

1 AN ACT relating to school choice.

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

3 ➔Section 1. KRS 157.350 is amended to read as follows:

4 Each district which meets the following requirements shall be eligible to share in the
5 distribution of funds from the fund to support education excellence in Kentucky:

- 6 (1) Employs and compensates all teachers for not less than one hundred eighty-five
7 (185) days. The Kentucky Board of Education, upon recommendation of the
8 commissioner of education, shall prescribe procedures by which this requirement
9 may be reduced during any year for any district which employs teachers for less
10 than one hundred and eighty-five (185) days, in which case the eligibility of a
11 district for participation in the public school fund shall be in proportion to the
12 length of time teachers actually are employed;
- 13 (2) Operates all schools for a minimum school term as provided in KRS 158.070 and
14 administrative regulations of the Kentucky Board of Education. If the school term is
15 less than one hundred eighty-five (185) days, including not less than one hundred
16 seventy (170) student attendance days as defined in KRS 158.070 or one thousand
17 sixty-two (1,062) hours of instructional time, for any reason not approved by the
18 Kentucky Board of Education on recommendation of the commissioner, the
19 eligibility of a district for participation in the public school fund shall be in
20 proportion to the length of term the schools actually operate;
- 21 (3) Compensates all teachers on the basis of a single salary schedule and in conformity
22 with the provisions of KRS 157.310 to 157.440;
- 23 (4) Includes no nonresident pupils in its average daily attendance, except:
- 24 (a) 1. **Until July 1, 2022,** pupils listed under a written agreement, which may
25 be for multiple years, with the district of the pupils' legal residence.
- 26 2. If an agreement cannot be reached, either board may appeal to the
27 commissioner for settlement of the dispute.

- 1 3. The commissioner shall have thirty (30) days to resolve the dispute.
 2 Either board may appeal the commissioner's decision to the Kentucky
 3 Board of Education.
 4 4. The commissioner and the Kentucky Board of Education shall consider
 5 the factors affecting the districts, including but not limited to academic
 6 performance and the impact on programs, school facilities,
 7 transportation, and staffing of the districts.
 8 5. The Kentucky Board of Education shall have sixty (60) days to approve
 9 or amend the decision of the commissioner;~~and~~

10 (b) **Beginning July 1, 2022, those nonresident pupils admitted pursuant to**
 11 **district nonresident pupil policies adopted under Section 2 of this Act; and**

12 (c) A nonresident pupil who attends a district in which a parent of the pupil is
 13 employed. All tuition fees required of a nonresident pupil may be waived for a
 14 pupil who meets the requirements of this paragraph.

15 This subsection does not apply to those pupils enrolled in an approved class
 16 conducted in a hospital and pupils who have been expelled for behavioral reasons
 17 who shall be counted in average daily attendance under KRS 157.320;

18 (5) Any secondary school which maintains a basketball team for boys for other than
 19 intramural purposes, shall maintain the same program for girls;

20 (6) Any school district which fails to comply with subsection (5) of this section shall be
 21 prohibited from participating in varsity competition in any sport for one (1) year.
 22 Determination of failure to comply shall be made by the Department of Education
 23 after a hearing requested by any person within the school district. The hearing shall
 24 be conducted in accordance with KRS Chapter 13B. A district under this subsection
 25 shall, at the hearing, have an opportunity to show inability to comply.

26 ➔Section 2. KRS 158.120 is amended to read as follows:

27 (1) **By July 1, 2022, a board of education shall adopt a nonresident pupil policy to**

1 *govern the terms under which the district shall allow enrollment of nonresident*
2 *pupils. Upon allowing nonresident pupil enrollment, the policy shall allow*
3 *nonresident children to be eligible to enroll in any public school located within*
4 *the district. The policy shall not discriminate between nonresident pupils, but may*
5 *recognize enrollment capacity.*

6 **(2)** Any board of education may charge a reasonable tuition fee per month for each
7 child attending its schools whose parent, guardian, or other legal custodian is not a
8 bona fide resident of the district. Any controversy as to the fee shall be submitted to
9 the Kentucky Board of Education for final settlement. The fee shall be paid by the
10 board of education of the school district in which the pupil resides, except in cases
11 where the board makes provision for the child's education within his district. If a
12 board of education is required to pay a pupil's tuition fee, the pupil shall be admitted
13 to a school only upon proper certificate of the board of education of the district in
14 which he resides.

15 **~~(3)~~~~(2)~~** When it appears to the board of education of any school district that it is
16 convenient for a pupil of any grade residing in that district to attend an approved
17 public school in another district, the board of education may enter into a tuition
18 contract with the public school authorities of the other school district for that
19 purpose, but before a contract is entered into with public school authorities in
20 another state the school shall have been approved by the state school authorities of
21 that state through the grades in which the pupil belongs. When a district undertakes,
22 under operation of a tuition contract or of law, to provide in its school for pupils
23 residing in another district, the district of their residence shall share the total cost of
24 the school, including transportation when furnished at public expense, in proportion
25 to the number of pupils or in accordance with contract agreement between the two
26 (2) boards.

27 ➔Section 3. KRS 156.070 is amended to read as follows:

- 1 (1) The Kentucky Board of Education shall have the management and control of the
2 common schools and all programs operated in these schools, including
3 interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for
4 the Blind, and community education programs and services.
- 5 (2) The Kentucky Board of Education may designate an organization or agency to
6 manage interscholastic athletics in the common schools, provided that the rules,
7 regulations, and bylaws of any organization or agency so designated shall be
8 approved by the board, and provided further that any administrative hearing
9 conducted by the designated managing organization or agency shall be conducted in
10 accordance with KRS Chapter 13B.
- 11 (a) The state board or its designated agency shall assure through promulgation of
12 administrative regulations that if a secondary school sponsors or intends to
13 sponsor an athletic activity or sport that is similar to a sport for which
14 National Collegiate Athletic Association members offer an athletic
15 scholarship, the school shall sponsor the athletic activity or sport for which a
16 scholarship is offered. The administrative regulations shall specify which
17 athletic activities are similar to sports for which National Collegiate Athletic
18 Association members offer scholarships.
- 19 (b) Beginning with the 2003-2004 school year, the state board shall require any
20 agency or organization designated by the state board to manage interscholastic
21 athletics to adopt bylaws that establish as members of the agency's or
22 organization's board of control one (1) representative of nonpublic member
23 schools who is elected by the nonpublic school members of the agency or
24 organization from regions one (1) through eight (8) and one (1) representative
25 of nonpublic member schools who is elected by the nonpublic member
26 schools of the agency or organization from regions nine (9) through sixteen
27 (16). The nonpublic school representatives on the board of control shall not be

1 from classification A1 or D1 schools. Following initial election of these
2 nonpublic school representatives to the agency's or organization's board of
3 control, terms of the nonpublic school representatives shall be staggered so
4 that only one (1) nonpublic school member is elected in each even-numbered
5 year.

6 (c) The state board or any agency designated by the state board to manage
7 interscholastic athletics shall not promulgate rules, administrative regulations,
8 or bylaws that prohibit pupils in grades seven (7) to eight (8) from
9 participating in any high school sports except for high school varsity soccer
10 and football, or from participating on more than one (1) school-sponsored
11 team at the same time in the same sport. The Kentucky Board of Education, or
12 an agency designated by the board to manage interscholastic athletics, may
13 promulgate administrative regulations restricting, limiting, or prohibiting
14 participation in high school varsity soccer and football for students who have
15 not successfully completed the eighth grade.

16 (d) 1. The state board or any agency designated by the state board to manage
17 interscholastic athletics shall allow a member school's team or students
18 to play against students of a non-member at-home private school, or a
19 team of students from non-member at-home private schools, if the non-
20 member at-home private schools and students comply with this
21 subsection.

22 2. A non-member at-home private school's team and students shall comply
23 with the rules for student athletes, including rules concerning:

- 24 a. Age;
- 25 b. School semesters;
- 26 c. Scholarships;
- 27 d. Physical exams;

- 1 e. Foreign student eligibility; and
- 2 f. Amateurs.
- 3 3. A coach of a non-member at-home private school's team shall comply
- 4 with the rules concerning certification of member school coaches as
- 5 required by the state board or any agency designated by the state board
- 6 to manage interscholastic athletics.
- 7 4. This subsection shall not allow a non-member at-home private school's
- 8 team to participate in a sanctioned:
- 9 a. Conference;
- 10 b. Conference tournament;
- 11 c. District tournament;
- 12 d. Regional tournament; or
- 13 e. State tournament or event.
- 14 5. This subsection does not allow eligibility for a recognition, award, or
- 15 championship sponsored by the state board or any agency designated by
- 16 the state board to manage interscholastic athletics.
- 17 6. A non-member at-home private school's team or students may
- 18 participate in interscholastic athletics permitted, offered, or sponsored by
- 19 the state board or any agency designated by the state board to manage
- 20 interscholastic athletics.
- 21 (e) Every local board of education shall require an annual medical examination
- 22 performed and signed by a physician, physician assistant, advanced practice
- 23 registered nurse, or chiropractor, if performed within the professional's scope
- 24 of practice, for each student seeking eligibility to participate in any school
- 25 athletic activity or sport. The Kentucky Board of Education or any
- 26 organization or agency designated by the state board to manage interscholastic
- 27 athletics shall not promulgate administrative regulations or adopt any policies

1 or bylaws that are contrary to the provisions of this paragraph.

2 (f) Any student who turns nineteen (19) years of age prior to August 1 shall not
3 be eligible for high school athletics in Kentucky. Any student who turns
4 nineteen (19) years of age on or after August 1 shall remain eligible for that
5 school year only. An exception to the provisions of this paragraph shall be
6 made, and the student shall be eligible for high school athletics in Kentucky if
7 the student:

- 8 1. Qualified for exceptional children services and had an individual
9 education program developed by an admissions and release committee
10 (ARC) while the student was enrolled in the primary school program;
- 11 2. Was retained in the primary school program because of an ARC
12 committee recommendation; and
- 13 3. Has not completed four (4) consecutive years or eight (8) consecutive
14 semesters of eligibility following initial promotion from grade eight (8)
15 to grade nine (9).

16 (g) 1. The state board or any agency designated by the state board to manage
17 interscholastic athletics shall promulgate administrative regulations that
18 permit a school district to employ or assign nonteaching or noncertified
19 personnel or personnel without postsecondary education credit hours to
20 serve in a coaching position. The administrative regulations shall give
21 preference to the hiring or assignment of certified personnel in coaching
22 positions.

23 2. A person employed in a coaching position shall be a high school
24 graduate and at least twenty-one (21) years of age and shall submit to a
25 criminal background check in accordance with KRS 160.380.

26 3. The administrative regulations shall specify post-hire requirements for
27 persons employed in coaching positions.

1 4. The regulations shall permit a predetermined number of hours of
2 professional development training approved by the state board or its
3 designated agency to be used in lieu of postsecondary education credit
4 hour requirements.

5 5. A local school board may specify post-hire requirements for personnel
6 employed in coaching positions in addition to those specified in
7 subparagraph 3. of this paragraph.

8 **(h) Any student who transfers enrollment from a district of residence to a**
9 **nonresident district under subsection (4)(b) of Section 1 of this Act shall be**
10 **ineligible to participate in interscholastic athletics for one (1) calendar year**
11 **from the date of the transfer.**

12 (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State
13 Property and Buildings Commission, or others, whether public or private, any
14 lands, buildings, structures, installations, and facilities suitable for use in
15 establishing and furthering television and related facilities as an aid or
16 supplement to classroom instruction, throughout the Commonwealth, and for
17 incidental use in any other proper public functions. The lease may be for any
18 initial term commencing with the date of the lease and ending with the next
19 ensuing June 30, which is the close of the then-current fiscal biennium of the
20 Commonwealth, with exclusive options in favor of the board to renew the
21 same for successive ensuing bienniums, July 1 in each even year to June 30 in
22 the next ensuing even year; and the rentals may be fixed at the sums in each
23 biennium, if renewed, sufficient to enable the State Property and Buildings
24 Commission to pay therefrom the maturing principal of and interest on, and
25 provide reserves for, any revenue bonds which the State Property and
26 Buildings Commission may determine to be necessary and sufficient, in
27 agreement with the board, to provide the cost of acquiring the television and

1 related facilities, with appurtenances, and costs as may be incident to the
2 issuance of the bonds.

3 (b) Each option of the Kentucky Board of Education to renew the lease for a
4 succeeding biennial term may be exercised at any time after the adjournment
5 of the session of the General Assembly at which appropriations shall have
6 been made for the operation of the state government for such succeeding
7 biennial term, by notifying the State Property and Buildings Commission in
8 writing, signed by the chief state school officer, and delivered to the secretary
9 of the Finance and Administration Cabinet as a member of the commission.
10 The option shall be deemed automatically exercised, and the lease
11 automatically renewed for the succeeding biennium, effective on the first day
12 thereof, unless a written notice of the board's election not to renew shall have
13 been delivered in the office of the secretary of the Finance and Administration
14 Cabinet before the close of business on the last working day in April
15 immediately preceding the beginning of the succeeding biennium.

16 (c) The Kentucky Board of Education shall not itself operate leased television
17 facilities, or undertake the preparation of the educational presentations or
18 films to be transmitted thereby, but may enter into one (1) or more contracts to
19 provide therefor, with any public agency and instrumentality of the
20 Commonwealth having, or able to provide, a staff with proper technical
21 qualifications, upon which agency and instrumentality the board, through the
22 chief state school officer and the Department of Education, is represented in
23 such manner as to coordinate matters of curriculum with the curricula
24 prescribed for the public schools of the Commonwealth. Any contract for the
25 operation of the leased television or related facilities may permit limited and
26 special uses of the television or related facilities for other programs in the
27 public interest, subject to the reasonable terms and conditions as the board and

1 the operating agency and instrumentality may agree upon; but any contract
2 shall affirmatively forbid the use of the television or related facilities, at any
3 time or in any manner, in the dissemination of political propaganda or in
4 furtherance of the interest of any political party or candidate for public office,
5 or for commercial advertising. No lease between the board and the State
6 Property and Buildings Commission shall bind the board to pay rentals for
7 more than one (1) fiscal biennium at a time, subject to the aforesaid renewal
8 options. The board may receive and may apply to rental payments under any
9 lease and to the cost of providing for the operation of the television or related
10 facilities not only appropriations which may be made to it from state funds,
11 from time to time, but also contributions, gifts, matching funds, devises, and
12 bequests from any source, whether federal or state, and whether public or
13 private, so long as the same are not conditioned upon any improper use of the
14 television or related facilities in a manner inconsistent with the provisions of
15 this subsection.

16 (4) The state board may, on the recommendation and with the advice of the chief state
17 school officer, prescribe, print, publish, and distribute at public expense such
18 administrative regulations, courses of study, curriculums, bulletins, programs,
19 outlines, reports, and placards as each deems necessary for the efficient
20 management, control, and operation of the schools and programs under its
21 jurisdiction. All administrative regulations published or distributed by the board
22 shall be enclosed in a booklet or binder on which the words "informational copy"
23 shall be clearly stamped or printed.

24 (5) Upon the recommendation of the chief state school officer or his designee, the state
25 board shall establish policy or act on all matters relating to programs, services,
26 publications, capital construction and facility renovation, equipment, litigation,
27 contracts, budgets, and all other matters which are the administrative responsibility

1 of the Department of Education.

2 ➔Section 4. By November 1, 2021, the Kentucky Department of Education shall
3 submit a report to the Legislative Research Commission and the School Funding Task
4 Force established in Section 5 of this Act with options on how to ensure the equitable
5 transfer of education funds so that funds follow a nonresident student to a school district
6 of enrollment from a school district of residence. The report shall include
7 recommendations on how the amount should be calculated and what mechanism should
8 be used to conduct the transfer.

9 ➔Section 5. (1) The Legislative Research Commission is hereby directed to
10 establish the School Funding Task Force to:

11 (a) Review the entirety of the current of K-12 funding mechanism, including but
12 not limited to the fund for the Support Education Excellence in Kentucky (SEEK)
13 program, other state funds directed for the operation of the state's public school system,
14 local revenues raised by school districts, and federal funds;

15 (b) Review publications, reports, and analyses of the current funding mechanism,
16 including but not limited to a report from the Office of Education Accountability on the
17 SEEK fund that was approved in the office's 2021 research agenda;

18 (c) Review the report from the Kentucky Department of Education submitted
19 under Section 4 of this Act;

20 (d) Review how Kentucky's school funding mechanism compares with
21 mechanisms developed by other states; and

22 (e) Develop and submit any recommendations and changes the task force may
23 adopt relating to the SEEK fund to ensure the equitable and efficient funding of
24 Kentucky's common schools to the Legislative Research Commission by December 1,
25 2021.

26 (2) The School Funding Task Force shall be composed of the following members,
27 with final membership of the task force being subject to the consideration and approval of

1 the Legislative Research Commission:

2 (a) Two members of the House of Representatives to be appointed by the Speaker
3 of the House, one of whom shall be designated to serve as co-chair;

4 (b) Two members of the Senate to be appointed by the President of the Senate,
5 one of whom shall be designated to serve as co-chair;

6 (c) One member of the House of Representatives to be appointed by the Minority
7 Floor Leader of the House;

8 (d) One member of the Senate to be appointed by the Minority Floor Leader of
9 the Senate;

10 (e) The commissioner of the Kentucky Department of Education or designee;

11 (f) Three school superintendents, one of whom shall be superintendent of an
12 independent school district, submitted by the president of the Kentucky Association of
13 School Superintendents; and

14 (g) Three local school board members, submitted by the executive director of the
15 Kentucky School Boards Association.

16 (3) Provisions of this section to the contrary notwithstanding, the Legislative
17 Research Commission shall have the authority to alternatively assign the issues identified
18 herein to an interim joint committee or subcommittee thereof, and to designate a study
19 completion date.

20 ➔Section 6. Section 5 of this Act shall have the same legal status as a House
21 Concurrent Resolution.

22 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
23 READ AS FOLLOWS:

24 **There is hereby established the Education Opportunity Account Program, also known**
25 **as the EOA program. The purpose of the EOA program is to give more flexibility and**
26 **choices in education to Kentucky residents and to address disparities in educational**
27 **options available to students.**

1 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
2 READ AS FOLLOWS:

3 *As used in Sections 7 to 21 of this Act:*

4 *(1) "Account-granting organization" or "AGO" means a nonprofit organization*
5 *that complies with the requirements of Sections 7 to 21 of this Act and:*

6 *(a) Receives contributions, allocates funds, and administers EOAs; or*

7 *(b) Is an intermediary organization;*

8 *(2) "Contribution" means a donation in the form of cash or marketable securities*
9 *that is eligible for the tax credit permitted by Section 18 of this Act;*

10 *(3) "Curriculum" means a complete course of study for a particular content area or*
11 *grade level;*

12 *(4) "Education opportunity account" or "EOA" means the account to which funds*
13 *are allocated by an AGO to the parent of an EOA student in order to pay for*
14 *expenses to educate the EOA student pursuant to the requirements of Sections 7*
15 *to 21 of this Act;*

16 *(5) "Education service provider" means a person or organization that receives*
17 *payments from an EOA to provide educational materials and services to EOA*
18 *students;*

19 *(6) "Eligible student" means a resident of Kentucky who:*

20 *(a) Is a member of a household with an annual household income at the time*
21 *of initially applying for an EOA from an AGO under this section of not*
22 *more than one hundred seventy-five percent (175%) of the amount of*
23 *household income necessary to establish eligibility for reduced-price meals*
24 *based on size of household as determined annually by the United States*
25 *Department of Agriculture applicable to the Commonwealth, pursuant to 42*
26 *U.S.C. secs. 1751 to 1789;*

27 *(b) Has previously received an EOA from an AGO under this section; or*

1 (c) Is a member of the household of an eligible student that currently has an
 2 EOA from an AGO under this section;

3 (7) "Eligible taxpayer" means an individual or business, including but not limited to
 4 a corporation, S corporation, partnership, limited liability company, or sole
 5 proprietorship subject to tax imposed under KRS 141.020, 141.040, or 141.0401;

6 (8) "EOA student" means an eligible student who is participating in the EOA
 7 program;

8 (9) "Income" has the same meaning as in the United States Department of
 9 Agriculture, Food and Nutrition Service, Child Nutrition Programs, Income
 10 Eligibility Guidelines, Federal Register Vol. 83, No. 89, published May 8, 2018,
 11 and as updated annually as authorized by 42 U.S.C. sec. 1758(b)(1)(A);

12 (10) "Intermediary organization" means a nonprofit organization that complies with
 13 the requirements of Sections 7 to 21 of this Act and receives contributions to fund
 14 AGOs; and

15 (11) "Parent" means a biological or adoptive parent, legal guardian, custodian, or
 16 other person with legal authority to act on behalf of an EOA student.

17 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 18 READ AS FOLLOWS:

19 (1) Each AGO shall create a uniform process for determining the amount allocated
 20 to each eligible student's EOA with the following limitations:

21 (a) For eligible students that intend to use the funds in the EOA to pay tuition
 22 at a public school outside of their assigned district public school system, the
 23 EOA funds shall not exceed the lesser of:

24 1. Their parents' demonstrated financial need as determined by an
 25 independent financial analysis performed by an organization that is:

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

27 b. Included on the department's list of approved organizations as

- 1 required by subsection (2)(a) of Section 14 of this Act; or
- 2 2. The actual amount of tuition and required fees charged by the school
3 to students who do not receive assistance under this program;
- 4 (b) For all other eligible students, the EOA funds shall not exceed the lesser of:
- 5 1. The expected cost of educational services to be provided during the
6 succeeding school year; or
- 7 2. The Commonwealth's guaranteed SEEK base amount for the
8 immediately preceding school year reduced by the percentage equal to
9 one-fourth (1/4) of the percentage by which the applicant's household
10 income exceeds the applicable federal reduced lunch household
11 income threshold; and
- 12 (c) For students in the foster care system, the AGO shall assume that the
13 student's parents have no income or ability to pay for educational services
14 for the purposes of prioritizing the students and determining the amount of
15 assistance provided under this program.
- 16 (2) The funds in an EOA shall not be used for athletics or any associated fees and
17 shall only be used to pay for the following qualifying expenses if covered by the
18 AGO and incurred for the purpose of educating an EOA student:
- 19 (a) Tuition or fees to attend a prekindergarten to grade twelve (12) public
20 school;
- 21 (b) Tuition or fees for online learning programs;
- 22 (c) Tutoring services provided by an individual or a tutoring facility;
- 23 (d) Services contracted for and provided by a public school, including but not
24 limited to individual classes and extracurricular activities and programs;
- 25 (e) Textbooks, curriculum, or other instructional materials, including but not
26 limited to any supplemental materials or associated online instruction
27 required by either a curriculum or an education service provider;

- 1 (f) Computer hardware or other technological devices that are primarily used
2 to help meet an EOA student's educational needs;
- 3 (g) Educational software and applications;
- 4 (h) School uniforms;
- 5 (i) Fees for nationally standardized assessments, advanced placement
6 examinations, examinations related to college or university admission, and
7 tuition or fees for preparatory courses for these;
- 8 (j) Tuition or fees for summer education programs and specialized after-school
9 education programs, excluding after-school childcare;
- 10 (k) Tuition, fees, instructional materials, and examination fees at a career or
11 technical school;
- 12 (l) Educational services and therapies, including but not limited to
13 occupational, behavioral, physical, speech-language, and audiology
14 therapies provided by a licensed professional;
- 15 (m) Tuition and fees at an institution of higher education for dual credit
16 courses; and
- 17 (n) Fees for transportation paid to a fee-for-service transportation provider for
18 the student to travel to and from an education service provider.
- 19 (3) EOA funds shall not be refunded, rebated, or shared with a parent or EOA
20 student in any manner. Any refund or rebate for materials or services purchased
21 with EOA funds shall be credited directly to the student's EOA.
- 22 (4) Parents may make payments for the costs of educational materials and services
23 not covered by the funds in their student's EOA, but personal deposits into an
24 EOA shall not be permitted.
- 25 (5) Funds allocated to an EOA shall not constitute taxable income to the parent or
26 the EOA student.
- 27 (6) (a) An EOA shall remain in force, unless the EOA is closed because of a

1 substantial misuse of funds, and any unused funds shall roll over from
2 quarter to quarter and from year to year until:

3 1. The parent withdraws the EOA student from the EOA program;

4 2. The EOA student receives a high school diploma or equivalency
5 certificate; or

6 3. The end of the school year in which the student reaches twenty-one
7 (21) years of age;

8 whichever occurs first.

9 (b) When an EOA is closed, any unused funds shall revert to the AGO that
10 granted the EOA and be allocated by that AGO to fund other EOAs. If the
11 AGO that granted the EOA is no longer operating, the funds shall be
12 transferred to another AGO operating in good standing with the
13 Commonwealth.

14 (7) An AGO shall first prioritize funding EOAs for students, their siblings, and foster
15 children living in the same household who received an EOA in the previous
16 academic year and then to first-time applicants in accordance with subsection (8)
17 of this section.

18 (8) For first-time applicants, an AGO shall prioritize awarding EOAs to the
19 applicants as follows:

20 (a) A majority of funds available for first-time applicants shall be reserved for
21 students whose household income does not exceed that necessary to
22 establish eligibility for reduced-price meals based on size of household as
23 determined annually by the United States Department of Agriculture
24 applicable to the Commonwealth, pursuant to 42 U.S.C. secs. 1751 to 1789.
25 Within in this group of applicants, the funds shall be further prioritized to
26 fund EOAs in the order of the applicants with the most demonstrated
27 financial need; and

1 **(b) The remaining unfunded first-time applicants shall be selected for funding**
2 **based on a random lottery until all remaining funds are allocated to EOAs.**

3 **(9) An AGO may define and limit the services that the EOA funds may cover.**

4 **(10) An AGO shall not accept a contribution from an eligible taxpayer if the eligible**
5 **taxpayer designates that the contribution shall be used to award an EOA to a**
6 **particular student.**

7 **(11) Dependents of the AGO's board of directors, its staff, and its donors are ineligible**
8 **to receive an EOA.**

9 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
10 READ AS FOLLOWS:

11 **(1) To establish an EOA for an eligible student, the parent shall submit an**
12 **application to an AGO.**

13 **(2) The AGO shall approve an application for an EOA if:**

14 **(a) An AGO verifies that the student on whose behalf the parent is applying is**
15 **an eligible student;**

16 **(b) Funds are available for the EOA; and**

17 **(c) The parent signs an agreement with the AGO:**

18 **1. To use the funds in the EOA only for the covered qualifying expenses;**

19 **2. Not to establish any other EOA for the eligible student with any other**
20 **AGO;**

21 **3. To comply with the rules and requirements of the EOA program; and**

22 **4. Not to use EOA funds to cover the cost of educational materials or**
23 **services if they are currently receiving the same types of materials or**
24 **services through their assigned public school district.**

25 **(3) The AGO shall annually renew a student's EOA if funds are available unless the**
26 **student's family income has increased above two hundred fifty percent (250%) of**
27 **the amount of household income necessary to establish eligibility for reduced-**

1 price meals based on size of household as determined annually by the United
 2 States Department of Agriculture applicable to the Commonwealth, pursuant to
 3 42 U.S.C. secs. 1751 to 1789.

4 (4) In the event that an eligible student becomes ineligible for reasons other than
 5 fraud or misuse of funds, the AGO may cease funding for the student's EOA
 6 provided that:

7 (a) The AGO immediately suspends payment of additional funds into the
 8 student's EOA. For EOAs that have been open for at least one (1) full
 9 school year, the EOA shall remain open and active for the parent to make
 10 qualifying expenditures to educate the student from funds remaining in the
 11 EOA. When no funds remain in the student's EOA, the AGO may close the
 12 EOA;

13 (b) If a parent reapplies to the AGO and signs a new written agreement,
 14 payments into the student's existing EOA may resume if the EOA is still
 15 open and active. A new EOA may be established if the student's EOA was
 16 closed; and

17 (c) An AGO shall adopt policies to provide the least disruptive process possible
 18 for EOA students desiring to leave the EOA program.

19 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) Prior to making a contribution to an AGO, the taxpayer or an AGO acting on
 22 behalf of the taxpayer shall apply to the department for preapproval of the tax
 23 credit permitted by Section 18 of this Act in a manner prescribed by the
 24 department. Each application shall be submitted separately and shall provide the
 25 total amount of proposed contributions and the year or years in which the
 26 contributions will be made, whether the proposed contributions will be in the
 27 form of cash or marketable securities, and the name of the AGO to which the

1 contributions will be made.

2 (2) Subject to the annual tax credit cap established by Section 18 of this Act, the
3 department shall preliminarily approve the amount of tax credit within ten (10)
4 business days of receipt of the application and shall notify the taxpayer and the
5 AGO. The notification shall include the amount of the tax credit preliminarily
6 approved, the name of the AGO to which contributions may be made, and any
7 other information the department deems necessary.

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

14 (4) (a) The taxpayer shall make the preapproved contribution to the AGO no later
15 than the earlier of:

16 1. Fifteen (15) business days following the date of the department's
17 preapproval notice, excluding weekends and holidays; or

18 2. June 30 of the fiscal year of the preapproval.

19 (b) If the preapproved contribution is in the form of marketable securities, the
20 AGO shall monetize the securities within five (5) business days of receipt,
21 excluding weekends and holidays, and notify the department within ten (10)
22 business days of the monetization of the securities. If the monetized value of
23 the marketable securities is less than the amount of the proposed
24 contribution reflected on the application, the taxpayer shall supplement the
25 contribution with additional cash to equal the amount of contribution
26 reflected on the application. The taxpayer shall not receive preapproval for
27 a tax credit in excess of the amount of proposed contribution reflected on

1 the application form.

2 (5) (a) The AGO shall certify to the department the name of the taxpayer, amount
3 of the contribution made, and the date on which the contribution was made
4 within ten (10) days of when the contribution has been made.

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

10 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) An organization that seeks to become an AGO shall apply for initial certification
13 or renewal of certification from the department.

14 (2) An application for initial certification as an AGO shall include:

15 (a) A copy of the AGO's incorporation documents;

16 (b) A copy of the AGO's Internal Revenue Service determination letter as a
17 Section 501(c)(3) not-for-profit organization;

18 (c) A description of the methodology the AGO will use to evaluate whether a
19 student is eligible to establish an EOA;

20 (d) A description of the application process the AGO will use for parents and
21 eligible students;

22 (e) A description of the methodology the AGO will use to establish, fund, and
23 manage EOAs;

24 (f) A description of the process the AGO will use to approve education service
25 providers;

26 (g) A description of how the AGO will inform parents of approved education
27 service providers; and

1 (h) A description of the AGO's procedures for crediting refunds from an
2 education service provider back to a student's EOA.

3 (3) An application for renewal of certification as an AGO shall include:

4 (a) The AGO's completed Internal Revenue Service Form 990, submitted no
5 later than November 30 of the year before the academic year that the AGO
6 intends to fund EOAs;

7 (b) A copy of any audit that may be required by the department; and

8 (c) 1. An annual report that includes:

9 a. The number of applications the AGO received during the
10 previous academic year, by county and by grade level;

11 b. The name and address of all students that received EOA funds
12 from the AGO during the previous academic year;

13 c. When the AGO is an intermediary organization, the name and
14 address of all AGOs that received funds from the intermediary
15 organization during the last fiscal year;

16 d. The total number of EOAs the AGO maintains;

17 e. The amount of funds the AGO:

18 i.. Received to fund EOAs during the last fiscal year;

19 ii. Distributed into EOAs during the last fiscal year;

20 iii. Has remaining after the distribution into EOAs and any
21 obligations to fund EOAs in the future;

22 iv. Spent on administrative expenses and an accounting
23 thereof during the last fiscal year; and

24 v. Spent on fees to private financial management firms or
25 other organizations to maintain records and process
26 transactions of the EOAs;

27 f. When the AGO is an intermediary organization, the amount of

- 1 *funds the intermediary organization:*
- 2 *i. Received to distribute to AGOs during the last fiscal year;*
- 3 *ii. Distributed to each AGO during the last fiscal year;*
- 4 *iii. Has remaining after the distribution into AGOs and any*
- 5 *obligations to distribute to AGOs in the future;*
- 6 *iv. Spent on administrative expenses and an accounting*
- 7 *thereof during the last fiscal year; and*
- 8 *v. Spent on fees to private financial management firms or*
- 9 *other organizations to maintain records and process*
- 10 *transactions;*
- 11 *g. A list of the AGO's approved education service providers; and*
- 12 *h. A description of how the AGO has complied with the operational*
- 13 *requirements and responsibilities of Sections 7 to 21 of this Act.*
- 14 *2. The annual report shall also:*
- 15 *a. Comply with uniform financial accounting standards;*
- 16 *b. Be attested to by an independent certified public accountant in*
- 17 *accordance with procedures promulgated by the department; and*
- 18 *c. Be free of material misstatements or exceptions.*
- 19 *(4) The department shall only certify an AGO or renew an AGO's certification if the*
- 20 *organization meets the requirements established by Sections 7 to 21 of this Act.*
- 21 *The department shall issue initial certifications within sixty (60) days of receiving*
- 22 *the application and renew certifications within thirty (30) days of receiving the*
- 23 *application.*
- 24 *(5) Upon application for renewal, an AGO shall demonstrate that:*
- 25 *(a) It is an intermediary organization that collects contributions exclusively for*
- 26 *the use by AGOs; or*
- 27 *(b) It includes two (2) or more education service providers in its EOA program*

1 and has awarded at least fifty (50) EOAs aggregating a minimum of two
2 hundred thousand dollars (\$200,000) in the previous year and is expected to
3 award at least fifty (50) EOAs aggregating a minimum of two hundred
4 thousand dollars (\$200,000) in the succeeding year.

5 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
6 READ AS FOLLOWS:

- 7 (1) An AGO shall ensure that at least ninety percent (90%) of the total annual
8 contributions received are allocated to EOAs no later than the last day of the
9 AGO's immediately succeeding calendar year or fiscal year, as applicable, unless
10 the current year's total annual contributions received by the AGO exceed an
11 amount equal to the average of the total annual contributions received in the
12 immediately preceding three (3) years by more than fifteen percent (15%), in
13 which case the excess amount may be carried forward and expended for EOAs in
14 three (3) equal installments over the immediately succeeding three (3) years.
- 15 (2) An AGO shall maintain separate accounts for EOA funds and operating funds.
- 16 (3) Any interest that accrues from contributions that are eligible for the tax credit
17 permitted by Section 18 of this Act shall be allocated by the AGO to fund EOAs.
- 18 (4) An AGO shall create a standard application process for parents to establish their
19 student's eligibility for an EOA. An AGO shall ensure that the application is
20 readily available to interested families and may be submitted through various
21 sources, including the Internet.
- 22 (5) An AGO shall provide parents with a written explanation of the allowable uses of
23 EOA funds, the responsibilities of parents, and the duties of the AGO and the role
24 of any private financial management firms or other organizations that the AGO
25 may contract with to process EOA transactions or maintain records for other
26 aspects of the EOA program.
- 27 (6) (a) An AGO may transfer funds to another AGO if additional funds are

1 required to meet EOA demands at the receiving AGO or if the transferring
2 AGO determines it cannot continue to operate due to any reason.

3 (b) If funds are transferred for the purpose of meeting EOA demands, no more
4 than a combined aggregate of ten percent (10%) of the AGOs' total annual
5 contributions received may be retained by the AGOs for administrative
6 expenses.

7 (c) All transferred funds shall be allocated by the receiving AGO to its account
8 for EOAs.

9 (d) All transferred amounts received by an AGO shall be separately disclosed in
10 the receiving AGO's annual report for certification renewal pursuant to
11 Section 12 of this Act.

12 (e) An AGO that receives a transfer of funds from an AGO that has determined
13 it will not continue to operate shall agree to fund the EOAs established by
14 the transferring AGO to the extent funds are available. The receiving AGO
15 shall also prioritize the funding of transferred EOAs before funding new
16 EOA applicants.

17 (7) An AGO may accept donations that are not eligible for the tax credit permitted by
18 Section 18 of this Act, gifts, and grants to cover administrative costs, to inform
19 the public about the EOA program, to fund additional EOAs or to offer
20 assistance outside of the EOA program. Donations that are not eligible for the tax
21 credit permitted by Section 18 of this Act shall not be subject to Sections 7 to 21
22 of this Act.

23 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) To administer the tax credit and the total annual tax credit cap established in
26 Section 18 of this Act, the department shall:

27 (a) Create the tax credit application form, the forms to be used by the

1 department to notify the taxpayer and the AGO of preapproval or denial of
2 the credit, and the educational materials to be distributed by the AGO;

3 (b) Create a Web site listing the amount of the total credit pending verification,
4 the amount of the total credit allocated to date, and the remaining credit
5 available to taxpayers making contributions to AGOs;

6 (c) Notify the taxpayer and the AGO of the amount of credit allocated to the
7 taxpayer upon certification that the contribution has been made by the
8 issuance of a tax credit allocation letter, which the taxpayer shall submit
9 with the taxpayer's return when claiming the credit; and

10 (d) Collect necessary data to provide the report required by subsection (3) of
11 this section.

12 (2) On or before January 1 of each year, the department shall publish on its Web
13 site:

14 (a) A list of organizations that have been approved by the department to
15 perform independent financial analyses of parents' demonstrated financial
16 needs; and

17 (b) A list of AGOs.

18 1. If an AGO fails to meet the requirements of this section, the
19 department shall not include the organization on the list of AGOs the
20 following calendar year.

21 2. Only contributions to AGOs on the list maintained by the department
22 for each calendar year shall be recognized for tax credits awarded
23 under Section 18 of this Act.

24 (3) The department shall produce and publish on its Web site an annual report that
25 aggregates the data obtained from the annual reports submitted by AGOs for the
26 renewal of their certification pursuant to Section 12 of this Act. The department's
27 report shall not include any identifying information of EOA students or AGOs

1 that would violate the confidentiality requirements in subsection (1) of Section 23
2 of this Act.

3 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The department may conduct an audit of an AGO or contract for the auditing of
6 an AGO.

7 (2) (a) In the event that the department determines that there has been a violation
8 of Sections 7 to 21 of this Act by an AGO, the department shall send written
9 notice to the AGO.

10 (b) The AGO that receives written notice of a violation will have sixty (60) days
11 from receipt of notice to correct the violation identified by the department.

12 (c) If the AGO fails or refuses to comply after sixty (60) days, the department
13 may revoke the AGO's certification to participate in the EOA program.

14 (3) An AGO whose certificate has been revoked under this section:

15 (a) May appeal the revocation of its certification to the Kentucky Claims
16 Commission pursuant to KRS 49.220;

17 (b) Shall continue administering EOAs that were donated prior to the date of
18 notice stated on the revocation;

19 (c) Shall not accept any further contributions for the purpose of funding EOAs
20 on or after the date of notice stated on the revocation; and

21 (d) Shall refund any contributions that were received for the purpose of
22 funding EOAs on or after the date of notice stated on the revocation.

23 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) (a) Each AGO shall implement a commercially viable, cost-effective, and
26 parent-friendly system for payment of services from EOAs to education
27 service providers.

1 **(b) The AGO shall not adopt a system that relies exclusively on requiring**
2 **parents to be reimbursed for out-of-pocket expenses, but shall provide**
3 **maximum flexibility to parents by facilitating direct payments to education**
4 **service providers or requests for preapproval of and reimbursements for**
5 **qualifying expenses.**

6 **(c) An AGO may contract with private financial management firms or other**
7 **organizations to develop the payment system.**

8 **(2) An AGO may contract with private financial management firms or other**
9 **organizations to maintain records and process transactions of the EOAs.**

10 **(3) If funding is available, an AGO shall continue making payments into an EOA**
11 **until:**

12 **(a) The parent does not renew the EOA;**

13 **(b) The AGO determines that the EOA student's family income has increased**
14 **above two hundred fifty percent (250%) of the amount of household income**
15 **necessary to establish eligibility for reduced-price meals based on size of**
16 **household as determined annually by the United States Department of**
17 **Agriculture applicable to the Commonwealth, pursuant to 42 U.S.C. secs.**
18 **1751 to 1789;**

19 **(c) The AGO determines that there was substantial misuse of the funds in the**
20 **EOA; or**

21 **(d) The EOA student receives a high school diploma or equivalency certificate.**

22 **(4) Each AGO shall establish a process for approving education service providers.**

23 **(5) An AGO may approve education service providers on their own initiative, at the**
24 **request of parents, or upon request from prospective education service providers.**

25 **➔SECTION 17. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO**
26 **READ AS FOLLOWS:**

27 **(1) Nothing in Sections 7 to 21 of this Act shall be deemed to limit the independence**

1 or autonomy of an education service provider or to make the actions of an
2 education service provider the actions of the state government.

3 (2) Nothing in Sections 7 to 21 of this Act shall be construed to expand the
4 regulatory authority of the state, its officers, or any county school district to
5 impose any additional regulation of education service providers beyond those
6 necessary to enforce the requirements of the EOA Program.

7 (3) An education service provider that accepts payment from an EOA pursuant to
8 Sections 7 to 21 of this Act is not an agent of the state or federal government.

9 (4) An education service provider shall not be required to alter its creed, practices,
10 admissions policy, or curriculum in order to accept payments from an EOA.

11 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) (a) Effective for taxable years beginning on or after January 1, 2021, but
14 before January 1, 2026, a nonrefundable, nontransferable tax credit shall
15 be permitted against the tax imposed by KRS 141.020 or 141.040 and
16 141.0401, with the ordering of credit as provided in Section 22 of this Act,
17 as applicable, for contributions made during a taxable year to one (1) or
18 more AGOs in accordance with the EOA program. To qualify for this credit,
19 a taxpayer filing as an individual shall elect to claim a federal and
20 Kentucky contribution deduction associated with the contributions made to
21 an AGO that does not exceed an amount equal to the total contribution for
22 the taxable year less the amount of credit allowed by this section for the
23 taxable year.

24 (b) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit
25 against the limited liability entity tax imposed by KRS 141.0401, and shall
26 also pass the credit through to its members, partners, or shareholders in the
27 same proportion as the distributive share of income or loss is passed

1 through.

2 (2) The aggregate value of the total annual tax credit cap awarded shall not exceed
3 twenty-five million dollars (\$25,000,000).

4 (3) The credit amount awarded per taxpayer per taxable year shall be no more than
5 the lesser of:

6 (a) Ninety-five percent (95%) of the total contributions made to an AGO, except
7 as provided in subsection (4) of this section; or

8 (b) One million dollars (\$1,000,000).

9 (4) (a) The taxpayer may elect to pledge a contribution for multiple taxable years,
10 not to exceed a total of four (4) taxable years.

11 (b) If the multi-year pledge is made by the taxpayer and the amount of the
12 contributions for each of the multiple taxable years is equal to or more than
13 the amount of contributions made to the AGO in the taxable year within
14 which the pledge is made, the amount of allowable credit shall be increased
15 by two (2) percentage points to ninety-seven percent (97%) in the taxable
16 year within which the pledge is made and for each pledged year.

17 (c) If the taxpayer does not remit the pledged amount of contributions during
18 any taxable year for which a multi-year pledge is made, the taxpayer shall
19 repay the portion of the credit resulting from the increase allowed by this
20 subsection.

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

24 (6) Tax credits under this section shall be awarded on a first-come, first-served basis
25 each fiscal year within the limitations set forth in this section. The date and time
26 stamp from each application for preapproval shall establish the order in which
27 the application was received. For contributions pledged for multiple tax years, the

1 contribution shall be considered the first in line for the years subsequent to the
2 initial year of the pledge.

3 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
4 READ AS FOLLOWS:

5 The department shall provide the following information to the Interim Joint
6 Committee on Appropriations and Revenue no later than November 1, 2022, and no
7 later than November 1 of each year thereafter as long as the tax credit permitted by
8 Section 18 of this Act is taken:

9 (1) All information contained in each annual report filed by an AGO as required by
10 Section 12 of this Act and the administrative regulations promulgated
11 thereunder, with each eligible student's identifying information removed and
12 replaced with an assigned unique identification number;

13 (2) The number and total amount of EOAs awarded by AGOs to EOA students
14 reported by household income range intervals of five thousand dollars (\$5,000);

15 (3) The number and total amount of EOAs awarded by AGOs to EOA students:

16 (a) Who are currently in the Commonwealth's foster care program;

17 (b) Who have previously received an EOA under this section; and

18 (c) Who are members of a household in which a student has previously
19 received an EOA under this section; and

20 (4) Any other information that may be necessary to assist the members of the
21 General Assembly in determining that the purposes of this tax credit are being
22 fulfilled.

23 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
24 READ AS FOLLOWS:

25 If any part of Sections 7 to 21 of this Act is challenged in state court as violating either
26 the state or federal constitutions, parents of students who would meet the criteria for
27 being eligible students as defined by Section 8 of this Act shall be permitted to

1 *intervene as of right in such lawsuit for the purposes of defending the EOA program's*
2 *constitutionality.*

3 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
4 READ AS FOLLOWS:

5 *Sections 7 to 21 of this Act may be cited as the "Education Opportunity Account Act"*
6 *or "EOA Act."*

7 ➔Section 22. KRS 141.0205 is amended to read as follows:

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

11 (1) The nonrefundable business incentive credits against the tax imposed by KRS
12 141.020 shall be taken in the following order:

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

14 (b) The economic development credits computed under KRS 141.347, 141.381,
15 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
16 207, and 154.12-2088;

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

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

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

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

21 (g) The credit for hiring the unemployed permitted by KRS 141.065;

22 (h) The recycling or composting equipment credit permitted by KRS 141.390;

23 (i) The tax credit for cash contributions in investment funds permitted by KRS
24 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
25 154.20-258;

26 (j) The research facilities credit permitted by KRS 141.395;

27 (k) The employer High School Equivalency Diploma program incentive credit

- 1 permitted under KRS 151B.402;
- 2 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 3 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 4 (n) The clean coal incentive credit permitted by KRS 141.428;
- 5 (o) The ethanol credit permitted by KRS 141.4242;
- 6 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 7 (q) The energy efficiency credits permitted by KRS 141.436;
- 8 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 9 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 10 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 11 (u) The distilled spirits credit permitted by KRS 141.389;
- 12 (v) The angel investor credit permitted by KRS 141.396;
- 13 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 14 on or after April 27, 2018;
- 15 (x) The inventory credit permitted by KRS 141.408; and
- 16 (y) The renewable chemical production credit permitted by KRS 141.4231.
- 17 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 18 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 19 shall be taken in the following order:
- 20 (a) The individual credits permitted by KRS 141.020(3);
- 21 (b) The credit permitted by KRS 141.066;
- 22 (c) The tuition credit permitted by KRS 141.069;
- 23 (d) The household and dependent care credit permitted by KRS 141.067;~~and~~
- 24 (e) The income gap credit permitted by KRS 141.066; ***and***
- 25 ***(f) The Education Opportunity Account Program tax credit permitted by***
- 26 ***Section 18 of this Act.***
- 27 (3) After the application of the nonrefundable credits provided for in subsection (2) of

1 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
2 taken in the following order:

- 3 (a) The individual withholding tax credit permitted by KRS 141.350;
- 4 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 5 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
6 171.397(1)(b); and
- 7 (d) The film industry tax credit permitted by KRS 141.383 for applications
8 approved prior to April 27, 2018.

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

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

- 14 (a) The economic development credits computed under KRS 141.347, 141.381,
15 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
16 207, and 154.12-2088;
- 17 (b) The qualified farming operation credit permitted by KRS 141.412;
- 18 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 19 (d) The health insurance credit permitted by KRS 141.062;
- 20 (e) The unemployment credit permitted by KRS 141.065;
- 21 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 22 (g) The coal conversion credit permitted by KRS 141.041;
- 23 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
24 ending prior to January 1, 2008;
- 25 (i) The tax credit for cash contributions to investment funds permitted by KRS
26 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
27 154.20-258;

- 1 (j) The research facilities credit permitted by KRS 141.395;
- 2 (k) The employer High School Equivalency Diploma program incentive credit
3 permitted by KRS 151B.402;
- 4 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 5 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 6 (n) The clean coal incentive credit permitted by KRS 141.428;
- 7 (o) The ethanol credit permitted by KRS 141.4242;
- 8 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 9 (q) The energy efficiency credits permitted by KRS 141.436;
- 10 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
11 permitted by KRS 141.437;
- 12 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 13 (t) The railroad expansion credit permitted by KRS 141.386;
- 14 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 15 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 16 (w) The distilled spirits credit permitted by KRS 141.389;
- 17 (x) The film industry credit permitted by KRS 141.383 for applications approved
18 on or after April 27, 2018;
- 19 (y) The inventory credit permitted by KRS 141.408;~~and~~
- 20 (z) The renewable chemical production tax credit permitted by KRS 141.4231;
21 **and**
- 22 **(aa) The Education Opportunity Account Program tax credit permitted by**
23 **Section 18 of this Act.**
- 24 (6) After the application of the nonrefundable credits in subsection (5) of this section,
25 the 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

1 171.397(1)(b); and

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

4 ➔Section 23. KRS 131.190 is amended to read as follows:

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

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

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

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

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

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

26 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
27 energy resources assessed under KRS 132.820, or owners of surface land

- 1 under which the unmined minerals lie, factual information about the owner's
2 property derived from third-party returns filed for that owner's property, under
3 the provisions of KRS 132.820, that is used to determine the owner's
4 assessment. This information shall be provided to the owner on a confidential
5 basis, and the owner shall be subject to the penalties provided in KRS
6 131.990(2). The third-party filer shall be given prior notice of any disclosure
7 of information to the owner that was provided by the third-party filer;
- 8 (f) Providing to a third-party purchaser pursuant to an order entered in a
9 foreclosure action filed in a court of competent jurisdiction, factual
10 information related to the owner or lessee of coal, oil, gas reserves, or any
11 other mineral resources assessed under KRS 132.820. The department may
12 promulgate an administrative regulation establishing a fee schedule for the
13 provision of the information described in this paragraph. Any fee imposed
14 shall not exceed the greater of the actual cost of providing the information or
15 ten dollars (\$10);
- 16 (g) Providing information to a licensing agency, the Transportation Cabinet, or
17 the Kentucky Supreme Court under KRS 131.1817;
- 18 (h) Statistics of gasoline and special fuels gallonage reported to the department
19 under KRS 138.210 to 138.448;
- 20 (i) Providing any utility gross receipts license tax return information that is
21 necessary to administer the provisions of KRS 160.613 to 160.617 to
22 applicable school districts on a confidential basis;
- 23 (j) Providing documents, data, or other information to a third party pursuant to an
24 order 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
27 materials 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
- 3 ENERGY 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
- 6 tax 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
- 14 credit; and

15 **13. Section 19 of this Act for purposes of the Education Opportunity**
 16 **Account Program tax credit.**

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

22 (4) Access to and inspection of information received from the Internal Revenue Service
 23 is for department use only, and is restricted to tax administration purposes.
 24 Information received from the Internal Revenue Service shall not be made available
 25 to any other agency of state government, or any county, city, or other state, and shall
 26 not be inspected intentionally and without authorization by any present secretary or
 27 employee of the Finance and Administration Cabinet, commissioner or employee of

1 the department, or any other person.

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