

FREE CONFERENCE COMMITTEE REPORT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

The Free Conference Committee on **HB 372** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

_____ GA X SCS _____ HCS

For the above-referenced bill, with these amendments (if applicable):

Committee (list by chamber and number): _____;

Floor (list by chamber and number): _____; and

The following Free Conference Committee action:

On page 1, line 3, through page 17, line 20, by deleting the text and inserting in lieu thereof:

"➔SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) On and after July 1, 2021, and on and before June 30, 2051, the taxes imposed by this chapter do not apply to:

(a) Tangible personal property used to construct, retrofit, or upgrade a data center;

and

(b) Data center equipment for use in that data center;

purchased by a person engaged primarily in a commercial activity or separately operated segment of business that exists for the purposes of engaging solely in the operation of a data center or operating by collocating with a person that operates a data center.

(2) The exemption provided in subsection (1) of this section shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, and any materials incorporated into the construction, retrofit, or upgrade of the data center.

(3) To qualify for the exemption provided in subsection (1) of this section, the data center

1 shall certify to the department that it shall:

2 (a) Make capital investments in one (1) or more data centers after July 1, 2021, in
3 amounts of at least one hundred fifty million dollars (\$150,000,000) in the
4 aggregate within the first five (5) years after commencement of construction; and

5 (b) Create and maintain at least twenty (20) new jobs at the data center within two (2)
6 calendar years after the commencement of operations.

7 (4) (a) Data centers shall report to the department annually, on or before October 1 of
8 each year, on behalf of itself and any person collocating with the data center:

9 1. The progress made toward achieving performance targets, which shall
10 include:

11 a. i. A listing of the new jobs, each with an associated average annual
12 wage; and

13 ii. The annual amount of all payroll taxes paid, both federal and
14 state, related to wages; and

15 b. The amount of capital investment in data center facilities and
16 equipment;

17 2. The address of the location of the data center;

18 3. The county in which the data center is located;

19 4. A statement as to whether the county where the data center is located has a
20 population density, as calculated by dividing the number of residents in the
21 county based on the most recent federal decennial census by the square miles
22 in the county, of:

23 a. Less than sixty-two (62) persons per square mile;

24 b. Between sixty-two persons (62) persons per square mile and up to one
25 hundred four (104) persons per square mile; or

26 c. One hundred four persons (104) or more per square mile;

27 5. A statement as to whether the data center is located in a federal opportunity

1 zone as designated in 26 U.S.C. sec. 1400Z-1 and 1400Z-2; and

2 6. The total amount of the sales and use tax exemption claimed for the
3 immediately preceding fiscal year.

4 (b) If a data center fails to meet the reporting, investment, and job creation
5 requirements provided within the time periods required in this section, it shall
6 repay the sales or use taxes that were exempted, plus accrued interest from the
7 dates on which purchases were made, to the department within sixty (60) days of
8 the noncompliance.

9 (5) On or before December 1, 2022, and every biennium on December 1 thereafter as long
10 as the exemption applies, the department shall report to the Interim Joint Committee on
11 Appropriations and Revenue:

12 (a) The aggregate amount of capital investment and new jobs from all qualifying data
13 centers reported for the immediately preceding fiscal year and in total for the year;

14 (b) Based on the most recent United States federal decennial census data, a statement
15 as to whether the county where the data center is located has a population density
16 of:

17 1. Less than sixty-two (62) persons per square mile;

18 2. Between sixty-two persons (62) persons per square mile and up to one
19 hundred four (104) persons per square mile; or

20 3. One hundred four persons (104) or more per square mile;

21 (c) The number of qualifying data centers located in a federal opportunity zone as
22 designated in 26 U.S.C. sec. 1400Z-1 and 1400Z-2; and

23 (d) The aggregate amount of the exemption claimed from all qualifying data centers
24 and the number of qualifying data centers benefitting from the exemption, after
25 three (3) or more qualified data centers have claimed the exemption for at least two
26 (2) years.

27 (6) Notwithstanding KRS 139.720, every qualifying data center using this exemption shall

1 keep the records, receipts, invoices, and other pertinent papers in such form and
2 timeframe as the department may require.

3 (7) The report shall not include, and the department shall not publish or disclose, any
4 information that is not aggregated or if a report or publication could be used to identify a
5 specific person.

6 (8) As used in this section:

7 (a) "Capital investment" means:

8 1. Obligations incurred for labor and to contractors, subcontractors, builders,
9 and materialmen in connection with the acquisition, construction,
10 installation, equipping, and rehabilitation of a project;

11 2. The cost of acquiring land or rights in land within the development area on
12 the footprint of the project, and any cost incident thereto, including recording
13 fees;

14 3. The cost of contract bonds and of insurance of all kinds that may be required
15 or necessary during the course of acquisition, construction, installation,
16 equipping, and rehabilitation of a project which is not paid by the contractor
17 or contractors or otherwise provided;

18 4. All costs of architectural and engineering services, including test borings,
19 surveys, estimates, plans, specifications, preliminary investigations,
20 supervision of construction, and the performance of all the duties required by
21 or consequent upon the acquisition, construction, installation, equipping, and
22 rehabilitation of a project;

23 5. All costs that are required to be paid under the terms of any contract for the
24 acquisition, construction, installation, equipping, and rehabilitation of a
25 project; and

26 6. All other costs of a nature comparable to those described in this subsection
27 that occur after preliminary approval;

1 (b) "Commencement of construction" means the first date on which a capital
2 investment has been made for a data center;

3 (c) "Commencement of operations" means the date on which a certificate of
4 occupancy is issued for a data center;

5 (d) "Data center" means a person that has a facility comprised of one (1) or more
6 buildings in Kentucky that is used to house and continuously operate computer
7 servers and associated data center equipment for the transmission and storage of
8 data where the facility has the following characteristics:

9 1. Uninterruptible power supplies, generator power, or both;

10 2. Sophisticated fire suppression and prevention systems;

11 3. Enhanced physical security; and

12 4. Restricted access;

13 (e) 1. "Data center equipment" means:

14 a. Equipment that is used to outfit, operate, or benefit a data center; and

15 b. Component parts, installations, refreshments, replacements, and
16 upgrades to the equipment, regardless of whether any of the equipment
17 is affixed to or incorporated into real property.

18 2. Eligible "data center equipment" includes:

19 a. Equipment necessary for the transformation, generation, distribution,
20 or management of electricity that is required to operate computer
21 servers or similar data storage equipment, including:

22 i. Uninterruptible energy supplies;

23 ii. Generators;

24 iii. Conduit;

25 iv. Gaseous fuel piping;

26 v. Cabling;

27 vi. Duct banks;

1 vii. Switches;

2 viii. Switchboards;

3 ix. Batteries; and

4 x. Testing equipment;

5 b. Equipment necessary to cool and maintain a controlled environment for
6 the operation of computer servers or data storage systems and other
7 components of a computer data center, including:

8 i. Mechanical equipment;

9 ii. Refrigerant piping;

10 iii. Gaseous fuel piping;

11 iv. Adiabatic and free cooling systems;

12 v. Cooling towers;

13 vi. Water softeners;

14 vii. Air handling units;

15 viii. Indoor direct exchange units;

16 ix. Fans;

17 x. Ducting; and

18 xi. Filters;

19 c. Water conservation systems, including facilities or mechanisms that are
20 designed to collect, conserve, and reuse water;

21 d. Software, including but not limited to:

22 i. Enabling software and licensing agreements;

23 ii. Computer servers or similar data storage equipment;

24 iii. Chassis;

25 iv. Networking equipment;

26 v. Switches;

27 vi. Racks;

1 vii. Cabling;

2 viii. Trays; and

3 ix. Conduits;

4 e. Monitoring equipment;

5 f. Security systems;

6 g. i. Modular data centers; and

7 ii. Preassembled components of any item, including components used
8 in the manufacturing of modular data centers; and

9 h. Other tangible personal property that is essential to the operations of a
10 computer data center;

11 (f) "Full-time employee" means a person employed for a minimum of thirty-five (35)
12 hours per week and subject to the tax imposed by KRS 141.020; and

13 (g) 1. "New jobs" means new jobs that:

14 a. Are created and located in the state;

15 b. Are nonseasonal;

16 c. Are full-time, meaning a minimum of thirty-five (35) hours a week and
17 subject to the state income tax imposed by KRS 141.020;

18 d. i. Collectively pay an average weekly wage that equals or exceeds
19 one hundred twenty-five percent (125%) of the average weekly
20 wage for the county where the data center is located, as
21 determined by the most recent report of the United States Bureau
22 of Labor Statistics; and

23 ii. If the average weekly wage calculated in subpart i. of this
24 subdivision is less than one hundred fifty percent (150%) of the
25 federal minimum wage, then the base hourly wage shall be one
26 hundred fifty percent (150%) of the federal minimum wage.

27 2. "New jobs" do not include jobs that merely change locations within the state.

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

3 (1) As used in this section:

4 (a) "Affiliate" means:

5 1. Members of a family, including brothers and sisters of the whole or half
6 blood, spouse, ancestors, and any lineal descendant of an individual;

7 2. An individual and a corporation, of which more than twenty percent (20%) in
8 value of the outstanding stock is owned, directly or indirectly, by or for that
9 individual; or

10 3. An individual and a limited liability company or a partnership, of which more
11 than twenty percent (20%) of the capital interest or profits are owned or
12 controlled, directly or indirectly, by or for that individual; and

13 (b) "Property tax" means the total ad valorem tax paid to the Commonwealth, a city, a
14 county, a consolidated local government, an urban county government, or any
15 other taxing district;

16 (c) "Remote worker" means any individual who:

17 1. Works from his or her principal place of residence in Kentucky for a business
18 entity that is only doing business in this state through the presence of
19 employees located in this state;

20 2. Earns gross income from a business entity that is not an affiliate with the
21 individual;

22 3. Is employed by the business entity as a full-time employee, working a
23 minimum of thirty-five (35) hours per week; and

24 4. a. Has moved into this state on or after January 1, 2021; or

25 b. On or after January 1, 2021:

26 i. Was a student attending a college or university in Kentucky and
27 remains in this state for employment; or

1 ii. Was a member of the Armed Forces, receives a military discharge,
2 and returns to or remains in this state for employment.

3 (2) For taxable years beginning on or after January 1, 2021, there is hereby established the
4 remote worker tax credit as a credit against the tax imposed under KRS 141.020, with the
5 ordering of credits under Section 4 of this Act.

6 (3) (a) The remote worker tax credit allowed under subsection (2) of this section:

7 1. Shall be:

8 a. Nonrefundable and nontransferable; and

9 b. Allowed to any individual qualifying as a remote worker; and

10 2. May be composed of the two (2) calculations under paragraphs (b) and (c) of
11 this subsection.

12 (b) 1. The tax credit shall be in an amount equal to:

13 a. For the first taxable year the credit is allowed for the remote worker,
14 five thousand dollars (\$5,000);

15 b. For the second taxable year that the credit is allowed for the remote
16 worker, four thousand dollars (\$4,000);

17 c. For the third taxable year that the credit is allowed for the remote
18 worker, three thousand dollars (\$3,000);

19 d. For the fourth taxable year that the credit is allowed for the remote
20 worker, two thousand dollars (\$2,000);

21 e. For the fifth taxable year that the credit is allowed for the remote
22 worker, one thousand dollars (\$1,000);

23 f. Zero for any taxable year after the fifth taxable year that the credit is
24 allowed for the remote worker;

25 2. a. The amounts in subparagraph 1. of this paragraph shall be factored
26 according to the following amounts, which are based on the population
27 density of the county in which a remote worker's principal place of

1 residence is located:

2 i. One hundred percent (100%) if the county has a population
3 density of less than sixty-two (62) persons per square mile;

4 ii. Ninety percent (90%) if the county has a population density
5 between sixty-two persons (62) persons per square mile and up to
6 one hundred four (104) persons per square mile; and

7 iii. Eighty percent (80%) if the county has a population density of one
8 hundred four persons (104) or more per square mile.

9 b. Notwithstanding subdivision a. of this subparagraph, the amounts in
10 subparagraph 1. of this paragraph shall be factored by one hundred
11 percent (100%) if the remote worker's principal place of residence is
12 located in a Kentucky opportunity zone.

13 c. The population density for a county shall be calculated by dividing the
14 number of residents in the county, based on the most recent federal
15 decennial census, by the square miles in the county.

16 (c) 1. In addition to the amount of tax credit provided in paragraph (b) of this
17 subsection, the remote worker shall also receive an additional amount of tax
18 credit if the remote worker is a first-time home buyer in Kentucky during the
19 five (5) year tax credit period.

20 2. If the remote worker purchases his or her principal residence during the five
21 (5) years that the tax credit is allowed under paragraph (b) of this subsection,
22 the total tax credit under this section shall be in an amount equal to the
23 amount of tax credit from paragraph (b) of this subsection allowed for that
24 taxable year plus the amount of property tax imposed and timely paid by the
25 taxpayer related to the real property owned and occupied by the taxpayer as
26 the residence where the taxpayer is remotely working during the first full year
27 of ownership.

1 (d) All individuals qualifying for this tax credit shall claim the credit for the first
2 taxable year prior to January 1, 2026, and shall not be allowed a credit for more
3 than five (5) successive taxable years.

4 (e) Any portion of the tax credit that is not fully utilized in the taxable year during
5 which it is earned shall not be carried back or carried forward to any other taxable
6 year.

7 (4) (a) In order for the General Assembly to evaluate this tax credit, the department shall
8 provide the following information on a cumulative basis for each taxable year to
9 provide a historical impact of the tax credit to the Commonwealth:

10 1. The name and location, by county, of the taxpayer claiming the remote
11 worker tax credit;

12 2. Based on the most recent United States federal decennial census data, a
13 statement as to whether the county where the remote worker's principal place
14 of residence is located has a population density of:

15 a. Less than sixty-two (62) persons per square mile;

16 b. Between sixty-two persons (62) persons per square mile and up to one
17 hundred four (104) persons per square mile; or

18 c. One hundred four persons (104) or more per square mile; and

19 3. A statement as to whether the remote worker is located in a federal
20 opportunity zone as designated in 26 U.S.C. sec. 1400Z-1 and 1400Z-2;

21 4. The amount of gross income reported by the taxpayer;

22 5. The amount of tax credit allowed for each taxable year;

23 6. The total amount of all tax credits claimed by all taxpayers for the fiscal year;
24 and

25 7. Based on ranges of adjusted gross income of no larger than five thousand
26 dollars (\$5,000) for the taxable year, the total amount of tax credits claimed
27 and the number of returns claiming a tax credit for each adjusted gross

1 income range.

2 (b) The report required under paragraph (a) of this subsection shall be submitted to
3 the Interim Joint Committee on Appropriations and Revenue by November 1, 2022,
4 and each November 1 thereafter as long as the remote worker tax credit is claimed
5 on a return processed by the department.

6 ➔Section 3. KRS 131.190 is amended to read as follows:

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

16 (2) The prohibition established by subsection (1) of this section shall not extend to:

17 (a) Information required in prosecutions for making false reports or returns of property
18 for taxation, or any other infraction of the tax laws;

19 (b) Any matter properly entered upon any assessment record, or in any way made a
20 matter of public record;

21 (c) Furnishing any taxpayer or his properly authorized agent with information respecting
22 his own return;

23 (d) Testimony provided by the commissioner or any employee of the department in any
24 court, or the introduction as evidence of returns or reports filed with the department,
25 in an action for violation of state or federal tax laws or in any action challenging state
26 or federal tax laws;

27 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy

1 resources assessed under KRS 132.820, or owners of surface land under which the
2 unmined minerals lie, factual information about the owner's property derived from
3 third-party returns filed for that owner's property, under the provisions of KRS
4 132.820, that is used to determine the owner's assessment. This information shall be
5 provided to the owner on a confidential basis, and the owner shall be subject to the
6 penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice
7 of any disclosure of information to the owner that was provided by the third-party
8 filer;

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

16 (g) Providing information to a licensing agency, the Transportation Cabinet, or the
17 Kentucky Supreme Court under KRS 131.1817;

18 (h) Statistics of gasoline and special fuels gallonage reported to the department under
19 KRS 138.210 to 138.448;

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

23 (j) Providing documents, data, or other information to a third party pursuant to an order
24 issued by a court of competent jurisdiction; or

25 (k) Providing information to the Legislative Research Commission under:

- 26 1. KRS 139.519 for purposes of the sales and use tax refund on building materials
27 used for disaster recovery;

- 1 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 2 3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY
- 3 STAR manufactured home credits;
- 4 4. KRS 148.544 for purposes of the film industry incentives;
- 5 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization tax
- 6 credits and the job assessment fees;
- 7 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 8 7. KRS 141.396 for purposes of the angel investor tax credit;
- 9 8. KRS 141.389 for purposes of the distilled spirits credit;
- 10 9. KRS 141.408 for purposes of the inventory credit;
- 11 10. KRS 141.390 for purposes of the recycling and composting credit;
- 12 11. KRS 141.3841 for purposes of the selling farmer tax credit;~~and~~
- 13 12. KRS 141.4231 for purposes of the renewable chemical production tax credit;
- 14 **13. Section 1 of this Act for the purposes of the data center sales and use tax**
- 15 **exemption; and**
- 16 **14. Section 2 of this Act for the purposes of the remote worker tax credit.**
- 17 (3) The commissioner shall make available any information for official use only and on a
- 18 confidential basis to the proper officer, agency, board or commission of this state, any
- 19 Kentucky county, any Kentucky city, any other state, or the federal government, under
- 20 reciprocal agreements whereby the department shall receive similar or useful information in
- 21 return.
- 22 (4) Access to and inspection of information received from the Internal Revenue Service is for
- 23 department use only, and is restricted to tax administration purposes. Information received
- 24 from the Internal Revenue Service shall not be made available to any other agency of state
- 25 government, or any county, city, or other state, and shall not be inspected intentionally and
- 26 without authorization by any present secretary or employee of the Finance and
- 27 Administration Cabinet, commissioner or employee of the department, or any other person.

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

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

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

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

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

20 (a) The limited liability entity tax credit permitted by KRS 141.0401;

21 (b) The economic development credits computed under KRS 141.347, 141.381, 141.384,
22 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-
23 2088;

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

25 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

26 (e) The health insurance credit permitted by KRS 141.062;

27 (f) The tax paid to other states credit permitted by KRS 141.070;

- 1 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 2 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 3 (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-
- 4 263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- 5 (j) The research facilities credit permitted by KRS 141.395;
- 6 (k) The employer High School Equivalency Diploma program incentive credit permitted
- 7 under KRS 151B.402;
- 8 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 9 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 10 (n) The clean coal incentive credit permitted by KRS 141.428;
- 11 (o) The ethanol credit permitted by KRS 141.4242;
- 12 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 13 (q) The energy efficiency credits permitted by KRS 141.436;
- 14 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 15 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 16 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 17 (u) The distilled spirits credit permitted by KRS 141.389;
- 18 (v) The angel investor credit permitted by KRS 141.396;
- 19 (w) The film industry credit permitted by KRS 141.383 for applications approved on or
- 20 after April 27, 2018;
- 21 (x) The inventory credit permitted by KRS 141.408; and
- 22 (y) The renewable chemical production credit permitted by KRS 141.4231.
- 23 (2) After the application of the nonrefundable credits in subsection (1) of this section, the
- 24 nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken
- 25 in the following order:
- 26 (a) The individual credits permitted by KRS 141.020(3);
- 27 (b) The credit permitted by KRS 141.066;

- 1 (c) The tuition credit permitted by KRS 141.069;
- 2 (d) The household and dependent care credit permitted by KRS 141.067;~~and~~
- 3 (e) The income gap credit permitted by KRS 141.066; and
- 4 (f) *The remote worker credit permitted by Section 2 of this Act.*
- 5 (3) After the application of the nonrefundable credits provided for in subsection (2) of this
- 6 section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in
- 7 the following order:
- 8 (a) The individual withholding tax credit permitted by KRS 141.350;
- 9 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 10 (c) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
- 11 (d) The film industry tax credit permitted by KRS 141.383 for applications approved
- 12 prior to April 27, 2018.
- 13 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax
- 14 imposed by KRS 141.040.
- 15 (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by
- 16 KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and
- 17 the tax imposed by KRS 141.0401 in the following order:
- 18 (a) The economic development credits computed under KRS 141.347, 141.381, 141.384,
- 19 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-
- 20 2088;
- 21 (b) The qualified farming operation credit permitted by KRS 141.412;
- 22 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 23 (d) The health insurance credit permitted by KRS 141.062;
- 24 (e) The unemployment credit permitted by KRS 141.065;
- 25 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 26 (g) The coal conversion credit permitted by KRS 141.041;
- 27 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending

- 1 prior to January 1, 2008;
- 2 (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-
- 3 263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- 4 (j) The research facilities credit permitted by KRS 141.395;
- 5 (k) The employer High School Equivalency Diploma program incentive credit permitted
- 6 by KRS 151B.402;
- 7 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 8 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 9 (n) The clean coal incentive credit permitted by KRS 141.428;
- 10 (o) The ethanol credit permitted by KRS 141.4242;
- 11 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 12 (q) The energy efficiency credits permitted by KRS 141.436;
- 13 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted
- 14 by KRS 141.437;
- 15 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 16 (t) The railroad expansion credit permitted by KRS 141.386;
- 17 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 18 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 19 (w) The distilled spirits credit permitted by KRS 141.389;
- 20 (x) The film industry credit permitted by KRS 141.383 for applications approved on or
- 21 after April 27, 2018;
- 22 (y) The inventory credit permitted by KRS 141.408; and
- 23 (z) The renewable chemical production tax credit permitted by KRS 141.4231.
- 24 (6) After the application of the nonrefundable credits in subsection (5) of this section, the
- 25 refundable credits shall be taken in the following order:
- 26 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 27 (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and

1 (c) The film industry tax credit permitted by KRS 141.383 for applications approved
2 prior to April 27, 2018.

3 ➔Section 5. Section 1 of this Act takes effect on July 1, 2021."; and

4 By amending the title to read: "AN ACT relating to tax incentives."
5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Senate Members

House Members

Sen. Christian McDaniel, Chair

Rep. Phillip Pratt, Chair

Sen. Damon Thayer

Rep. Jason Petrie

Sen. Jason Howell

Rep. Mark Hart

Sen. Robin Webb

Rep. Angie Hatton

The above-named members, in separate votes by house, all concur in the provisions of this report.

DATE

March 29, 2021

For Clerk's Use:

Adopted: _____

Repassage Vote: _____