

1 AN ACT relating to a new tax credit.

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

3 ➔SECTION 1. SUBCHAPTER 13 OF KRS CHAPTER 154 IS ESTABLISHED,
4 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this subchapter:*

6 *(1) "Approved company" means a qualified company that has received approval for*
7 *incentives under Section 2 of this Act;*

8 *(2) "Authority" has the same meaning as in KRS 154.1-010;*

9 *(3) "Corporation" means the Bluegrass State Skills Corporation established by KRS*
10 *154.12-205;*

11 *(4) "Department" means the Department of Revenue;*

12 *(5) "Educational institution" means a regionally accredited college, university, or*
13 *technical school located:*

14 *(a) In the Commonwealth; or*

15 *(b) Outside the Commonwealth, if the accredited college, university, or*
16 *technical school is a party to a reciprocal tuition agreement with the*
17 *Commonwealth;*

18 *(6) "Employee" means a resident employed by a qualified company in either a full-*
19 *time or a part-time position;*

20 *(7) "NAICS code" means the North American Industry Classification System used*
21 *by federal statistical agencies in classifying business establishments for the*
22 *purposes of collecting, analyzing, and publishing statistical data related to the*
23 *United States business economy;*

24 *(8) (a) "Other educational expenses" means fees or expenses required for*
25 *enrollment or attendance at an education institution, including but not*
26 *limited to course fees and books;*

27 *(b) "Other educational expenses" does not include:*

- 1 1. Student activity fees;
 2 2. Athletic fees;
 3 3. Insurance expense;
 4 4. Room and board; or
 5 5. Any other expenses unrelated to an individual's academic course of
 6 instruction;

7 (9) "Qualified company" means any business entity located within the
 8 Commonwealth and having a NAICS code identified by the Kentucky Workforce
 9 Innovation Board as a high skill, high demand industry sector as of January 1 of
 10 the year for which approval for a tax credit may occur;

11 (10) "Qualified employee" means an employee who:
 12 (a) Is attending an educational institution on either a full-time or part-time
 13 basis; and
 14 (c) Has incurred tuition or other educational expenses as a result of attendance
 15 at the educational institution;

16 (11) "Qualified employee in recovery" means a qualified employee who:
 17 (a) Is currently participating in; or
 18 (b) Within the calendar year preceding the beginning of attendance at the
 19 educational institution, has completed;
 20 treatment as defined in KRS 222.005 for alcohol or other drug abuse; and

21 (12) "Resident" has the same meaning as in KRS 141.010.

22 ➔SECTION 2. SUBCHAPTER 13 OF KRS CHAPTER 154 IS ESTABLISHED,
 23 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

24 (1) (a) The corporation shall develop a tax credit program that shall be known as
 25 the earn and learn tax credit.
 26 (b) The corporation may establish standards or requirements for the
 27 administration of this section.

1 (2) The purposes of the tax credit shall be to:

2 (a) Provide incentives for a qualified company providing tuition assistance to a
3 qualified employee or a qualified employee in recovery;

4 (b) Encourage a qualified employee or a qualified employee in recovery to
5 attend educational courses provided by an educational institution; and

6 (c) Assist the qualified employee or qualified employee in recovery with tuition
7 and other educational expenses.

8 (3) (a) To qualify for incentives provided by this section, a qualified company shall
9 incur tuition and other educational expenses on behalf of a:

10 1. Qualified employee; or

11 2. Qualified employee in recovery;

12 attending an educational institution.

13 (b) A qualified company shall submit an application to the corporation before
14 paying any tuition or other educational expenses on behalf of a qualified
15 employee or qualified employee in recovery and prior to the employee
16 commencing any coursework at the educational institution.

17 (c) Each application shall contain all the information the corporation requires,
18 including but not limited to the following information:

19 1. The name of each qualified employee or qualified employee in
20 recovery, including the Social Security number or other equivalent
21 identifying number of the employee;

22 2. a. Identification as to whether the employee is a qualified employee
23 or qualified employee in recovery; and

24 b. If the employee is a qualified employee in recovery, verification
25 that the employee is currently participating in or, within the
26 calendar year preceding the beginning of attendance at the
27 educational institution, has completed treatment as defined in

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KRS 222.005;

3. Information related to the educational institution which the employee will be attending;

4. A description of each component of the educational program in which the employee will be participating; and

5. A statement of the costs for tuition and detailed breakdown of the other educational expenses for the employee.

(d) The qualified company shall maintain records and submit information as required by the corporation and the department.

(4) (a) After a review of applications, the corporation may designate the qualified company as an approved company and approve the maximum amount of tax credit that the approved company may be eligible to receive.

(b) The corporation shall share information provided by the approved company with the department for compliance purposes.

(5) (a) The maximum amount of tax credit approved by the corporation for all approved companies during a fiscal year shall not exceed sixteen million two hundred fifty thousand dollars (\$16,250,000).

1. When approving qualified companies for the tax credit:

a. Not more than ten thousand (10,000) qualified employees and qualified employees in recovery shall be approved during a fiscal year; and

b. Not more than two thousand five hundred (2,500) of the ten thousand (10,000) employees shall be qualified employees in recovery.

2. Any tax credit that remains unallocated by the corporation at the end of each fiscal year shall lapse and shall not be carried forward to another fiscal year.

1 **(b) The tax credit awarded by the corporation to an approved company shall be**
2 **in an amount up to:**

3 **1. Twenty-five percent (25%) of the actual costs incurred by the approved**
4 **company for tuition or other educational expenses paid on behalf of a**
5 **qualified employee attending an educational institution, not to exceed**
6 **one thousand five hundred dollars (\$1,500) for each qualified**
7 **employee annually; or**

8 **2. Fifty percent (50%) of the actual costs incurred by the approved**
9 **company for tuition or other educational expenses paid on behalf of a**
10 **qualified employee in recovery attending an educational institution,**
11 **not to exceed two thousand dollars (\$2,000) for each qualified**
12 **employee in recovery annually.**

13 **(6) (a) The approved company shall:**

14 **1. Incur all tuition and other educational expenses within one (1) year**
15 **from the date of approval by the corporation; and**

16 **2. Provide the required documentation to verify the expenses paid by the**
17 **approved company for each qualified employee or qualified employee**
18 **in recovery attending an educational institution to the corporation.**

19 **(b) Upon receipt of all documentation, the corporation shall review the**
20 **documentation and notify the approved company and the department of the**
21 **final authorized tax credit.**

22 **(c) The final authorized tax credit shall be the maximum amount of tax credit**
23 **that may be claimed by the approved company.**

24 **(7) Beginning October 1, 2020, and each October 1 thereafter, as long as the tax**
25 **credit is claimed on a tax return, the department shall certify to the corporation**
26 **the total amount of tax credits taken under this subchapter on tax returns filed**
27 **during the fiscal year ending June 30 of that year.**

1 (8) The authority shall maintain a publicly available Web site on which it shall
 2 report:

3 (a) At any point in time, the amount of credit awarded during a fiscal year and
 4 the remaining amount of credit that may be awarded based on the limit
 5 established by subsection (5)(a) of this section;

6 (b) The number of applications that were received for a fiscal year, including
 7 the number of applications approved and the number of applications
 8 denied;

9 (c) A list of each approved company awarded a tax credit for each fiscal year,
 10 including information on the location of the approved company, the
 11 number of employees of the approved company that qualified the approved
 12 company for the tax credit;

13 (d) The date each approved company was awarded the tax credit;

14 (e) The amount of tax credit awarded for each approved company; and

15 (f) A total amount of credit awarded for each fiscal year the credit is available.

16 (9) The authority shall work jointly with the department to share information related
 17 to each approved company awarded a tax credit, including all the information
 18 that is reported on the Web site of the authority, and sufficient information,
 19 including Social Security numbers of the qualified employee and qualified
 20 employee in recovery, to ensure compliance on the tax returns filed by the
 21 approved company and to provide the report required by Section 3 of this Act.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) As used in this section:

25 (a) "Approved company" has the same meaning as in Section 1 of this Act;

26 (b) "Educational institution" has the same meaning as in Section 1 of this Act;

27 (c) "Other educational expenses" has the same meaning as in Section 1 of this

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Act;

(d) "Qualified employee" has the same meaning as in Section 1 of this Act;

(e) "Qualified employee in recovery" has the same meaning as in Section 1 of this Act.;

(2) For taxable years beginning on or after January 1, 2019, but before January 1, 2023, a nonrefundable, nontransferable tax credit shall be allowed against the tax imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided by Section 4 of this Act, as awarded under Section 2 of this Act.

(3) (a) The maximum amount of tax credit that may awarded in each fiscal year shall not exceed sixteen million two hundred fifty thousand dollars (\$16,250,000).

1. Of the limit imposed by paragraph (a) of this subsection:

a. Not more than ten thousand (10,000) qualified employees and qualified employees in recovery shall be approved during a fiscal year; and

b. Not more than two thousand five hundred (2,500) of the ten thousand (10,000) employees shall be qualified employees in recovery.

2. Any tax credit that remains unallocated at the end of each fiscal year shall lapse and shall not be carried forward to another fiscal year.

(b) The tax credit awarded under Section 2 of this Act to an approved company shall be in an amount up to:

1. Twenty-five percent (25%) of the actual costs incurred by the approved company for tuition or other educational expenses paid on behalf of a qualified employee attending an educational institution, not to exceed one thousand five hundred dollars (\$1,500) for each qualified

- 1 employee annually; or
- 2 2. Fifty percent (50%) of the actual costs incurred by the approved
- 3 company for tuition or other educational expenses paid on behalf of a
- 4 qualified employee in recovery attending an educational institution,
- 5 not to exceed two thousand dollars (\$2,000) for each qualified
- 6 employee in recovery annually.
- 7 (4) (a) The tax credit shall be claimed on the income tax return filed for the
- 8 taxable year during which the approved company receives notification of
- 9 the final authorized tax credit under subsection (6)(c) of Section 2 of this
- 10 Act.
- 11 (b) Any amount of credit that the approved company is unable to utilize during
- 12 the taxable year may be carried forward for use in a succeeding taxable
- 13 year for a period not to exceed three (3) taxable years.
- 14 (5) By November 1, 2020, and by November 1 of each year thereafter as long as the
- 15 tax credit is claimed on a return, the department shall report to the Interim Joint
- 16 Committee on Appropriations and Revenue the following information by taxable
- 17 year, for each taxable year that a credit is claimed on a tax return:
- 18 (a) The number of applications that were received for a fiscal year, including
- 19 the number of applications approved and the number of applications
- 20 denied;
- 21 (b) A list of each approved company awarded a tax credit for each fiscal year,
- 22 including information on the location of the approved company, the
- 23 number of employees of the approved company that were qualified
- 24 employees and the number of employees of the approved company that were
- 25 qualified employees in recovery;
- 26 (c) The date each approved company was awarded the tax credit;
- 27 (d) The amount of tax credit awarded for each approved company;

- 1 *(e) The amount of tax credit claimed by each approved company;*
 2 *(d) The amount of credit that remains as a carry forward to future taxable*
 3 *years for each approved company;*
 4 *(d) Any amount of credit denied for each approved company; and*
 5 *(e) The total amount of tax credit approved for all taxpayers by taxable year.*

6 ➔Section 4. KRS 141.0205 is amended to read as follows:

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

- 10 (1) The nonrefundable business incentive credits against the tax imposed by KRS
 11 141.020 shall be taken in the following order:
- 12 (a) 1. For taxable years beginning after December 31, 2004, and before
 13 January 1, 2007, the corporation income tax credit permitted by KRS
 14 141.420(3)(a);
- 15 2. For taxable years beginning after December 31, 2006, the limited
 16 liability entity tax credit permitted by KRS 141.0401;
- 17 (b) The economic development credits computed under KRS 141.347, 141.381,
 18 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, *Section 3 of*
 19 *this Act*, 154.12-2088, and 154.27-080;
- 20 (c) The qualified farming operation credit permitted by KRS 141.412;
- 21 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 22 (e) The health insurance credit permitted by KRS 141.062;
- 23 (f) The tax paid to other states credit permitted by KRS 141.070;
- 24 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 25 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 26 (i) The tax credit for cash contributions in investment funds permitted by KRS
 27 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS

- 1 154.20-258;
- 2 (j) The coal incentive credit permitted ~~by~~[under] KRS 141.0405;
- 3 (k) The research facilities credit permitted ~~by~~[under] KRS 141.395;
- 4 (l) The employer High School Equivalency Diploma program incentive credit
- 5 permitted ~~by~~[under] KRS 164.0062;
- 6 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 7 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 8 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 9 (p) The clean coal incentive credit permitted by KRS 141.428;
- 10 (q) The ethanol credit permitted by KRS 141.4242;
- 11 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 12 (s) The energy efficiency credits permitted by KRS 141.436;
- 13 (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 14 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 15 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 16 (w) The food donation credit permitted by KRS 141.392;
- 17 (x) The distilled spirits credit permitted by KRS 141.389; and
- 18 (y) The angel investor credit permitted by KRS 141.396.
- 19 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 20 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 21 shall be taken in the following order:
- 22 (a) The individual credits permitted by KRS 141.020(3);
- 23 (b) The credit permitted by KRS 141.066;
- 24 (c) The tuition credit permitted by KRS 141.069;
- 25 (d) The household and dependent care credit permitted by KRS 141.067; and
- 26 (e) The new home credit permitted by KRS 141.388.
- 27 (3) After the application of the nonrefundable credits provided for in subsection (2) of

- 1 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
2 taken in the following order:
- 3 (a) The individual withholding tax credit permitted by KRS 141.350;
 - 4 (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - 5 (c) For taxable years beginning after December 31, 2004, and before January 1,
6 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - 7 (d) The certified rehabilitation credit permitted by KRS 171.3961 and
8 171.397(1)(b); and
 - 9 (e) The film industry tax credit ~~permitted~~^{permitted} by KRS 141.383.
- 10 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
11 tax imposed by KRS 141.040.
- 12 (5) The following nonrefundable credits shall be applied against the sum of the tax
13 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
14 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 15 (a) The economic development credits computed under KRS 141.347, 141.381,
16 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, **Section 3 of**
17 **this Act**, 154.12-2088, and 154.27-080;
 - 18 (b) The qualified farming operation credit permitted by KRS 141.412;
 - 19 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - 20 (d) The health insurance credit permitted by KRS 141.062;
 - 21 (e) The unemployment credit permitted by KRS 141.065;
 - 22 (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - 23 (g) The coal conversion credit permitted by KRS 141.041;
 - 24 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
25 ending prior to January 1, 2008;
 - 26 (i) The tax credit for cash contributions to investment funds permitted by KRS
27 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS

- 1 154.20-258;
- 2 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 3 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 4 (l) The employer High School Equivalency Diploma program incentive credit
- 5 permitted ~~by~~under KRS 164.0062;
- 6 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 7 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 8 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 9 (p) The clean coal incentive credit permitted by KRS 141.428;
- 10 (q) The ethanol credit permitted by KRS 141.4242;
- 11 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 12 (s) The energy efficiency credits permitted by KRS 141.436;
- 13 (t) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 14 permitted by KRS 141.437;
- 15 (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 16 (v) The railroad expansion credit permitted by KRS 141.386;
- 17 (w) The Endow Kentucky credit permitted by KRS 141.438;
- 18 (x) The New Markets Development Program credit permitted by KRS 141.434;
- 19 (y) The food donation credit permitted by KRS 141.392; and
- 20 (z) The distilled spirits credit permitted by KRS 141.389.
- 21 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 22 the refundable credits shall be taken in the following order:
- 23 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 24 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
- 25 171.397(1)(b); and
- 26 (c) The film industry tax credit ~~permitted by~~permitted by~~allowed in~~ KRS 141.383.
- 27 ➔Section 5. KRS 131.190 is amended to read as follows:

1 (1)~~[(a)]~~ No present or former commissioner or employee of the department ~~[of~~
2 ~~Revenue]~~, present or former member of a county board of assessment appeals,
3 present or former property valuation administrator or employee, present or former
4 secretary or employee of the Finance and Administration Cabinet, former secretary
5 or employee of the Revenue Cabinet, or any other person, shall intentionally and
6 without authorization inspect or divulge any information acquired by him of the
7 affairs of any person, or information regarding the tax schedules, returns, or reports
8 required to be filed with the department or other proper officer, or any information
9 produced by a hearing or investigation, insofar as the information may have to do
10 with the affairs of the person's business.

11 (2)~~[(b)]~~ The prohibition established by subsection (1) ~~[paragraph (a)]~~ of this section
12 shall ~~[subsection does]~~ not extend to:

13 (a) ~~[1-]~~ Information required in prosecutions for making false reports or returns
14 of property for taxation, or any other infraction of the tax laws;

15 (b) ~~[2-]~~ Any matter properly entered upon any assessment record, or in any way
16 made a matter of public record;

17 (c) ~~[3-]~~ Furnishing any taxpayer or his properly authorized agent with
18 information respecting his own return;

19 (d) ~~[4-]~~ Testimony provided by the commissioner or any employee of the
20 department ~~[of Revenue]~~ in any court, or the introduction as evidence of
21 returns or reports filed with the department, in an action for violation of state
22 or federal tax laws or in any action challenging state or federal tax laws;

23 (e) ~~[5-]~~ Providing an owner of unmined coal, oil or gas reserves, and other
24 mineral or energy resources assessed under KRS 132.820 ~~[(1)]~~, or owners of
25 surface land under which the unmined minerals lie, factual information about
26 the owner's property derived from third-party returns filed for that owner's
27 property, under the provisions of KRS 132.820 ~~[(2)]~~, that is used to determine

1 the owner's assessment. This information shall be provided to the owner on a
 2 confidential basis, and the owner shall be subject to the penalties provided in
 3 KRS 131.990(2)(21). The third-party filer shall be given prior notice of any
 4 disclosure of information to the owner that was provided by the third-party
 5 filer;

6 ~~(f)(6)~~ Providing to a third-party purchaser pursuant to an order entered in a
 7 foreclosure action filed in a court of competent jurisdiction, factual
 8 information related to the owner or lessee of coal, oil, gas reserves, or any
 9 other mineral resources assessed under KRS 132.820(1). The department
 10 may promulgate an administrative regulation establishing a fee schedule for
 11 the provision of the information described in this ~~paragraph~~ subparagraph.
 12 Any fee imposed shall not exceed the greater of the actual cost of providing
 13 the information or ten dollars (\$10); ~~or~~

14 ~~(g)(7)~~ Providing information to a licensing agency, the Transportation Cabinet,
 15 or the Kentucky Supreme Court under KRS 131.1817;

16 **(h) Statistics of gasoline and special fuels gallonage reported to the department**
 17 **under KRS 138.210 to 138.448;**

18 **(i) Providing any utility gross receipts license tax return information that is**
 19 **necessary to administer the provisions of KRS 160.613 to 160.617 to**
 20 **applicable school districts on a confidential basis; or**

21 **(j) Providing information to the Legislative Research Commission under:**

22 **1. KRS 139.519 for purposes of the sales and use tax refund on building**
 23 **materials used for disaster recovery;**

24 **2. KRS 141.436 for purposes of the energy efficiency products credits;**

25 **3. KRS 141.437 for purposes of the ENERGY STAR home and the**
 26 **ENERGY STAR manufactured home credits;**

27 **4. Section 6 of this Act for purposes of the distilled spirits credit; and**

1 **5. Section 3 of this Act for purposes of the earn and learn tax credit.**

2 ~~(3)~~⁽²⁾ The commissioner shall make available any information for official use only
3 and on a confidential basis to the proper officer, agency, board or commission of
4 this state, any Kentucky county, any Kentucky city, any other state, or the federal
5 government, under reciprocal agreements whereby the department shall receive
6 similar or useful information in return.

7 ~~[(3) Statistics of tax paid gasoline gallonage reported monthly to the department of
8 Revenue under the gasoline excise tax law may be made public by the department.]~~

9 (4) Access to and inspection of information received from the Internal Revenue Service
10 is for department~~[of Revenue]~~ use only, and is restricted to tax administration
11 purposes.~~[Notwithstanding the provisions of this section to the contrary,]~~
12 Information received from the Internal Revenue Service shall not be made available
13 to any other agency of state government, or any county, city, or other state, and shall
14 not be inspected intentionally and without authorization by any present secretary or
15 employee of the Finance and Administration Cabinet, commissioner or employee of
16 the department~~[of Revenue]~~, or any other person.

17 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
18 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
19 as reported to the Department of Revenue under the natural resources severance tax
20 requirements of KRS Chapter 143A may be made public by the department by
21 release to the Energy and Environment Cabinet, Department for Natural Resources.

22 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
23 submissions for the 1989 tax year, the department may make public or divulge only
24 those portions of mine maps submitted by taxpayers to the department pursuant to
25 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
26 out parcel areas. These electronic maps shall not be relied upon to determine actual
27 boundaries of mined-out parcel areas. Property boundaries contained in mine maps

1 required under KRS Chapters 350 and 352 shall not be construed to constitute land
2 surveying or boundary surveys as defined by KRS 322.010 and any administrative
3 regulations promulgated thereto.

4 ~~[(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The~~
5 ~~department may divulge to the applicable school districts on a confidential basis any~~
6 ~~utility gross receipts license tax return information that is necessary to administer the~~
7 ~~provisions of KRS 160.613 to 160.617.]~~

8 ➔Section 6. KRS 141.389 is amended to read as follows:

9 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each
10 taxpayer paying the distilled spirits ad valorem tax as follows:

11 1. For taxable years beginning on or after January 1, 2015, and before
12 December 31, 2015, the credit shall be equal to twenty percent (20%) of
13 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
14 timely basis;

15 2. For taxable years beginning on or after January 1, 2016, and before
16 December 31, 2016, the credit shall be equal to forty percent (40%) of
17 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
18 timely basis;

19 3. For taxable years beginning on or after January 1, 2017, and before
20 December 31, 2017, the credit shall be equal to sixty percent (60%) of
21 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
22 timely basis;

23 4. For taxable years beginning on or after January 1, 2018, and before
24 December 31, 2018, the credit shall be equal to eighty percent (80%) of
25 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
26 timely basis; and

27 5. For taxable years beginning on or after January 1, 2019, the credit shall

1 be equal to one hundred percent (100%) of the tax assessed under KRS
2 132.160 and paid under KRS 132.180 on a timely basis.

3 (b) The credit shall be applied both to the income tax imposed under KRS
4 141.020 or 141.040 and to the limited liability entity tax imposed under KRS
5 141.0401, with the ordering of the credits as provided in KRS 141.0205.

6 (2) The amount of distilled spirits credit allowed under subsection (1) of this section
7 shall be used only for capital improvements at the premises of the distiller licensed
8 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"
9 means any costs associated with:

10 (a) Construction, replacement, or remodeling of warehouses or facilities;

11 (b) Purchases of barrels and pallets used for the storage and aging of distilled
12 spirits in maturing warehouses;

13 (c) Acquisition, construction, or installation of equipment for the use in the
14 manufacture, bottling, or shipment of distilled spirits;

15 (d) Addition or replacement of access roads or parking facilities; and

16 (e) Construction, replacement, or remodeling of facilities to market or promote
17 tourism, including but not limited to a visitor's center.

18 (3) The distilled spirits credit allowed under subsection (1) of this section:

19 (a) May be accumulated for multiple taxable years;

20 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during
21 which the credits were used pursuant to subsection (2) of this section; and

22 (c) Shall not include:

23 1. Any delinquent tax paid to the Commonwealth; or

24 2. Any interest, fees, or penalty paid to the Commonwealth.

25 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital
26 improvements required by subsection (2) of this section shall be completed
27 and specifically associated with the credit allowed on the return.

- 1 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
2 improvement associated with the credit is sold or otherwise disposed of prior
3 to the exhaustion of the useful life of the asset for Kentucky depreciation
4 purposes.
- 5 (c) If the allowed credit is associated with multiple capital improvements, and not
6 all capital improvements are sold or otherwise disposed of, the distilled spirits
7 credit shall be prorated based on the cost of the capital improvement sold over
8 the total cost of all improvements associated with the credit.
- 9 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
10 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
11 through to its members, partners, or shareholders in the same proportion as the
12 distributive share of income or loss is passed through.
- 13 (6) The department may promulgate an administrative regulation pursuant to KRS
14 Chapter 13A to implement the allowable credit under this section, require the filing
15 of forms designed by the department, and require specific information for the
16 evaluation of the credit taken by any taxpayer.
- 17 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually
18 thereafter, the department shall report to the Interim Joint Committee on
19 Appropriations and Revenue:
- 20 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
21 this section;
- 22 (b) The amount of credit taken by that taxpayer; and
- 23 (c) The type of capital improvement made for which the credit is claimed.
- 24 ➔Section 7. KRS 131.020 is amended to read as follows:
- 25 (1) The Department of Revenue, headed by a commissioner appointed by the secretary
26 with the approval of the Governor, shall be organized into the following functional
27 units:

- 1 (a) Office of the Commissioner, which shall consist of:
- 2 1. The Division of Protest Resolution, headed by a division director who
- 3 shall report directly to the commissioner. The division shall administer
- 4 the protest functions for the department from office resolution through
- 5 court action; and
- 6 2. The Division of Taxpayer Ombudsman, headed by a division director
- 7 who shall report to the commissioner. The division shall perform those
- 8 duties set out in KRS 131.083;
- 9 (b) Office of Tax Policy and Regulation, headed by an executive director who
- 10 shall report directly to the commissioner. The office shall be responsible for:
- 11 1. Providing oral and written technical advice on Kentucky tax law;
- 12 2. Drafting proposed tax legislation and regulations;
- 13 3. Testifying before legislative committees on tax matters;
- 14 4. Analyzing tax publications;
- 15 5. Providing expert witness testimony in tax litigation cases;
- 16 6. Providing consultation and assistance in protested tax cases; and
- 17 7. Conducting training and education programs;
- 18 (c) Office of Processing and Enforcement, headed by an executive director who
- 19 shall report directly to the commissioner. The office shall be responsible for
- 20 processing documents, depositing funds, collecting debt payments, and
- 21 coordinating, planning, and implementing a data integrity strategy. The office
- 22 shall consist of the:
- 23 1. Division of Operations, which shall be responsible for opening all tax
- 24 returns, preparing the returns for data capture, coordinating the data
- 25 capture process, depositing receipts, maintaining tax data, and assisting
- 26 other state agencies with similar operational aspects as negotiated
- 27 between the department and the other agency;

- 1 2. Division of Collections, which shall be responsible for initiating all
2 collection enforcement activity related to due and owing tax
3 assessments, including protest resolution, and for assisting other state
4 agencies with similar collection aspects as negotiated between the
5 department and the other state agency; and
- 6 3. Division of Registration and Data Integrity, which shall be responsible
7 for registering businesses for tax purposes, ensuring that the data entered
8 into the department's tax systems is accurate and complete, and assisting
9 the taxing areas in proper procedures to ensure the accuracy of the data
10 over time;
- 11 (d) Office of Property Valuation, headed by an executive director who shall report
12 directly to the commissioner. The office shall consist of the:
 - 13 1. Division of Local Support, which shall be responsible for providing
14 supervision, assistance, and training to the property valuation
15 administrators and sheriffs within the Commonwealth;
 - 16 2. Division of State Valuation, which shall be responsible for providing
17 assessments of public service companies and motor vehicles, and
18 providing assistance to property valuation administrators and sheriffs
19 with the administration of tangible and omitted property taxes within the
20 Commonwealth; and
 - 21 3. Division of Minerals Taxation and Geographical Information System
22 Services, which shall be responsible for providing geographical
23 information system mapping support, ensuring proper filing of severance
24 tax returns, ensuring consistency of unmined coal assessments, and
25 gathering and providing data to properly assess minerals to the property
26 valuation administrators within the Commonwealth;
- 27 (e) Office of Sales and Excise Taxes, headed by an executive director who shall

1 report directly to the commissioner. The office shall administer all matters
2 relating to sales and use taxes and miscellaneous excise taxes, including but
3 not limited to technical tax research, compliance, taxpayer assistance, tax-
4 specific training, and publications. The office shall consist of the:

- 5 1. Division of Sales and Use Tax, which shall administer the sales and use
6 tax; and
- 7 2. Division of Miscellaneous Taxes, which shall administer various other
8 taxes, including but not limited to alcoholic beverage taxes; cigarette
9 enforcement fees, stamps, meters, and taxes; gasoline tax; bank
10 franchise tax; inheritance and estate tax; insurance premiums and
11 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and
12 special fuels taxes;

13 (f) Office of Income Taxation, headed by an executive director who shall report
14 directly to the commissioner. The office shall administer all matters related to
15 income and corporation license taxes, including technical tax research,
16 compliance, taxpayer assistance, tax-specific training, and publications. The
17 office shall consist of the:

- 18 1. Division of Individual Income Tax, which shall administer the following
19 taxes or returns: individual income, fiduciary, and employer
20 withholding; and
- 21 2. Division of Corporation Tax, which shall administer the corporation
22 income tax, corporation license tax, pass-through entity withholding,
23 and pass-through entity reporting requirements; and

24 (g) Office of Field Operations, headed by an executive director who shall report
25 directly to the commissioner. The office shall manage the regional taxpayer
26 service centers and the field audit program.

27 (2) The functions and duties of the department shall include conducting conferences,

1 administering taxpayer protests, and settling tax controversies on a fair and
2 equitable basis, taking into consideration the hazards of litigation to the
3 Commonwealth of Kentucky and the taxpayer. The mission of the department shall
4 be to afford an opportunity for taxpayers to have an independent informal review of
5 the determinations of the audit functions of the department, and to attempt to fairly
6 and equitably resolve tax controversies at the administrative level.

7 (3) The department shall maintain an accounting structure for the one hundred twenty
8 (120) property valuation administrators' offices across the Commonwealth in order
9 to facilitate use of the state payroll system and the budgeting process.

10 (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with
11 and make tax information available as prescribed under KRS 131.190(3)~~(2)~~ to the
12 Governor's Office for Economic Analysis as necessary for the office to perform the
13 tax administration function established in KRS 42.410.

14 (5) Executive directors and division directors established under this section shall be
15 appointed by the secretary with the approval of the Governor.