

1 AN ACT relating to opportunities in education and making an appropriation  
2 therefor.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO  
5 READ AS FOLLOWS:

6 *(1) As used in this section and Section 2 of this Act:*

7 *(a) "Annual receipts" means the total amount of contributions received by a*  
8 *qualified scholarship-granting organization for a scholarship program from*  
9 *which scholarships are awarded under this section during the qualified*  
10 *scholarship-granting organization's calendar or fiscal year, as applicable,*  
11 *and any interest earned thereon;*

12 *(b) "Autism" has the same meaning as in KRS 157.200;*

13 *(c) "Contribution" means a donation of cash, marketable securities, or a*  
14 *combination thereof;*

15 *(d) "Deaf-blind" has the same meaning as in KRS 157.200;*

16 *(e) "Developmental delay" has the same meaning as in KRS 157.200;*

17 *(f) "Eligible student" means a resident, school-age student who:*

18 *1. Is a member of a household with an annual household income at the*  
19 *time of initially applying for a scholarship from a qualified*  
20 *scholarship-granting organization under this section of not more than*  
21 *two hundred percent (200%) of the amount of household income*  
22 *necessary to establish eligibility for reduced-price meals based on size*  
23 *of household as determined annually by the United States Department*  
24 *of Agriculture applicable to the Commonwealth, pursuant to 42*  
25 *U.S.C. secs. 1751 to 1789;*

26 *2. Has previously received a scholarship from a qualified scholarship-*  
27 *granting organization under this section;*

- 1           3. Is a member of the household of an eligible student that is currently  
2           receiving a scholarship from a qualified scholarship-granting  
3           organization under this section; or
- 4           4. Is currently in the Commonwealth's foster care program;
- 5           (g) "Emotional-behavioral disability" has the same meaning as in KRS  
6           157.200;
- 7           (h) "Hearing impairment" has the same meaning as in KRS 157.200;
- 8           (i) "Income" has the same meaning as in the United States Department of  
9           Agriculture, Food and Nutrition Service, Child Nutrition Programs,  
10           Income Eligibility Guidelines, Federal Register Vol. 81, No. 56, published  
11           March 23, 2016, and as updated annually as authorized by 42 U.S.C. sec.  
12           1758(b)(1)(A);
- 13           (j) "Individualized education program" has the same meaning as in KRS  
14           158.281;
- 15           (k) "Mental disability" has the same meaning as in KRS 157.200;
- 16           (l) "Orthopedic impairment" has the same meaning as in KRS 157.200;
- 17           (m) "Other health impairment" has the same meaning as in KRS 157.200;
- 18           (n) "Qualified nonpublic school" means a nonpublic kindergarten, elementary,  
19           or secondary school located in this state that appears on the annual list of  
20           certified nonpublic schools issued by the Kentucky Board of Education or  
21           on the annual list of schools seeking certification by the board as a  
22           nonpublic school as provided by Section 6 of this Act;
- 23           (o) "Qualified scholarship-granting organization" means a nonprofit  
24           organization that:
- 25           1. Is exempt from federal taxation under Section 501(c)(3) of the  
26           Internal Revenue Code for charitable purposes, including but not  
27           limited to receiving contributions to provide financial assistance in the

- 1                   form of scholarships to:
- 2                   a. Students from low and middle-income families to attend
- 3                   qualified nonpublic schools;
- 4                   b. Students that are in the Commonwealth's foster care program to
- 5                   attend a qualified nonpublic schools; or
- 6                   c. Students with special needs to attend qualified nonpublic schools
- 7                   or receive qualified special educational services, or both; and
- 8                   2. Is certified by the department as eligible to receive contributions which
- 9                   qualify for the tax credit established under subsection (2) of this
- 10                   section;
- 11                   (p) "Qualified special educational services" means educational services and
- 12                   therapies, including but not limited to occupational therapy, physical
- 13                   therapy, and speech-language therapy:
- 14                   1. Provided to a student with special needs by a person licensed to
- 15                   practice medicine or occupational therapy, physical therapy, or
- 16                   speech-language therapy in this state; and
- 17                   2. Not otherwise billed to, paid for, or reimbursed by Medicaid or other
- 18                   state program or agency, federal agency, or insurance company;
- 19                   (q) "Scholarship" means financial assistance awarded to an eligible student
- 20                   participating in a scholarship program. To obtain a scholarship, an eligible
- 21                   student shall not be concurrently enrolled in a scholarship program and a
- 22                   public school in this state;
- 23                   (r) "Scholarship program" means a program that:
- 24                   1. Provides scholarships to more than one (1) eligible student;
- 25                   2. Based upon the demonstrated financial needs of the eligible students,
- 26                   provides scholarships to attend qualified nonpublic schools, receive
- 27                   qualified special educational services, or both;

1           3. Provides scholarships to eligible students who are currently in the  
2                   Commonwealth's foster care program regardless of household income  
3                   or financial need; and

4           4. Has written policies and procedures in place:

5           a. Regarding scholarships issued to eligible students who withdraw  
6                   from a scholarship program prior to the end of the period for  
7                   which the scholarship was issued; and

8           b. That maintain the confidentiality of information pertaining to  
9                   student eligibility, including household income and disability  
10                  information;

11       (s) "School age" means the earliest admission age to a qualified nonpublic  
12           school's kindergarten program or, if no kindergarten program is provided,  
13           the qualified nonpublic school's earliest admission age for beginners, until  
14           the student graduates from high school or at the end of the school year in  
15           which the student reaches twenty-one (21) years of age, whichever occurs  
16           first;

17       (t) "Speech or language impairment" has the same meaning as in KRS  
18           157.200;

19       (u) "Student with special needs" means a resident school-age student who  
20           prior to applying for a scholarship under this section:

21       1. a. Is diagnosed by a licensed medical professional as having a  
22                   mental disability, a hearing impairment, an orthopedic  
23                   impairment, another health impairment, an emotional-  
24                   behavioral disability, a traumatic brain injury, a developmental  
25                   delay, autism , or who is visually disabled or deaf-blind; or

26       b. Is diagnosed by a reading specialist as having a speech or  
27                   language impairment; and

- 1           2. If previously enrolled in the Commonwealth's public schools:
- 2           a. Has an active individualized education program; or
- 3           b. Has a 504 accommodation plan issued under Section 504 of the
- 4                           Rehabilitation Act of 1973;
- 5           (v) "Taxpayer" means a person subject to the tax imposed under KRS 136.505,
- 6                           141.020, 141.040, or 141.0401;
- 7           (w) "Traumatic brain injury" has the same meaning as in KRS 157.200; and
- 8           (x) "Visually disabled" has the same meaning as in KRS 157.200.
- 9           (2) (a) Effective for taxable years beginning on or after January 1, 2018, but
- 10                           before January 1, 2023, a nonrefundable, nontransferable tax credit shall
- 11                           be permitted against the tax imposed by KRS 136.505, 141.020, or 141.040
- 12                           and 141.0401, with the ordering of credit as provided in Section 3 or
- 13                           Section 5 of this Act as applicable, for contributions made during a taxable
- 14                           year to one (1) or more qualified scholarship-granting organizations.
- 15           (b) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit
- 16                           against the limited liability entity tax imposed by KRS 141.0401, and shall
- 17                           also pass the credit through to its members, partners, or shareholders in the
- 18                           same proportion as the distributive share of income or loss is passed
- 19                           through.
- 20           (c) The aggregate value of the total annual tax credit cap awarded shall be
- 21                           determined as follows:
- 22                           1. For fiscal year July 1, 2018, through June 30, 2019, the credit
- 23                           awarded shall not exceed twenty-five million dollars (\$25,000,000);
- 24                           and
- 25                           2. In each subsequent fiscal year:
- 26                           a. If the aggregate value of all credits awarded during the
- 27                           immediately preceding fiscal year equals at least ninety percent

- 1                   (90%) of the annual credit cap available for that year, the  
2                   annual credit cap for the current fiscal year shall be increased  
3                   by twenty-five percent (25%) over the credit cap amount  
4                   established for the immediately preceding fiscal year; or  
5                   b. If the aggregate value of all credits awarded during the  
6                   immediately preceding fiscal year does not equal at least ninety  
7                   percent (90%) of the annual credit cap available for that fiscal  
8                   year, the annual credit cap shall remain at the same level as the  
9                   annual credit cap for the immediately preceding fiscal year.
- 10                  (d) The credit amount awarded per taxpayer per taxable year shall be no more  
11                  than the lesser of:  
12                    1. Ninety percent (90%) of the total contributions made to qualified  
13                    scholarship-granting organizations; or  
14                    2. One million dollars (\$1,000,000).
- 15                  (e) Any tax credit awarded under this section that is not used by the taxpayer in  
16                  the current taxable year may be carried forward for up to five (5)  
17                  succeeding taxable years until the tax credit has been utilized.
- 18                  (3) Tax credits under this section shall be awarded on a first-come, first-served basis  
19                  each fiscal year within the limitations set forth in this section. The date and time  
20                  stamp from each application for preapproval shall establish the order in which  
21                  the application was received.
- 22                  (4) (a) Prior to making a contribution to a qualified scholarship-granting  
23                  organization, the taxpayer or a qualified scholarship-granting organization  
24                  acting on behalf of the taxpayer shall apply to the department for  
25                  preapproval of the tax credit in a manner prescribed by the department.  
26                  Each application shall be submitted separately and shall provide the total  
27                  amount of proposed contributions, whether the proposed contribution will

1 be in the form of cash or marketable securities, and the name of the  
2 qualified scholarship-granting organizations to which the contributions will  
3 be made.

4 (b) Subject to the annual tax credit cap, the department shall preliminarily  
5 approve the amount of tax credit within ten (10) business days of receipt of  
6 the application and shall notify the taxpayer and the qualified scholarship-  
7 granting organizations. The notification shall include the amount of the tax  
8 credit preliminarily approved, the name of the qualified scholarship-  
9 granting organization to which contributions may be made, and any other  
10 information the department deems necessary.

11 (c) If a taxpayer applies or the qualified scholarship-granting organization  
12 applies on behalf of the taxpayer for preapproval when no amount of tax  
13 credit remains for allocation, but a portion of the total amount of tax credit  
14 available is pending verification, the department shall notify the taxpayer  
15 and the qualified scholarship-granting organization that the application is  
16 being held in abeyance and will be funded on a first-come, first-served basis  
17 or will be denied if all preapproved contributions are timely made.

18 (5) (a) The taxpayer shall make the preapproved contribution to the qualified  
19 scholarship-granting organization no later than the earlier of:

- 20 1. Fifteen (15) business days following the date of the department's  
21 preapproval notice, excluding weekends and holidays; or  
22 2. June 30 of the fiscal year of the preapproval.

23 (b) If the preapproved contribution is in the form of marketable securities, the  
24 qualified scholarship-granting organization shall monetize the securities  
25 within five (5) business days of receipt, excluding weekends and holidays,  
26 and notify the department within ten (10) business days of the monetization  
27 of the securities. If the monetized value of the marketable securities is less

1 than the amount of the proposed contribution reflected on the application,  
2 the taxpayer shall supplement the contribution with additional cash to  
3 equal the amount of contribution reflected on the application. The taxpayer  
4 shall not receive preapproval for a tax credit in excess of the amount of  
5 proposed contribution reflected on the application form.

6 (6) (a) The qualified scholarship-granting organization shall certify to the  
7 department the name of the taxpayer, amount of the contribution made,  
8 and the date on which the contribution was made within ten (10) days of  
9 when the contribution has been made.

10 (b) Upon receipt of certification that the contribution has been made or the  
11 expiration of the ten (10) day period without certification, whichever occurs  
12 first, the department shall modify the amount of credit pending  
13 certification, the amount of credit allocated to taxpayers, and the remaining  
14 credit available for allocation, as applicable.

15 (7) To administer the tax credit and the total annual tax credit cap established in  
16 subsection (2)(c) of this section, the department shall:

17 (a) Create the tax credit application form, the forms to be used by the  
18 department to notify the taxpayer and the qualified scholarship granting  
19 organization of preapproval or denial of the credit, and the educational  
20 materials to be distributed by the qualified scholarship-granting  
21 organizations;

22 (b) Create a Web site listing the amount of the total credit pending verification,  
23 the amount of the total credit allocated to date, and the remaining credit  
24 available to taxpayers making contributions to qualified scholarship-  
25 granting organizations;

26 (c) Notify the taxpayer and the qualified scholarship-granting organization of  
27 the amount of credit allocated to the taxpayer upon certification that the

1 contribution has been made by the issuance of a tax credit allocation letter,  
2 which the taxpayer shall submit with the taxpayer's return when claiming  
3 the credit; and

4 (d) Collect necessary data to provide the report required by Section 2 of this  
5 Act.

6 (8) (a) The department shall promulgate administrative regulations in accordance  
7 with KRS Chapter 13A to establish the procedures and timelines for:

8 1. Nonprofit organizations to receive approval as qualified scholarship-  
9 granting organizations on an annual basis. The administrative  
10 regulations shall include a requirement that the nonprofit  
11 organization submit with its application:

12 a. A copy of the organization's income tax exemption under  
13 Section 501(c)(3) of the Internal Revenue Code;

14 b. A description of the scholarship program, including detailed  
15 information concerning the application and review process, and  
16 eligibility verification procedures utilized by the organization;  
17 and

18 c. A voluntary agreement by the organization to provide the  
19 information necessary for the department to comply with Section  
20 2 of this Act; and

21 2. Organizations to receive approval from the department to evaluate the  
22 financial aid needs of eligible students.

23 (b) The department shall notify a nonprofit organization of its approval or  
24 disapproval as a qualified scholarship-granting organization within thirty  
25 (30) days after the organization has submitted the required information.

26 (9) (a) On or before January 1 of each year, the department shall publish on its  
27 Web site:

- 1           1. A list of qualified scholarship-granting organizations; and
- 2           2. A list of organizations that have been approved to evaluate the
- 3           financial aid needs of students seeking approval for scholarships
- 4           based upon annual household income.
- 5           (b) The department shall make the lists available to the Kentucky Department
- 6           of Education, which shall also publish the lists on its Web site.
- 7           (c) If a qualified scholarship-granting organization fails to meet the
- 8           requirements of this section, the department shall not include the
- 9           organization on the list of qualified scholarship-granting organizations the
- 10           following calendar year.
- 11           (d) Only contributions to qualified scholarship-granting organizations on the
- 12           list maintained by the department for each calendar year shall be
- 13           recognized for tax credits under this section.
- 14           (10) All members of the qualified scholarship-granting organization and all
- 15           employees of the qualified scholarship-granting organization shall submit to a
- 16           nationwide criminal background investigation by means of a fingerprint check by
- 17           the Department of Kentucky State Police and the Federal Bureau of
- 18           Investigation at the expense of the qualified scholarship organization. The results
- 19           of the state and national criminal background check shall be sent to the board of
- 20           directors of the qualified scholarship-granting organization.
- 21           (11) (a) Qualified scholarship-granting organizations shall:
- 22           1. Assist the department in educating taxpayers by distributing materials
- 23           produced by the department regarding factual information about the
- 24           tax credit;
- 25           2. Provide a receipt to the taxpayer for the amount of contribution made;
- 26           3. a. No later than the last day of the qualified scholarship-granting
- 27           organization's immediately succeeding calendar year or fiscal

1 year, as applicable, distribute a minimum of ninety percent  
2 (90%) of its annual receipts directly to scholarship programs in  
3 this state unless the current year annual receipts exceed an  
4 amount equal to the average of the annual receipts received in  
5 the immediately preceding three (3) years by more than fifteen  
6 percent (15%), in which case the excess amount may be carried  
7 forward and expended for scholarships in three (3) equal  
8 installments over the immediately succeeding three (3) years.

9 b. A qualified scholarship-granting organization may transfer  
10 funds to another qualified scholarship-granting organization if  
11 additional funds are required to meet scholarship demand by the  
12 receiving qualified scholarship-granting organization, in which  
13 case no more than a combined aggregate of ten percent (10%) of  
14 the annual receipts may be retained by the qualified scholarship-  
15 granting organizations for administrative expenses. All funds  
16 transferred shall be deposited by the receiving scholarship-  
17 granting organization into scholarship accounts and shall be  
18 separately disclosed in the annual financial audit required by  
19 this subsection;

20 4. Assess and document each student's eligibility on an annual basis;

21 5. Require that the need for financial aid shall be determined by an  
22 independent financial analysis performed by an organization that is:

23 a. Experienced in evaluating a student's need for financial aid;

24 and

25 b. Approved by the department;

26 6. Award scholarships in the following order:

27 a. First, eligible students who have received a scholarship from a

1 qualified scholarship-granting organization under this section  
2 during the immediately preceding school year, siblings, and  
3 members of that household shall be awarded scholarships,  
4 provided there are sufficient funds to fulfill the demand for  
5 scholarship aid for these students. If there are insufficient funds,  
6 scholarship awards shall be based upon a lottery selection  
7 among these students; and

8 b. i. Second, eligible students who are first-time recipients of  
9 scholarships under this section.

10 ii. The number of scholarships awarded to first-time  
11 recipients of a scholarship under this section who are  
12 students with special needs, students in the  
13 Commonwealth's foster care program, and students who  
14 qualify based upon household income under subsection  
15 (1)(f)1. of this section, shall be no less than ninety percent  
16 (90%) of the statewide percentage of public school students  
17 that individually qualify for free and reduced meals for the  
18 immediately preceding school year as reported by the  
19 Kentucky Department of Education.

20 iii. If the criteria outlined in subpart ii. of this subdivision is  
21 met, scholarships shall be awarded proportionately to other  
22 eligible students who are first-time applicants. If the  
23 criteria is not met, and funds are remaining, the qualified  
24 scholarship-granting organization shall transfer those  
25 funds to another qualified scholarship-granting  
26 organization to meet scholarship demand by the receiving  
27 qualified scholarship-granting organization.

- 1                    iv. If there are insufficient funds to fulfill the demand for  
2                    scholarship aid to students, awards shall be based upon a  
3                    lottery selection among eligible students, provided that the  
4                    resulting number of students receiving awards shall satisfy  
5                    the requirement of subpart ii. of this subdivision;
- 6                    7. Provide funding for scholarship programs to more than one (1)  
7                    qualified nonpublic school;
- 8                    8. Provide the department with an annual monitoring report for each  
9                    eligible student, which shall include:
- 10                   a. The amount of scholarship received;  
11                   b. The student's grade level;  
12                   c. The student's county of residence;  
13                   d. The name of the public school the student attended the previous  
14                   school year, if applicable, and the county in which it is located;  
15                   e. The household income of the student, if the scholarship was  
16                   granted based the student's demonstrated financial needs;  
17                   f. Notification if the student is a student with special needs;  
18                   g. Notification if the student is currently in the Commonwealth's  
19                   foster care program;  
20                   h. Notification if the student has previously received a scholarship  
21                   under this section; and  
22                   i. Notification if the student is a member of a household of a  
23                   student that has previously received a scholarship under this  
24                   section; and
- 25                   9. Submit to the department a copy of an independent financial audit  
26                   performed annually by a certified public accountant in accordance  
27                   with generally accepted accounting principles to verify the total

1                   annual receipts, the use of annual receipts, the amount of  
 2                   administrative fees, and compliance with this section.

3           **(b) Qualified scholarship-granting organizations shall not:**

4                   1. Award a scholarship to a dependent of the organization's board of  
 5                   directors or staff;

6                   2. Accept a contribution from a taxpayer if the taxpayer designates that  
 7                   the contribution shall be used to award scholarships to a particular  
 8                   student or used for athletics or other extracurricular activities;

9                   3. Award scholarships in an amount that exceeds the student's  
 10                   demonstrated financial needs or the actual amount of tuition and  
 11                   required fees charged by the qualified nonpublic school to students  
 12                   who do not receive a scholarship under this program or receive some  
 13                   other form of financial aid; or

14                   4. Award a scholarship for athletics or other extracurricular activities or  
 15                   for any associated costs or fees.

16           **(12) A parent, student, or provider of qualified special educational services shall not**  
 17                   bill Medicaid, other state program or agency, federal agency, or insurance  
 18                   company for the same services that are paid for using scholarship funds under  
 19                   this section.

20           **(13) If a taxpayer takes the credit permitted by this section, the taxpayer shall not be**  
 21                   entitled to a Kentucky charitable contribution deduction for the contributions on  
 22                   which the credit has been taken.

23           ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO  
 24 READ AS FOLLOWS:

25           **(1) The purpose of Section 1 of this Act is to provide resources to students through**  
 26                   educational scholarships that:

27                   (a) Provide more choices in education for students from low- and middle-

1 income families and students in the Commonwealth's foster care program;  
2 and

3 (b) Ensure that more students with special needs in the Commonwealth have  
4 access to the classroom or qualified special educational services that work  
5 best for their unique needs.

6 (2) (a) A scholarship provided by a qualified scholarship granting organization  
7 under Section 1 of this Act shall be considered assistance to the eligible  
8 student and shall not be considered assistance to the qualified nonpublic  
9 school or to the provider of qualified special educational services to a  
10 student with special needs.

11 (b) Nothing in this section or in Section 1 of this Act shall authorize any officer  
12 or employee of the Commonwealth to regulate or otherwise exercise any  
13 oversight beyond that necessary to enforce the requirements of the  
14 scholarship program of any:

15 1. Qualified nonpublic school, including any aspect of the school's  
16 admissions, staffing, tuition or fees, specific instructional content,  
17 academic standards or assessments, curricula, or program of  
18 instruction; or

19 2. Provider of qualified special educational services.

20 (3) The department shall provide the following information to the Legislative  
21 Research Commission no later than November 1, 2019, and no later than  
22 November 1 each year thereafter as long as the credits are permitted:

23 (a) All information contained in each annual monitoring report filed by a  
24 qualified scholarship-granting organization as required by Section 1 of this  
25 Act and the administrative regulations promulgated thereunder, with each  
26 eligible student given a unique identification number;

27 (b) The number and total amount of scholarships awarded by qualified

1 *scholarship-granting organizations to eligible students:*

2 *1. Who meet the household income requirements of subsection (1)(f)1.*  
 3 *of Section 1 of this Act, reported within household income range*  
 4 *intervals of five thousand dollars (\$5,000);*

5 *2. Who are currently in the Commonwealth's foster care program;*

6 *3. Who are students with special needs;*

7 *4. Who have previously received a scholarship under this section; and*

8 *5. Who are members of a household in which a student has previously*  
 9 *received a scholarship under this section; and*

10 *(c) Any other information that may be necessary to assist the members of the*  
 11 *General Assembly in determining that the purposes of this tax credit are*  
 12 *being fulfilled.*

13 ➔Section 3. KRS 141.0205 is amended to read as follows:

14 If a taxpayer is entitled to more than one (1) of the tax credits ~~permitted~~<sup>allowed</sup> against  
 15 the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and  
 16 use of the credits shall be determined as follows:

17 (1) The nonrefundable business incentive credits against the tax imposed by KRS  
 18 141.020 shall be taken in the following order:

19 (a) 1. For taxable years beginning after December 31, 2004, and before January  
 20 1, 2007, the corporation income tax credit permitted by KRS  
 21 141.420(3)(a);

22 2. For taxable years beginning after December 31, 2006, the limited liability  
 23 entity tax credit permitted by KRS 141.0401;

24 (b) The economic development credits computed under KRS 141.347, 141.381,  
 25 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-  
 26 2088, and 154.27-080;

27 (c) The qualified farming operation credit permitted by KRS 141.412;

- 1 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 2 (e) The health insurance credit permitted by KRS 141.062;
- 3 (f) The tax paid to other states credit permitted by KRS 141.070;
- 4 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 5 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 6 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 7 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 8 154.20-258;
- 9 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 10 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 11 (l) The employer High School Equivalency Diploma program incentive credit
- 12 permitted ~~by~~under KRS 164.0062;
- 13 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 14 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 15 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 16 (p) The clean coal incentive credit permitted by KRS 141.428;
- 17 (q) The ethanol credit permitted by KRS 141.4242;
- 18 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 19 (s) The energy efficiency credits permitted by KRS 141.436;
- 20 (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 21 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 22 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 23 (w) The food donation credit permitted by KRS 141.392;
- 24 (x) The distilled spirits credit permitted by KRS 141.389;~~and~~
- 25 (y) The angel investor credit permitted by KRS 141.396; and
- 26 (z) The scholarship tax credit permitted by Section 1 of this Act.
- 27 (2) After the application of the nonrefundable credits in subsection (1) of this section,

1 the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall  
2 be taken in the following order:

- 3 (a) The individual credits permitted by KRS 141.020(3);
- 4 (b) The credit permitted by KRS 141.066;
- 5 (c) The tuition credit permitted by KRS 141.069;
- 6 (d) The household and dependent care credit permitted by KRS 141.067; and
- 7 (e) The new home credit permitted by KRS 141.388.

8 (3) After the application of the nonrefundable credits provided for in subsection (2) of  
9 this section, the refundable credits against the tax imposed by KRS 141.020 shall be  
10 taken in the following order:

- 11 (a) The individual withholding tax credit permitted by KRS 141.350;
- 12 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 13 (c) For taxable years beginning after December 31, 2004, and before January 1,  
14 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
- 15 (d) The certified rehabilitation credit permitted by KRS 171.3961 and  
16 171.397(1)(b); and
- 17 (e) The film industry tax credit ~~permitted~~permitted by KRS 141.383.

18 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the  
19 tax imposed by KRS 141.040.

20 (5) The following nonrefundable credits shall be applied against the sum of the tax  
21 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)  
22 of this section, and the tax imposed by KRS 141.0401 in the following order:

- 23 (a) The economic development credits computed under KRS 141.347, 141.381,  
24 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-  
25 2088, and 154.27-080;
- 26 (b) The qualified farming operation credit permitted by KRS 141.412;
- 27 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

- 1 (d) The health insurance credit permitted by KRS 141.062;
- 2 (e) The unemployment credit permitted by KRS 141.065;
- 3 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 4 (g) The coal conversion credit permitted by KRS 141.041;
- 5 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 6 ending prior to January 1, 2008;
- 7 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 8 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 9 154.20-258;
- 10 (j) The coal incentive credit permitted ~~by~~ KRS 141.0405;
- 11 (k) The research facilities credit permitted ~~by~~ KRS 141.395;
- 12 (l) The employer High School Equivalency Diploma program incentive credit
- 13 permitted ~~by~~ KRS 164.0062;
- 14 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 15 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 16 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 17 (p) The clean coal incentive credit permitted by KRS 141.428;
- 18 (q) The ethanol credit permitted by KRS 141.4242;
- 19 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 20 (s) The energy efficiency credits permitted by KRS 141.436;
- 21 (t) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 22 permitted by KRS 141.437;
- 23 (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 24 (v) The railroad expansion credit permitted by KRS 141.386;
- 25 (w) The Endow Kentucky credit permitted by KRS 141.438;
- 26 (x) The New Markets Development Program credit permitted by KRS 141.434;
- 27 (y) The food donation credit permitted by KRS 141.392;~~and~~

- 1 (z) The distilled spirits credit permitted by KRS 141.389; and  
 2 (aa) The scholarship tax credit permitted by Section 1 of this Act.  
 3 (6) After the application of the nonrefundable credits in subsection (5) of this section,  
 4 the refundable credits shall be taken in the following order:  
 5 (a) The corporation estimated tax payment credit permitted by KRS 141.044;  
 6 (b) The certified rehabilitation credit permitted by KRS 171.3961 and  
 7 171.397(1)(b); and  
 8 (c) The film industry tax credit allowed in KRS 141.383.

9 ➔SECTION 4. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED  
 10 TO READ AS FOLLOWS:

11 (1) As used in this section:

12 (a) "Contribution" has the same meaning as in Section 1 of this Act; and

13 (b) "Qualified scholarship-granting organization" has the same meaning as in  
 14 Section 1 of this Act.

15 (2) Effective for tax years beginning on or after January 1, 2018, but before January  
 16 1, 2023, a financial institution shall be permitted a nonrefundable,  
 17 nontransferable tax credit against the tax imposed by KRS 136.505 for  
 18 contributions made during a tax year to one (1) or more qualified scholarship-  
 19 granting organizations as provided by Section 1 of this Act.

20 (3) Any tax credit permitted under this section that is not used by the taxpayer in the  
 21 current taxable year may be carried forward for up to five (5) succeeding taxable  
 22 years until the credit has been exhausted.

23 ➔SECTION 5. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED  
 24 TO READ AS FOLLOWS:

25 If a taxpayer is entitled to more than one (1) of the tax credits permitted against the tax  
 26 imposed by KRS 136.505, the priority of the application and the use of the credits shall  
 27 be determined as follows:

1 (1) The nonrefundable credits shall be taken in the following order:

2 (a) The credit for cash contributions in investment funds permitted by KRS  
3 154.20-258; and

4 (b) The scholarship tax credit permitted by Section 1 of this Act; and

5 (2) After the application of the nonrefundable credits in subsection (1) of this  
6 section, the refundable certified rehabilitation credit permitted by KRS 171.3961  
7 and 171.397(1)(b) shall be taken.

8 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO  
9 READ AS FOLLOWS:

10 (1) As used in this section:

11 (a) "Nonpublic school" means a nonpublic kindergarten, elementary, or  
12 secondary school located in this state;

13 (b) "Qualified scholarship-granting organization" has the same meaning as in  
14 Section 1 of this Act; and

15 (c) "Scholarship program" has the same meaning as in Section 1 of this Act.

16 (2) A nonpublic school that is not currently certified and desires to become a  
17 participant in a scholarship program provided by a qualified scholarship-  
18 granting organization shall register with the Kentucky Department of Education  
19 and notify the department of its intent to become a certified nonpublic school.

20 (3) The Kentucky Department of Education shall:

21 (a) Maintain a list of nonpublic schools seeking certification and shall  
22 promulgate administrative regulations in accordance with KRS Chapter  
23 13A to:

24 1. Establish timelines for meeting existing certification criteria and  
25 reporting requirements that ensure that the nonpublic schools are  
26 progressing through the certification process;

27 2. Provide that the nonpublic school shall complete the certification

1                   process within five (5) years of beginning operations in the  
 2                   Commonwealth or within five (5) years of the effective date of this  
 3                   Act, whichever occurs last; and

4                   3. Establish criteria allowing a nonpublic school that is not currently  
 5                   certified to participate in a scholarship program provided by a  
 6                   qualified scholarship-granting organization as provided by Section 1  
 7                   of this Act; and

8                   (b) Publish on the Kentucky Board of Education's Web site:

9                   1. An annual list of certified nonpublic schools and nonpublic schools  
 10                   seeking certification by the Kentucky Board of Education; and

11                   2. The statewide percentage of students that individually qualify for free  
 12                   and reduced meals based upon household income for the immediately  
 13                   preceding school year.

14                   ➔Section 7. KRS 131.020 is amended to read as follows:

15                   (1) The Department of Revenue, headed by a commissioner appointed by the secretary  
 16                   with the approval of the Governor, shall be organized into the following functional  
 17                   units:

18                   (a) Office of the Commissioner, which shall consist of:

19                   1. The Division of Protest Resolution, headed by a division director who  
 20                   shall report directly to the commissioner. The division shall administer  
 21                   the protest functions for the department from office resolution through  
 22                   court action; and

23                   2. The Division of Taxpayer Ombudsman, headed by a division director  
 24                   who shall report to the commissioner. The division shall perform those  
 25                   duties set out in KRS 131.083;

26                   (b) Office of Tax Policy and Regulation, headed by an executive director who shall  
 27                   report directly to the commissioner. The office shall be responsible for:

- 1           1.    Providing oral and written technical advice on Kentucky tax law;
- 2           2.    Drafting proposed tax legislation and regulations;
- 3           3.    Testifying before legislative committees on tax matters;
- 4           4.    Analyzing tax publications;
- 5           5.    Providing expert witness testimony in tax litigation cases;
- 6           6.    Providing consultation and assistance in protested tax cases; and
- 7           7.    Conducting training and education programs;
- 8           (c)   Office of Processing and Enforcement, headed by an executive director who
- 9               shall report directly to the commissioner. The office shall be responsible for
- 10             processing documents, depositing funds, collecting debt payments, and
- 11             coordinating, planning, and implementing a data integrity strategy. The office
- 12             shall consist of the:
- 13             1.    Division of Operations, which shall be responsible for opening all tax
- 14               returns, preparing the returns for data capture, coordinating the data
- 15               capture process, depositing receipts, maintaining tax data, and assisting
- 16               other state agencies with similar operational aspects as negotiated
- 17               between the department and the other agency;
- 18             2.    Division of Collections, which shall be responsible for initiating all
- 19               collection enforcement activity related to due and owing tax assessments,
- 20               including protest resolution, and for assisting other state agencies with
- 21               similar collection aspects as negotiated between the department and the
- 22               other state agency; and
- 23             3.    Division of Registration and Data Integrity, which shall be responsible
- 24               for registering businesses for tax purposes, ensuring that the data entered
- 25               into the department's tax systems is accurate and complete, and assisting
- 26               the taxing areas in proper procedures to ensure the accuracy of the data
- 27               over time;

- 1 (d) Office of Property Valuation, headed by an executive director who shall report  
2 directly to the commissioner. The office shall consist of the:
- 3 1. Division of Local Support, which shall be responsible for providing  
4 supervision, assistance, and training to the property valuation  
5 administrators and sheriffs within the Commonwealth;
  - 6 2. Division of State Valuation, which shall be responsible for providing  
7 assessments of public service companies and motor vehicles, and  
8 providing assistance to property valuation administrators and sheriffs  
9 with the administration of tangible and omitted property taxes within the  
10 Commonwealth; and
  - 11 3. Division of Minerals Taxation and Geographical Information System  
12 Services, which shall be responsible for providing geographical  
13 information system mapping support, ensuring proper filing of severance  
14 tax returns, ensuring consistency of unmined coal assessments, and  
15 gathering and providing data to properly assess minerals to the property  
16 valuation administrators within the Commonwealth;
- 17 (e) Office of Sales and Excise Taxes, headed by an executive director who shall  
18 report directly to the commissioner. The office shall administer all matters  
19 relating to sales and use taxes and miscellaneous excise taxes, including but not  
20 limited to technical tax research, compliance, taxpayer assistance, tax-specific  
21 training, and publications. The office shall consist of the:
- 22 1. Division of Sales and Use Tax, which shall administer the sales and use  
23 tax; and
  - 24 2. Division of Miscellaneous Taxes, which shall administer various other  
25 taxes, including but not limited to alcoholic beverage taxes; cigarette  
26 enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise  
27 tax; inheritance and estate tax; insurance premiums and insurance

1 surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels  
2 taxes;

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

8 1. Division of Individual Income Tax, which shall administer the following  
9 taxes or returns: individual income, fiduciary, and employer withholding;  
10 and

11 2. Division of Corporation Tax, which shall administer the corporation  
12 income tax, corporation license tax, pass-through entity withholding, and  
13 pass-through entity reporting requirements; and

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

17 (2) The functions and duties of the department shall include conducting conferences,  
18 administering taxpayer protests, and settling tax controversies on a fair and equitable  
19 basis, taking into consideration the hazards of litigation to the Commonwealth of  
20 Kentucky and the taxpayer. The mission of the department shall be to afford an  
21 opportunity for taxpayers to have an independent informal review of the  
22 determinations of the audit functions of the department, and to attempt to fairly and  
23 equitably resolve tax controversies at the administrative level.

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

27 (4) Except as provided in KRS 131.190(3)~~((4))~~, the department shall fully cooperate

1 with and make tax information available as prescribed under subsection (2)(p), of  
 2 Section 9 of this Act~~[KRS 131.190(2)]~~ to the Governor's Office for Economic  
 3 Analysis as necessary for the office to perform the tax administration function  
 4 established in KRS 42.410.

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

7 ➔Section 8. KRS 131.135 is amended to read as follows:

8 ~~[(1)]~~ Each employer subject to KRS Chapter 342 shall file annually with the department~~[~~  
 9 ~~of Revenue]~~, in accordance with administrative regulations, a report providing the policy  
 10 number and the name and address of the employer's workers' compensation insurance  
 11 carrier.~~[~~

12 ~~(2) The report may be made available to other state agencies notwithstanding the~~  
 13 ~~confidentiality provisions of KRS 131.190.]~~

14 ➔Section 9. KRS 131.190 is amended to read as follows:

15 (1)~~[(a)]~~ No present or former commissioner or employee of the department~~[~~  
 16 ~~Revenue]~~, present or former member of a county board of assessment appeals,  
 17 present or former property valuation administrator or employee, present or former  
 18 secretary or employee of the Finance and Administration Cabinet, former secretary  
 19 or employee of the Revenue Cabinet, or any other person, shall intentionally and  
 20 without authorization inspect or divulge any information acquired by him of the  
 21 affairs of any person, or information regarding the tax schedules, returns, or reports  
 22 required to be filed with the department or other proper officer, or any information  
 23 produced by a hearing or investigation, insofar as the information may have to do  
 24 with the affairs of the person's business.

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

27 ~~(a) [(1)]~~ Information required in prosecutions for making false reports or returns

1 of property for taxation, or any other infraction of the tax laws;

2 ~~(b)~~<sup>[2-]</sup> Any matter properly entered upon any assessment record, or in any way  
3 made a matter of public record;

4 ~~(c)~~<sup>[3-]</sup> Furnishing any taxpayer or his properly authorized agent with  
5 information respecting his own return;

6 ~~(d)~~<sup>[4-]</sup> Testimony provided by the commissioner or any employee of the  
7 department~~[of Revenue]~~ in any court, or the introduction as evidence of  
8 returns or reports filed with the department, in an action for violation of state  
9 or federal tax laws or in any action challenging state or federal tax laws;

10 ~~(e)~~<sup>[5-]</sup> Providing an owner of unmined coal, oil or gas reserves, and other  
11 mineral or energy resources assessed under KRS 132.820~~[(1)]~~, or owners of  
12 surface land under which the unmined minerals lie, factual information about  
13 the owner's property derived from third-party returns filed for that owner's  
14 property, under the provisions of KRS 132.820~~[(2)]~~, that is used to determine  
15 the owner's assessment. This information shall be provided to the owner on a  
16 confidential basis, and the owner shall be subject to the penalties provided in  
17 KRS 131.990~~(2)~~<sup>[21]</sup>. The third-party filer shall be given prior notice of any  
18 disclosure of information to the owner that was provided by the third-party  
19 filer;

20 ~~(f)~~<sup>[6-]</sup> Providing to a third-party purchaser pursuant to an order entered in a  
21 foreclosure action filed in a court of competent jurisdiction, factual information  
22 related to the owner or lessee of coal, oil, gas reserves, or any other mineral  
23 resources assessed under KRS 132.820~~[(1)]~~. The department may promulgate  
24 an administrative regulation establishing a fee schedule for the provision of the  
25 information described in this paragraph~~[subparagraph]~~. Any fee imposed shall  
26 not exceed the greater of the actual cost of providing the information or ten  
27 dollars (\$10);~~[-or]~~



1 districts on a confidential basis;

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

7 (q) Providing information to the Legislative Research Commission under:

- 8 1. KRS 139.519 for purposes of the sales and use tax refund on building
- 9 materials used for disaster recovery;
- 10 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 11 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 12 ENERGY STAR manufactured home credits;
- 13 4. Section 13 of this Act for purposes of the distilled spirits credit; or
- 14 5. Section 1 of this Act for purposes of scholarship tax credit.

15 ~~(3)(2) — The commissioner shall make available any information for official use only~~  
16 ~~and on a confidential basis to the proper officer, agency, board or commission of this~~  
17 ~~state, any Kentucky county, any Kentucky city, any other state, or the federal~~  
18 ~~government, under reciprocal agreements whereby the department shall receive~~  
19 ~~similar or useful information in return.~~

20 ~~(3) — Statistics of tax paid gasoline gallonage reported monthly to the department of~~  
21 ~~Revenue under the gasoline excise tax law may be made public by the department.~~

22 ~~(4)} Access to and inspection of information received from the Internal Revenue Service~~  
23 ~~is for department[ of Revenue] use only, and is restricted to tax administration~~  
24 ~~purposes.[ Notwithstanding the provisions of this section to the contrary,]~~  
25 ~~Information received from the Internal Revenue Service shall not be made available~~  
26 ~~to any other agency of state government, or any county, city, or other state, and~~  
27 ~~shall not be inspected intentionally and without authorization by any present~~

1 secretary or employee of the Finance and Administration Cabinet, commissioner or  
 2 employee of the department~~[of Revenue]~~, or any other person.

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

8 ~~(6) Notwithstanding any provision of law to the contrary, beginning with mine map  
 9 submissions for the 1989 tax year, the department may make public or divulge only  
 10 those portions of mine maps submitted by taxpayers to the department pursuant to  
 11 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-  
 12 out parcel areas. These electronic maps shall not be relied upon to determine actual  
 13 boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
 14 required under KRS Chapters 350 and 352 shall not be construed to constitute land  
 15 surveying or boundary surveys as defined by KRS 322.010 and any administrative  
 16 regulations promulgated thereto.~~

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

21 ➔Section 10. KRS 131.618 is amended to read as follows:

22 (1) ~~[Notwithstanding KRS 131.190, ]~~The commissioner is authorized to disclose to the  
 23 Attorney General the name and address of a stamping agent or distributor and the  
 24 number of sticks by brand name that have been purchased from a nonparticipating  
 25 manufacturer and have been stamped with Kentucky stamps by that agent or  
 26 distributor. The Attorney General may share this information with federal, other  
 27 state, or local agencies only for the purposes of enforcement of KRS 131.600 to

1 131.630 or corresponding laws of other states. The Attorney General is further  
 2 authorized to disclose to a nonparticipating manufacturer or its importers this  
 3 information that has been provided by a stamping agent regarding the purchases  
 4 from that nonparticipating manufacturer or its importers. This information provided  
 5 by a stamping agent may be used in any enforcement action against the  
 6 nonparticipating manufacturer or its importers by the Attorney General.

7 (2) In addition to the information required to be submitted pursuant to KRS 131.608,  
 8 131.614, and 131.620, the Attorney General or the commissioner may require a  
 9 stamping agent, distributor, participating manufacturer, nonparticipating  
 10 manufacturer, or a nonparticipating manufacturer's importers to submit any  
 11 additional information including but not limited to samples of the packaging or  
 12 labeling of each brand family as is necessary to enable the Attorney General to  
 13 determine whether the participating manufacturer or the nonparticipating  
 14 manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

15 ➔Section 11. KRS 131.650 is amended to read as follows:

16 (1) ~~[Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to~~  
 17 ~~the contrary,]~~The department may publish a list or lists of taxpayers that owe  
 18 delinquent taxes or fees administered by the department~~[of Revenue]~~, and that meet  
 19 the requirements of KRS 131.652.

20 (2) For purposes of this section, a taxpayer may be included on a list if:

21 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the  
 22 dates they became due and payable; and

23 (b) A tax lien or judgment lien has been filed of public record against the taxpayer  
 24 before notice is given under KRS 131.654.

25 (3) In the case of listed taxpayers that are business entities, the department~~[of Revenue]~~  
 26 may also list the names of responsible persons assessed pursuant to KRS 136.565,  
 27 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected

1 from publication by subsection (2) of this section, and for whom the requirements of  
 2 KRS 131.652 are satisfied with regard to the personal assessment.

3 (4) Before any list is published under this section, the department shall document that  
 4 each of the conditions for publication as provided in this section has been satisfied,  
 5 and that procedures were followed to ensure the accuracy of the list and notice was  
 6 given to the affected taxpayers.

7 ➔Section 12. KRS 131.990 is amended to read as follows:

8 (1) (a) Any person who violates the intentional unauthorized inspection provisions of  
 9 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or  
 10 imprisoned for not more than six (6) months, or both.

11 (b) Any person who violates the provisions of KRS 131.190(1) by divulging  
 12 confidential taxpayer information shall be fined not more than one thousand  
 13 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

14 (c) Any person who violates the intentional unauthorized inspection provisions of  
 15 KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars  
 16 (\$1,000) or imprisoned for not more than one (1) year, or both.

17 (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging  
 18 confidential taxpayer information shall be fined not more than five thousand  
 19 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.

20 (e) Any present secretary or employee of the Finance and Administration Cabinet,  
 21 commissioner or employee of the department, member of a county board of  
 22 assessment appeals, property valuation administrator or employee, or any other  
 23 person, who violates the provisions of KRS 131.190(1) or ~~(3)~~~~(4)~~ may, in  
 24 addition to the penalties imposed under this subsection, be disqualified and  
 25 removed from office or employment.

26 (2) Any person who willfully fails to comply with the rules and regulations promulgated  
 27 by the department for the administration of delinquent tax collections shall be fined

- 1 not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
- 2 (3) Any person who fails to do any act required or does any act forbidden by KRS  
3 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred  
4 dollars (\$500).
- 5 (4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it  
6 is shown to the satisfaction of the department that the failure is due to reasonable  
7 cause, pay a penalty of one-half of one percent (0.5%) of the amount that should  
8 have been remitted under the provisions of KRS 131.155 for each failure to comply.
- 9 (5) (a) Any person or financial institution that fails to comply with the provisions of  
10 KRS 131.672 and 131.674 within ninety (90) days after notification by the  
11 department shall, unless the failure is due to reasonable cause as defined in  
12 KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no  
13 more than five thousand dollars (\$5,000) for each full month of  
14 noncompliance. The fine shall begin on the first day of the month beginning  
15 after the expiration of the ninety (90) days.
- 16 (b) Any financial institution that fails or refuses to comply with the provisions of  
17 KRS 131.672 and 131.674 within one hundred twenty (120) days after the  
18 notification by the department shall, unless the failure is due to reasonable  
19 cause as defined in KRS 131.010, forfeit its right to do business within the  
20 Commonwealth, unless and until the financial institution is in compliance.  
21 Upon notification by the department, the commissioner of the Department of  
22 Financial Institutions shall, as applicable, revoke the authority of the financial  
23 institution or its agents to do business in the Commonwealth.
- 24 (6) Any taxpayer or tax return preparer who fails or refuses to comply with the  
25 provisions of KRS 131.250 or an administrative regulation promulgated under KRS  
26 131.250 shall, unless it is shown to the satisfaction of the department that the failure  
27 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each

1 return not filed as required.

2 ➔Section 13. KRS 141.389 is amended to read as follows:

- 3 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each  
4 taxpayer paying the distilled spirits ad valorem tax as follows:
- 5 1. For taxable years beginning on or after January 1, 2015, and before  
6 December 31, 2015, the credit shall be equal to twenty percent (20%) of  
7 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
8 timely basis;
  - 9 2. For taxable years beginning on or after January 1, 2016, and before  
10 December 31, 2016, the credit shall be equal to forty percent (40%) of  
11 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
12 timely basis;
  - 13 3. For taxable years beginning on or after January 1, 2017, and before  
14 December 31, 2017, the credit shall be equal to sixty percent (60%) of  
15 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
16 timely basis;
  - 17 4. For taxable years beginning on or after January 1, 2018, and before  
18 December 31, 2018, the credit shall be equal to eighty percent (80%) of  
19 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
20 timely basis; and
  - 21 5. For taxable years beginning on or after January 1, 2019, the credit shall  
22 be equal to one hundred percent (100%) of the tax assessed under KRS  
23 132.160 and paid under KRS 132.180 on a timely basis.
- 24 (b) The credit shall be applied both to the income tax imposed under KRS 141.020  
25 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401,  
26 with the ordering of the credits as provided in KRS 141.0205.
- 27 (2) The amount of distilled spirits credit allowed under subsection (1) of this section

1 shall be used only for capital improvements at the premises of the distiller licensed  
2 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"  
3 means any costs associated with:

- 4 (a) Construction, replacement, or remodeling of warehouses or facilities;
- 5 (b) Purchases of barrels and pallets used for the storage and aging of distilled  
6 spirits in maturing warehouses;
- 7 (c) Acquisition, construction, or installation of equipment for the use in the  
8 manufacture, bottling, or shipment of distilled spirits;
- 9 (d) Addition or replacement of access roads or parking facilities; and
- 10 (e) Construction, replacement, or remodeling of facilities to market or promote  
11 tourism, including but not limited to a visitor's center.

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

- 13 (a) May be accumulated for multiple taxable years;
- 14 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during  
15 which the credits were used pursuant to subsection (2) of this section; and
- 16 (c) Shall not include:
  - 17 1. Any delinquent tax paid to the Commonwealth; or
  - 18 2. Any interest, fees, or penalty paid to the Commonwealth.

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

22 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital  
23 improvement associated with the credit is sold or otherwise disposed of prior  
24 to the exhaustion of the useful life of the asset for Kentucky depreciation  
25 purposes.

26 (c) If the allowed credit is associated with multiple capital improvements, and not  
27 all capital improvements are sold or otherwise disposed of, the distilled spirits

1 credit shall be prorated based on the cost of the capital improvement sold over  
2 the total cost of all improvements associated with the credit.

3 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the  
4 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit  
5 through to its members, partners, or shareholders in the same proportion as the  
6 distributive share of income or loss is passed through.

7 (6) The department may promulgate an administrative regulation pursuant to KRS  
8 Chapter 13A to implement the allowable credit under this section, require the filing  
9 of forms designed by the department, and require specific information for the  
10 evaluation of the credit taken by any taxpayer.

11 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually  
12 thereafter, the department shall report to the Interim Joint Committee on  
13 Appropriations and Revenue:

14 (a) The name of each taxpayer taking the credit permitted by subsection (1) of this  
15 section;

16 (b) The amount of credit taken by that taxpayer; and

17 (c) The type of capital improvement made for which the credit is claimed.