

INCENTIVES FOR A NEW KENTUCKY (INK)

House Bill 3

This summary provides a broad overview of the programs administered by the Cabinet for Economic Development in HB 3 and a comparison to previous programs where relevant. This document is not, nor is it intended to be a complete and exhaustive summary of the changes made or new program enacted and does not include all programs from HB 3.

REINVESTMENT IN MANUFACTURING FACILITIES		
Amendments to provisions relating to the reinvestment in Manufacturing Facilities (Subchapter 34 of KRS Chapter 154)		
	Prior Program	HB 3 Program
Qualifying Companies	Automobile –related manufacturing companies	All manufacturing entities
Eligible Costs	Costs of new equipment and the construction of facilities and amenities to support the new equipment	Costs of new equipment and the construction of facilities and amenities to support the new equipment Costs of skills upgrade training programs
Limitations on Recovery	Up to 10% of eligible costs	<ul style="list-style-type: none"> • up to 100% of eligible skills upgrade training costs • Up to 50% of eligible equipment and related costs
Requirements for recovery	<ul style="list-style-type: none"> • At least 1,000 employees • Eligible costs of at least \$100,000,000 • Reasonable period in Kentucky 	<ul style="list-style-type: none"> • Eligible expenditures of at least \$2,500,000 • Agree to maintain a full-time employment base, negotiated by CED, but no less than 85% of the number of full-time employees • Not have received incentives under Subchapter 26 (KIRA) in the past 5 years
Incentives Available	<ul style="list-style-type: none"> • Income/LLET tax incentives during the term of the agreement of up to 100% of the liability • License tax credits (the license tax has been repealed) 	<ul style="list-style-type: none"> • Income/LLET tax incentives during the term of the agreement of up to 100% of the liability
Term of the Agreement	Up to 10 years or when receive inducements equal to approved costs	Up to 10 years or when receive inducements equal to approved cost. No final approvals shall be granted prior to June 30, 2010.

NEW COMBINED CREDIT PROGRAM

This program is designed to replace KREDA (KRS 154.22), KEOZ (KRS 154.23), KJDA (KRS 154.24), and KIDA (KRS 154.28). Companies receiving preliminary or final approval prior to June 26, 2009 are under the prior program. After June 26, 2009 HB 3 is applicable.

	Prior Programs	HB 3 Program
Qualifying Companies	<p>KREDA – New and expanding manufacturing facilities in designated counties</p> <p>KJDA – New and expanding service or technology related projects that provide 75% of services to persons located outside the state or corporate headquarters</p> <p>KIDA – New and expanding manufacturing facilities</p> <p>KEOZ – Focuses on the development of areas with high unemployment and poverty levels – a zone is certified and is limited to 1 per county. Once the zone is certified, eligible manufacturing or service/technology companies can apply for incentives.</p>	<p>Companies involved in manufacturing, agribusiness, nonretail service or technology, or national or regional headquarters operations regardless of the underlying business activity of the company.</p> <p>“Service or technology” activities are those provided predominately outside the Commonwealth and designed to serve a multi-state, national or international market.</p>
Eligible Costs	<p>KREDA – Land, buildings, site development, fixtures and equipment</p> <p>KJDA – Start up costs for furnishing and equipping the facility and rent costs</p> <p>KIDA – Land, buildings, site development, fixtures and equipment, although equipment is limited to \$20,000 for each new job created and maintained</p> <p>KEOZ – Manufacturing companies may recover costs of land, buildings, fixtures and equipment. Service and technology companies may recover up to 50% of start up costs limited to \$20,000 per new full time job, of which \$10,000 can be recovered and up to 50% of annualized rent.</p>	<ul style="list-style-type: none"> • For owned projects: Start up costs and costs for land, buildings, site development, fixtures and equipment • For leased projects: Start up costs and 50% of estimated annual rent during the term of the agreement <p>In non-enhanced counties, cost of equipment eligible for recovery shall not exceed \$20,000 for each new full time job created</p>
Limitations on Recovery	<p>(For all programs maximum recoverable is negotiated and subject to KEDFA approval)</p> <p>KREDA – recovery of up to 100% of capital investment</p> <p>KJDA – Recovery up to 50% of project start up costs and 50% of annual rental cost or rental value. Start up costs are limited to \$20,000 per new full time job for Kentucky residents subject to Ky. tax, of which a maximum of \$10,000 per job may be recovered)</p> <p>KIDA – recovery of up to 100% of capital investment except equipment, which is limited to \$20,000 for each new job created and maintained</p> <p>KEOZ – Manufacturing up to 100% of investment, service/technology 50% of start-up costs limited to \$10,000 per new full time job and 50% of rent</p>	<p>Up to 100% of eligible costs except leased projects are limited to 50% of rental costs over the term of the agreement and equipment costs in non-enhanced counties are limited to \$20,000 for each new full time job created. KEDFA negotiates approved cost which is maximum recoverable.</p>

NEW COMBINED CREDIT PROGRAM (cont'd.)

This program is designed to replace KREDA (KRS 154.22), KEOZ (KRS 154.23), KJDA (KRS 154.24), and KIDA (KRS.15428).

<p>Requirements for recovery</p>	<p>KREDA – 15 new jobs for Kentucky residents, capital investment of \$100,000, minimum compensation is as follows: Within six months of the activation date, 90% of new full-time employees shall be paid either 75% of the average hourly wage for the Commonwealth or 75% of the average hourly wage for the county where the project is located, or 150% of the federal minimum wage, whichever is greater, plus benefits equal to at least 15% of base wages, with some exceptions KJDA – 15 new full time jobs for Kentucky Residents, same wage requirements as KREDA KIDA – 15 new full time jobs for persons subject to Kentucky income tax, minimum investment of \$100,000, same wage requirements as KREDA KEOZ – 10 new full time jobs for qualified employees (subject to KY tax and residing in the zone for at least 12 months), minimum investment of \$100,000, same wage requirements as KREDA</p>	<ul style="list-style-type: none"> • Create at least 10 new full time jobs and maintain an average of at least 10 new full time jobs • Incur eligible costs of at least \$100,000 • Pay at least 90% of all new full time employees at least 125% of the federal minimum wage (FMW) throughout the term of the agreement in enhanced incentive counties, plus 15% benefits, and 150% of the FMW throughout the term of the agreement in non-enhanced incentive counties, plus 15% benefits • If, on any annual monitoring date a company falls below 10 jobs or the 150% or 125% minimum wage requirement, incentives will be suspended or possibly terminated
<p>Incentives Available</p>	<p>KREDA – Income tax credit and wage assessments of 4% KJDA – Income tax credit and wage assessments of up to 5%, varying based upon local participation KIDA – Income tax credit OR wage assessment of up to 3% KEOZ – Income tax credit and wage assessment of up to 5% with 4% from state and 1% from local</p>	<ul style="list-style-type: none"> • Income tax/LLET credit • Wage assessment – up to 5% state participation in enhanced incentive counties; up to 4% in other counties, varying based upon local participation (up to 3% state + county contribution) • Advance disbursement for projects over \$500,000,000 (not funded at this time and subject to approval by the General Assembly)
<p>Term of the Agreement</p>	<p>KREDA – 15 years KJDA – 10 years KIDA – 10 years KEOZ – 10 years</p>	<p>15 years in enhanced incentive counties 10 years in others</p>
<p>Other Requirements</p>	<p>KREDA and KIDA– Can recover under an operating lease of at least the term of the agreement but recovery is limited to cost of purchase and installation of equipment which cannot exceed \$20,000 per new job created – taken through wage assessment only KJDA – Requires local community approval KEOZ – Companies must show that no significant number of existing jobs within the Commonwealth will be lost or adversely affected and requires certification that project would locate outside the zone if not for incentives</p>	<p>Job and wage targets higher than the minimum requirements will be negotiated. A company that reaches 90% of both targets at activation and annual review shall retain full incentives. A company that achieves less than 90% in either or both shall have incentives reduced in that year in the same proportion that the targets are missed KREDA qualification provisions have been retained and replacement language from existing statutes has been retained but KREDA counties are now called <u>enhanced</u> counties. See enhanced benefits throughout chart above.</p>

EDUCATIONAL REIMBURSEMENT
Grandfather Tax Incentive for current participants in the Metropolitan College Consortium

Qualifying Companies	Companies that are a party to the Metropolitan College Consortium
Eligible Costs	50% of actual costs incurred for tuition paid to an educational institution and other educational expenses
Limitations on Recovery	Limited to tuition and expenses paid for 2,800 employees each year
Requirements for recovery	Only requirement is that the expenditures be paid, and that documentation be provided supporting the expenditures
Incentives Available	Income tax credit to be administered through Bluegrass State Skills Corporation
Term of the Program	5 year sunset provision, unless extended by the General Assembly

KENTUCKY ENTERPRISE INITIATIVE ACT

Moves essentially what were the provisions of the Kentucky Enterprise Initiative Act (KRS 154.20-200 to 154.20-216) to its own subchapter and expands the expenditures that qualify for the research and development cap to electronic processing equipment. (Note all provisions in KRS 154.20-200 to 154.20-216 relating to preference zones, which were the former enterprise zones have been deleted as those provisions have expired)

	Old Provisions	New Provisions
Credit Cap	\$20 million for building and construction materials \$5 million for equipment used for research and development	Same as current law except the \$5 million cap also includes expenditures for electronic processing equipment
Qualifying Companies	Companies primarily engaged in manufacturing or service or technology activities or in operating or developing a tourism attraction	Same as current law
Eligible Costs	Sales and use taxes paid on the purchase of building and construction materials or equipment used for research and development for a new or expanded facility	Same as current law except the sales tax paid on the purchase of electronic processing equipment is also included
Limitations on Recovery	Sales tax made on qualifying expenditures	Same as current law
Requirements for recovery	Minimum investment of \$500,000 – minimum investment includes the cost of land but not the cost of labor	Same as current law except to recover the sales tax paid on data processing equipment, the eligible company shall spend an aggregate amount of \$50,000 in addition to meeting the minimum investment requirements.
Incentives Available	Sales tax paid on qualifying purchases	Same as current law
Term of the Agreement	Approved companies had 18 months to make expenditures – the 18 months could be extended for up to 12 months	Term negotiated up to 7 years. If term is longer than 3 years annual reporting is required

NEW PROGRAM
Sales Tax Incentive for the purchase of communications systems or computer systems

Qualifying Companies	Companies in the following NAICS categories: Software publishers; data processing, hosting, and related services; internet publishing, broadcasting, and web search portal businesses; or custom computer programming services
Recovery	Sales and use taxes paid on qualifying purchases
Requirements for recovery	<ul style="list-style-type: none"> • Expenditure of at least \$100,000,000 or more • Installation of the qualifying system at a single location within the Commonwealth within 18 months of purchase • System must be used at the location for the full period of depreciation under the Internal Revenue Code • System must be used for the business purposes listed under “companies that qualify”
Incentives Available	Sales and use tax refund
Application Process	Preliminary approval by the Department of Revenue, with submission of an application upon completion of the purchases for which the refund is being sought. This program is not a CED or KEDFA-administered program.
Other requirements	If the system is not operated as required for the requisite amount of time or in the required manner, the company must repay the sales and use tax refunded

NEW PROGRAM
Small Business Development Credit Program

Note: The statute requires that KEDFA develop this program and not all program parameters have been finalized

Qualifying Companies	Small businesses meeting the definition of KRS 154.12-325: "Small business" means any business entity organized for profit, including a sole proprietorship, partnership, limited partnership, corporation, limited liability company, joint venture, association, or cooperative, that has fifty (50) or fewer full-time employees at the time it applies for a loan under KRS 154.12-330 and is not an affiliate or subsidiary of a larger corporate structure, unless the total number of employees of all the affiliates and subsidiaries within that structure is fifty (50) or fewer.
Recovery	Income/LLET tax credit during the year approved by KEDFA; may be carried forward for 5 years
Requirements for recovery	<ul style="list-style-type: none"> • Expenditure of at least \$5,000 or more on qualifying equipment or technology. • Must create and fill one eligible position over a base employment level. • New position must be in place for at least 12 months, be full time, and pay a base hourly wage of no less than 150% of federal minimum wage. • Base year for calculating new employment is the later of the first full year of operation of a small business or the year that begins on or after 1/1/2010, and before 1/1/2011.
Incentives Available	Maximum \$25,000 credit for each year for each small business approved
Application Process	Authority to determine the terms, conditions and requirements for application for the credit, in consultation with the Division of Small Business Services. Still in development stages.
Other requirements	Program is capped at \$3,000,000 in total credits that may be committed in each fiscal year. KEDFA must establish program procedures and standards by promulgating administrative regulations. Credit not applied until taxable year after 12/31/2011.