revenues are anticipated.

Cost Savings: Cost will depend on the number of applications and projects submitted, which is currently unknown. As the Kentucky Entertainment Incentive program, no additional costs are anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not expect a change to revenues or cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

(a) Estimate the following for the first year:

Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.

Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not expect a change to revenues or cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include applicants to the Kentucky Cabinet for Economic Development's economic incentive programs.

(a) Estimate the following for the first year:

Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.

Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.

Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation implements the application process and review criteria and requirements for the Kentucky Entertainment Incentive Program. The administrative regulation does not create a fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: N/A.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate): The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

(b) The methodology and resources used to reach this conclusion: This administrative regulation does not create a fiscal impact.

CHAPTER 194

(SB 324)

AN ACT relating to the entertainment industry.

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

➔Section 1. KRS 141.383 is amended to read as follows:

(1) As used in this section:

(a) "Above-the-line production crew" has the same meaning as in KRS 154.61-010;

(b) "Approved company" has the same meaning as in KRS 154.61-010;

(c) "Below-the-line production crew" has the same meaning as in KRS 154.61-010;

(d) "Continuous film production" has the same meaning as in KRS 154.61-010;

(e) "Council" means the Kentucky Film Leadership Council created in KRS 154.12-282;

(f) "Loan-out entity" has the same meaning as in KRS 154.61-010;

(g) ***"Office" means the Kentucky Film Office created in Section 2 of this Act;***

(h) "Qualifying expenditure" has the same meaning as in KRS 154.61-010;

(i)[~~(h)~~] "Qualifying payroll expenditure" has the same meaning as in KRS 154.61-010;

(j)[~~(i)~~] "Secretary" has the same meaning as in KRS 154.61-010; and

(k)[~~(j)~~] "Tax incentive agreement" has the same meaning as ***in*** KRS 154.61-010.

(2) (a) There is hereby created a tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.

(b) The incentive available under paragraph (a) of this section is:

1. A refundable credit for applications approved prior to April 27, 2018;

2. A nonrefundable and nontransferable credit for applications approved on or after April 27, 2018, but before January 1, 2022; and

3. A refundable credit for applications approved on or after January 1, 2022, if the provisions of paragraph (c) of this subsection are met.

(c) 1. The total tax incentive approved under KRS 154.61-020 shall be limited to:

a. [~~One hundred million dollars ($100,000,000) for calendar year 2018 and each calendar year through the calendar year 2021;~~

~~b.~~]Seventy-five million dollars ($75,000,000) for the calendar year 2022 and each calendar year thereafter;[~~ and~~]

b.[~~c.~~] Beginning with calendar year 2024, the amount in subdivision ***a.***[~~b.~~] of this subparagraph shall be allocated accordingly:

i. Twenty-five million dollars ($25,000,000) shall be allocated for all approved companies with a continuous film production; and

ii. On the first day of April 2025, and on April 1 of each calendar year thereafter, any unused balance allocated under subpart i. of this subdivision for continuous film productions shall be made available for all approved companies with a motion picture or entertainment production***; and***

c. I. Beginning with calendar year 2026, any unallocated balance of the amount allocated in subdivision a. of this subparagraph for the previous calendar year shall carry forward into the subsequent calendar year to be made available for approved companies with high-impact motion pictures, continuous film

productions, or entertainment productions.

2. ***For purposes of this subdivision and Section 5 of this Act, the determination of a high-impact motion picture or entertainment production shall be based upon criteria established in administrative regulations promulgated under subsection (4)(c) of Section 5 of this Act.***

2. To qualify for the refundable credit, all applicants shall:

a. Begin filming or production in Kentucky within ***one hundred eighty (180) days***[~~six (6) months~~] of approval by the ***office***[~~council~~]; and

b. Complete filming or production in Kentucky within two (2) years of their production start date.

(3) An approved company may receive a refundable tax credit if:

(a) The department has received notification from the ***office***[~~council~~] that the approved company has satisfied all requirements of KRS 154.61-020 and 154.61-030; and

(b) The approved company has provided a detailed cost report and sufficient documentation to the ***office***[~~council~~], which has been forwarded by the ***office***[~~council~~] to the department, that:

1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and

2. The approved company or loan-out entity has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures, and remitted and certified the withheld amount to the department.

(4) Interest shall not be allowed or paid on any refundable credits provided under this section.

(5) The department may promulgate administrative regulations under KRS Chapter 13A to administer this section.

(6) On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the department shall report to the ***office***[~~council~~] and the Interim Joint Committee on Appropriations and Revenue the names of the approved companies and the amounts of refundable income tax credit claimed.

(7) No later than September 1, 2021, and by November 1 every four (4) years thereafter, the department and the Cabinet for Economic Development shall cooperatively provide historical data related to the tax credit allowed in this section and KRS 154.61-020 and 154.61-030, including data items beginning with tax credits claimed for taxable years beginning on or after January 1, 2018:

(a) The name of the taxpayer claiming the tax credit;

(b) The date that the application was approved and the date the filming or production was completed;

(c) The taxable year in which the taxpayer claimed the tax credit;

(d) The total amount of the tax credit, including any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future;

(e) Whether the taxpayer is a Kentucky-based company as defined in KRS 154.61-010;

(f) Whether the taxpayer films or produces a:

1. Feature-length film, television program, [~~or~~]industrial film***, video game, music video, or commercial***;

2. National touring production of a Broadway show; or

3. Documentary;

(g) Whether the filming or production was performed:

1. Entirely in an enhanced county; or

2. In whole or in part in any Kentucky county other than in an enhanced incentive county;

(h) The amount of qualifying expenditures incurred by the taxpayer;

(i) The amount of qualifying payroll expenditures paid to:

1. Resident below-the-line crew; and

2. Nonresident below-the-line production crew;

including the number of crew members in each category;

(j) The amount of qualifying payroll expenditures paid to:

1. Resident above-the-line crew; and

2. Nonresident above-the-line crew;

including the number of crew members in each category; and

(k) A brief description of the type of motion picture or entertainment production project.

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

➔Section 2. KRS 154.12-280 is amended to read as follows:

(1) There is created the Kentucky Film Office, which shall be attached to the Cabinet for Economic Development for administrative purposes only. The office shall be headed by an executive director selected and compensated as provided in KRS 154.12-282(2)***(g)***[~~(e)~~]. The executive director shall have the authority to hire staff, including a marketing and development director, contract for services, expend funds, and operate the normal business activities of the council.

(2) The duties of the [~~Kentucky Film~~]office shall include but not be limited to:

(a) ***Reviewing all applications submitted for tax incentives in accordance with Section 6 of this Act;***

(b) Notifying the applicant within thirty (30) days of receipt and that:

1. The application is complete; or

2. Additional information is required;

(c) Forwarding each eligible application to the cabinet for an economic analysis of the project;

(d) Submitting the application and all related documents to the Kentucky Film Leadership Council for a final decision, if the analysis supports the project;

(e) Coordinating with local and regional film offices or local tourism commissions on issues impacting the film industry in Kentucky, including streamlining local permitting processes;

(f)[~~(b)~~] Marketing Kentucky as a location for film production;

(g)[~~(c)~~] Providing assistance to production companies for compliance with Subchapter 61 of KRS Chapter 154;

(h)[~~(d)~~] Assisting film studios and workforce training programs to increase the film production workforce;

(i)[~~(e)~~]Coordinating with the Kentucky Film Leadership Council established in KRS 154.12-282 to develop marketing strategies to promote and grow the film production industry in Kentucky;

(j)[~~(f)~~]Creating a [~~Kentucky Film Office~~]website and a one-stop portal to provide information to film producers regarding studios, local and regional commissions, personnel, filming locations, permitting, and other matters relevant to the film industry; and

(k)[~~(g)~~] Adopting the recommendations of the council created pursuant to KRS 154.12-282 and promulgating regulations in accordance with KRS Chapter 13A necessary to conduct the operations of the office.

(3) The office shall receive and retain all tax incentive application fees collected pursuant to KRS 154.61-030. The nonrefundable application fee ***that is***[~~that's~~] currently payable to the office upon submission of a tax incentive

application shall be determined by the total amount of qualifying expenditures and qualifying payroll expenditures, as defined in KRS 154.61-010. If the total is:

(a) Less than fifty thousand dollars ($50,000), the application fee shall be two hundred fifty dollars ($250);

(b) Between fifty thousand dollars ($50,000) and one hundred thousand dollars ($100,000), the application fee shall be five hundred dollars ($500); or

(c) More than one hundred thousand dollars ($100,000), the application fee shall be one thousand dollars ($1,000).

(4) The office may accept contributions, grants, and other property of value to hold and apply to projects for which the office is created. Any funds not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year. Notwithstanding KRS 142.406, for the period beginning July 1, 2025, and ending June 30, ***2028***[~~2027~~], two and one-half percent (2.5%) of the transient room tax collected pursuant to KRS 142.400, up to the maximum amount of five hundred thousand dollars ($500,000) ***in each fiscal year***, shall be transferred to the office and dedicated to staff and operational costs.

➔Section 3. KRS 154.12-282 is amended to read as follows:

(1) There is hereby established the Kentucky Film Leadership Council. The council shall be administratively attached to the Kentucky Film Office established in KRS 154.12-280.

(2) The functions and purposes of the council shall be to:

(a) Review all applications for tax incentives under KRS 141.383 and Subchapter 61 of KRS Chapter 154***;***

(b) Review all related documents presented by the office;

(c) [~~to determine eligibility within twenty (20) days of receipt and forward each eligible application to the cabinet for an economic analysis of the project. Notwithstanding KRS 154.61-020, if the analysis supports the project, the application and all related documents shall be submitted back to the council to~~]Make ***a***[~~the~~] final decision at a meeting held at the call of the chair regarding whether to authorize a tax incentive agreement ***if the cabinet's economic analysis supports the project***. The cabinet shall be responsible for negotiating, preparing, and executing tax incentive agreements under this section;

(d)[~~(b)~~] Recommend policies and standards for the Kentucky Film Office[~~ created in KRS 154.12-280~~];

(e)[~~(c)~~] Develop comprehensive film industry strategies in partnership with the Cabinet for Economic Development, the Tourism, Arts and Heritage Cabinet, and the Education and Labor Cabinet;

(f)[~~(d)~~] Partner with local and regional film offices, production studios, and relevant workforce training programs in Kentucky; and

(g)[~~(e)~~] Conduct a nationwide search for the executive director of the Kentucky Film Office and make decisions regarding hiring and compensation. The salary of the executive director of the [~~Kentucky Film~~]office shall not exceed two hundred twenty-five thousand dollars ($225,000) and shall be exempt from KRS 64.640.

(3) (a) The council shall consist of the following seven (7) voting members:

1. The secretary of the Cabinet for Economic Development or his or her designee;

2. The secretary of the Tourism, Arts and Heritage Cabinet or his or her designee;

3. The secretary of the Education and Labor Cabinet or his or her designee; and

4. Four (4) members who shall be appointed by the Governor as follows:

a. Two (2) representatives from Kentucky film production companies;

b. One (1) representative from a film profession, including but not limited to producers, actors, production accountants with film industry experience, or film financiers; and

c. One (1) representative who is the head of a local or regional film commission.

(b) All members appointed by the Governor under [~~paragraph (a)4. of~~]this subsection shall have knowledge of or experience in the Kentucky film industry. After the expiration of their initial terms, the appointed members shall serve a term of four (4) years and until a successor is appointed and qualified[~~ in accordance with paragraph (a)4. of this subsection~~]. Any vacancy that occurs shall be filled for the unexpired term in the same manner as the original appointment. All members appointed by the Governor shall be subject to confirmation by the Senate as provided in KRS 11.160.

(c) A majority of the members shall appoint the chair from among the members of the council.

(d) Members shall serve without compensation but shall be reimbursed for necessary travel expenses.

(e) The council shall meet at the call of the chair, ***but not less than quarterly***.

(f) A quorum shall be a majority of the membership of the council.

(g) A member of the council shall not be subject to any personal liability or accountability by reason of the execution of any obligation duly authorized by the council.

➔Section 4. KRS 154.61-010 is amended to read as follows:

As used in this subchapter:

(1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;

(2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;

(3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 154.61-020;

(4) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:

(a) Casting assistants;

(b) Costume design;

(c) Extras;

(d) Gaffers;

(e) Grips;

(f) Location managers;

(g) Production assistants;

(h) Set construction staff; and

(i) Set design staff;

(5) "Cabinet" means the Cabinet for Economic Development;

(6) ***"Certified audit" means an audit that:***

(a) Contains production-related expenditures;

(b) Is completed within one hundred eighty (180) days of the completion of production in Kentucky; and

(c) Is conducted in accordance with the office's standards established by administrative regulations promulgated in accordance with KRS Chapter 13A, including the adoption of expenditure sampling procedures;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8)[~~(7)~~] "Compensation" means***:***

(a) Compensation included in adjusted gross income as ***calculated in KRS 141.019***[~~defined in KRS 141.010~~]; ***and***

(b) The following:

1. Employer-paid payroll taxes;

2. Union and guild benefits;

3. Workers' compensation insurance premiums;

4. Payroll service fees; and

5. Qualifying per diem;

(9)~~[(8)]~~ "Continuous film production" means a motion picture or entertainment production that:

(a) 1. Has a projected ~~[budget of a]~~minimum ***spend*** of ten million dollars ($10,000,000) ~~[per calendar year]~~for qualifying expenditures and qualifying payroll expenditures***, which may be a prorated amount based on the total budget of the production***~~[allocated to all qualifying motion picture or entertainment productions to be filmed or produced in Kentucky, with a minimum of one million five hundred thousand dollars ($1,500,000) per production in Kentucky]~~; and

2. Has a minimum of fifty percent (50%) of the funds available and the ability to raise the remaining funds necessary to complete the filming and production, which may be verified by:

a. Bank statements or other financial documents; or

b. A fundraising plan at the request of the ***office***~~[council]~~;

(b) Demonstrates a distribution contract for each motion or entertainment production; ***and***

(c) ~~[Films and produces a minimum of twelve (12) or more days per production within the Commonwealth; and~~

~~(d)]~~Maintains:

1. An apprenticeship program or on-the-job training program as defined in KRS 343.010; or

2. Partners with a film studies program with an accredited institution of postsecondary education located in the Commonwealth;

(10)~~[(9)]~~ "Council" means the Kentucky Film Leadership Council created in KRS 154.12-282;

(11)~~[(10)]~~ "Documentary" means a production based upon factual information and not subjective interjections;

(12)~~[(11)]~~ "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;

(13)~~[(12)]~~ "Employee" has the same meaning as in KRS 141.010, and, for purposes of this subchapter, also may include the employees or independent contractors of an approved company or the employees of a loan-out entity engaged by an approved company if they meet the requirements of KRS 141.310;

(14)~~[(13)]~~ ***"Employer-paid payroll taxes" means the tax paid by an approved company as an employer under the Federal Insurance Contributions Act, 26 U.S.C. sec. 3101 et seq., and the approved company's share of contributions required under KRS Chapter 341;***

(15) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;

(16)~~[(14)]~~ "Feature-length film" means a live-action or animated production that is:

(a) More than thirty (30) minutes in length; and

(b) Produced for distribution in theaters or via digital format, including ***broadcast, cable, and streaming***~~[but not limited to DVD, Internet, or mobile electronic devices]~~;

(17)~~[(15)]~~ "Industrial film" means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;

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

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

(20)~~[(18)]~~ (a) "Motion picture or entertainment production" means:

1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:

   a. A feature-length film;

   b. A television program;

   c. An industrial film;~~[or]~~

   d. A documentary;~~[or]~~

   e. A video game;

   f. A music video; or

   g. A commercial; or

2. A national touring production of a Broadway show produced in Kentucky.

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

(21)~~[(19)]~~ "Obscene" has the same meaning as in KRS 531.010;

(22)~~[(20)]~~ ***"Office" means the Kentucky Film Office created in Section 2 of this Act;***

(23) "Payroll service fees" means administrative fees paid by an approved company to a third-party payroll service company providing Kentucky-based payroll processing for above-the-line and below-the-line production crew members;

(24) "Person" has the same meaning as in KRS 141.010;

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

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

(b) "Qualifying expenditure" does not include***:***

1. Kentucky sales and use tax paid by the approved company on the qualifying expenditure***; or***

2. Distribution expenses;

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

(27)~~[(23)]~~ ***"Qualifying per diem":***

(a) Means:

1. Meal and incidental allowance per diems, including those not taken on set, in the amounts established by the United States General Services Administration, if incurred in the Commonwealth; and

2. ***Hotel and other overnight living accommodations per diems, in the amounts established by the United States General Services Administration, if incurred in the Commonwealth; and***

(b) ***Includes any amounts that:***

1. ***Exceed the limits in paragraph (a)1. and 2. of this subsection; and***

2. ***Are included in taxable compensation and subject to the withholding required under KRS Chapter 341;***

(28) "Resident" has the same meaning as in KRS 141.010;

(29)[~~(24)~~] "Secretary" means the secretary of the Cabinet for Economic Development;

(30)[~~(25)~~] "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.61-030 between the council and the approved company;[~~ and~~]

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

(a) An episodic series;

(b) A miniseries;

(c) A television movie; or

(d) A television pilot;

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

(32) ***"Union and guild benefits" means any mandatory contributions to pension, health, and welfare plans paid by an approved company or a third-party payroll service company pursuant to a union or guild agreement entered into for the provision of services by above-the-line or below-the-line production crew members; and***

(33) ***"Workers' compensation insurance premiums" means premiums paid by an approved company or a third-party payroll service company for the provision of workers' compensation covering above-the-line or below-the-line production crew members***.

➔Section 5. KRS 154.61-020 is amended to read as follows:

(1) The purposes of KRS 141.383 and this subchapter are to encourage:

(a) The film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;

(b) The development of a film and entertainment industry in Kentucky;

(c) Increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and

(d) The development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.

(2) The council, together with the Department of Revenue, shall administer the tax credit established by KRS 141.383, this section, and KRS 154.61-030.

(3) To qualify for the tax incentive provided in subsection (5) of this section, the following requirements shall be met:

(a) ***For an approved company that films or produces a commercial in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred thousand dollars ($200,000); and***

(b) For an approved company that is also a Kentucky-based company that:

1. Films or produces a feature-length film, television program, [~~or ~~]industrial film, ***video game, or music video*** in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ***two hundred***[~~one hundred twenty-five~~] thousand dollars ***($200,000)***[~~($125,000)~~];

2. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars ($20,000); or

3. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars ($10,000); and

(c)~~[(b)]~~ For an approved company that is not a Kentucky-based company that:

1. Films or produces a feature-length film, television program, ~~[or]~~industrial film***, video game, or music video*** in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ***four hundred***~~[two hundred fifty]~~ thousand dollars ***($400,000)***~~[($250,000)]~~; or

2. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars ($20,000).

(4) (a) Beginning on January 1, 2022, the total tax incentive approved under KRS 141.383 and this subchapter shall be limited to seventy-five million dollars ($75,000,000) for calendar year 2022 and each calendar year thereafter.

(b) Beginning with calendar year 2024:

1. Twenty-five million dollars ($25,000,000) shall be allocated for all approved companies with a continuous film production; and

2. On the first day of July of each calendar year, any unused balance of the amount allocated under subparagraph 1. of this paragraph for continuous film productions shall be made available for all approved companies with motion picture or entertainment productions.

(c) Beginning with calendar year 2026, any unallocated balance of the amount allocated in paragraph (a) of this subsection for the previous calendar year shall carry forward into the subsequent calendar year to be made available for approved companies with high-impact motion pictures, continuous film productions, or entertainment productions. The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the criteria for a high-impact motion picture or entertainment production.

(5) (a) To qualify for the tax incentive available under KRS 141.383 and this subchapter, all applicants shall:

1. Begin filming or production in Kentucky within ***one hundred eighty days (180)***~~[six (6) months]~~of approval by the council;~~[and]~~

2. Complete filming or production in Kentucky within two (2) years of the filming or production start date***; and***

3. Submit a certified audit to the office.

(b) The tax credit shall be against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, and shall be refundable as provided in KRS 141.383.

(c) 1. For a ***continuous film production filmed or produced in any Kentucky county; or a feature-length film, television program, industrial film, documentary, video game, music video, or national touring production of a Broadway show***~~[motion picture or entertainment production or continuous film production]~~ filmed or produced in its entirety in an enhanced incentive county***;***~~[,]~~

the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:

a. Qualifying expenditures;

b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and

c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars ($1,000,000) in payroll expenditures per employee.

2. a. To the extent the approved company films or produces a motion picture or ~~[entertainment production or]~~continuous film production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (d) of this subsection.

b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.

(d) For a ***commercial filmed or produced in any Kentucky county; or a feature-length film, television program, industrial film, documentary, video game, music video or national touring production of a Broadway show***~~[motion picture or entertainment production or continuous film production]~~ filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county***;***~~[,]~~ the amount of the incentive shall be equal to:

1. Thirty percent (30%) of the approved company's:

a. Qualifying expenditures;

b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and

c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars ($1,000,000) in payroll expenditures per employee; and

2. Thirty-five percent (35%) of the approved company's:

a. Qualifying payroll expenditures paid to resident below-the-line production crew; and

b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars ($1,000,000) in payroll expenditures per employee.

➔Section 6. KRS 154.61-030 is amended to read as follows:

(1) An eligible company shall, ~~[at least thirty (30) days]~~prior to incurring any expenditure for which recovery will be sought, file an application for tax incentives with the ***office***~~[council]~~. The application shall include:

(a) The name and address of the applicant;

(b) Verification that the applicant is a Kentucky-based company;

(c) The preliminary production script or a detailed synopsis of the script;

(d) The locations where the filming or production will occur;

(e) The anticipated date on which filming or production shall begin in Kentucky;

(f) The anticipated date on which the applicant will complete incurring expenditures in Kentucky;

(g) The total anticipated qualifying expenditures;

(h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;

(i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;

(j) The address of a Kentucky location at which records of the production will be kept;

(k) An affirmation that if not for the incentive offered under this subchapter, the eligible company would not film or produce the production in the Commonwealth; and

(l) Any other information the ***office***~~[council]~~ may require.

(2) The ***office***~~[council]~~ shall notify the eligible company within thirty (30) days after receiving the application ***that:***

(a) The application is complete; or

(b) Additional information is required~~[of its status]~~.

(3) Upon receipt of the application and any additional information submitted ***by the office and cabinet***, the council shall consider all submitted information and, if appropriate, authorize the execution of a tax incentive agreement between the council and the approved company, if the amount of anticipated tax credit from the application would not make the total tax credit approved for the calendar year exceed the annual tax credit cap under KRS 154.61-020(4).

(4) The tax incentive agreement shall include the following provisions:

(a) The duties and responsibilities of the parties;

(b) A detailed description of the motion picture or entertainment production for which incentives are requested;

(c) The anticipated qualifying expenditures and qualifying payroll expenditures for resident and nonresident above-the-line and below-the-line crews by county;

(d) The minimum combined total of qualifying expenditures and qualifying payroll expenditures necessary for the approved company to qualify for incentives;

(e) That the approved company shall:

1. Begin filming or production in Kentucky within ***one hundred eighty (180) days***~~[six (6) months]~~ of approval by the council; and

2. Complete production in Kentucky within two (2) years of their production start date;

(f) That the motion picture or entertainment production shall not include obscene materials and shall not negatively impact the economy or the tourism industry of the Commonwealth;

(g) That the execution of the agreement is not a guarantee of tax incentives and that actual receipt of the incentives shall be contingent upon the approved company meeting the requirements established by the tax incentive agreement;

(h) That the approved company shall submit to the ***office and cabinet***~~[council]~~ within one hundred eighty (180) days of the completion of production in Kentucky for the motion picture or entertainment production***:***

1. A detailed cost report of the qualifying expenditures ***and***~~[,]~~ qualifying payroll expenditures***;***~~[,]~~

2. ***Certified audit;*** and

3. The latest version of the production script at the time of cost report submission;

(i) That the approved company shall provide the ***office and cabinet***~~[council]~~ with documentation that the approved company or the associated loan-out entity has withheld income tax as required by KRS 141.310 or the individual income tax rate imposed by KRS 141.020 on all qualified payroll expenditures for which an incentive under this subchapter is sought;

(j) That, if the ***cabinet***~~[council]~~ determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:

1. The council may deny the incentives available to the approved company;

2. Both the council and the Department of Revenue may pursue any remedy provided under the tax incentive agreement;

3. The council may terminate the tax incentive agreement; and

4. Both the council and the Department of Revenue may pursue any other remedy at law to which it may be entitled;

(k) That the ***cabinet***~~[council]~~ and the Department of Revenue shall monitor the tax incentive agreement;

(l) That the approved company shall provide to the ***cabinet***~~[council]~~ and the Department of Revenue all information necessary to monitor the tax incentive agreement;

(m) That the council may share information with the Department of Revenue and the Interim Joint Committee on Appropriations and Revenue or any other entity the ***cabinet***~~[council]~~ determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement;

(n) That the motion picture or entertainment production shall contain an acknowledgment that the motion picture or entertainment production was produced or filmed in the Commonwealth of Kentucky;

(o) That the approved company shall include screen credits in its final production, indicating the approved company received tax incentives from the Commonwealth of Kentucky;

(p) Terms of default;

(q) The method and procedures by which the approved company shall request and receive the incentive provided under KRS 141.383 and 154.61-020;

(r) That the approved company may be required to pay an administrative fee as authorized under subsection (5) of this section;~~[and]~~

(s) ***The approved company may be required to pay a fee of two thousand dollars ($2,000) for expenses incurred as a result of preparation of the tax incentive agreement; and***

(t) Any other provisions deemed necessary or appropriate by the parties to the tax incentive agreement.

(5) The council may require the approved company to pay an administrative fee, the amount of which shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A. The administrative fee shall not exceed one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars ($500), whichever is greater.

(6) Prior to commencement of activity as provided in a tax incentive agreement, the tax incentive agreement shall be approved by the council. Following approval by the council, the tax incentive agreement shall be submitted to the Government Contract Review Committee established by KRS 45A.705 for review, as provided in KRS 45A.695, 45A.705, and 45A.725.

(7) The council shall notify the Department of Revenue following approval of an approved company. The notification shall include the name of the approved company, the name of the motion picture or entertainment production, the estimated amount of qualifying expenditures, the estimated date on which the approved company will complete filming or production in Kentucky, and any other information required by the department.

(8) Within one hundred eighty days (180) days of completion of production in Kentucky for the motion picture or entertainment production, the approved company shall submit to the council***:***

(a) A detailed cost report of:

1.~~[(a)]~~ Qualifying expenditures;

2.~~[(b)]~~ Qualifying payroll expenditures for resident and nonresident above-the-line crew by county; ***and***

3.~~[(c)]~~ Qualifying payroll expenditures for resident and nonresident below-the-line crew by county;~~[and]~~

(b)~~[(d)]~~ The latest version of the production script available at the time of cost report submission***; and***

(c) ***The certified audit.***

(9) (a) Cabinet staff shall review all information submitted for accuracy and shall confirm that all relevant provisions of the tax incentive agreement have been met.

(b) Upon confirmation that all requirements of the tax incentive agreement have been met, cabinet staff shall review the latest version of the production script available at the time of cost report submission, and if they determine that the motion picture or entertainment production does not:

1. Contain visual or implied scenes that are obscene; or

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

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

(10) The Department of Revenue shall:

(a) Verify that the approved company withheld the proper amount of income tax on qualifying payroll expenditures; and

(b) Notify the council of the total amount of refundable credit available on qualifying expenditures and qualifying payroll expenditures.

➔Section 7. Whereas, musicians and music venues are vital to the economy of the Commonwealth, the Kentucky Film Leadership Council is directed to study, examine, and evaluate the needs of Kentucky's musicians and music venues. The study shall be conducted by the executive director of the Kentucky Film Office or his or her designee, the secretary of the Cabinet for Economic Development or his or her designee, and the secretary of the Education and Labor Cabinet or his or her designee. The study shall assess the needs of Kentucky musicians and music venues in this state and provide strategies regarding how the Commonwealth may further facilitate industry growth and the development of partnerships between state agencies, universities, and this vital industry. The study shall identify both opportunities and barriers this industry faces in expanding within the state. The findings and results of this study shall be submitted to the Legislative Research Commission by November 1, 2026, for referral to the Interim Joint Committee on Economic Development and Workforce Investment.

Signed by Governor April 23, 2026.