

1 AN ACT related to a tax credit for educator expense.

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

3 ➔Section 1. KRS 141.019 is amended to read as follows:

4 In the case of taxpayers other than corporations:

- 5 (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
6 those taxpayers the deductions allowed individuals by Section 62 of the Internal  
7 Revenue Code and adjusting as follows:
- 8 (a) Exclude income that is exempt from state taxation by the Kentucky  
9 Constitution and the Constitution and statutory laws of the United States;
  - 10 (b) Exclude income from supplemental annuities provided by the Railroad  
11 Retirement Act of 1937 as amended and which are subject to federal income  
12 tax by Pub. L. No. 89-699;
  - 13 (c) Include interest income derived from obligations of sister states and political  
14 subdivisions thereof;
  - 15 (d) Exclude employee pension contributions picked up as provided for in KRS  
16 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
17 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
18 courts that these contributions shall not be included as gross income until such  
19 time as the contributions are distributed or made available to the employee;
  - 20 (e) Exclude Social Security and railroad retirement benefits subject to federal  
21 income tax;
  - 22 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
23 brought against a manufacturer or distributor of "Agent Orange" for damages  
24 resulting from exposure to Agent Orange by a member or veteran of the  
25 Armed Forces of the United States or any dependent of such person who  
26 served in Vietnam;
  - 27 (g) 1. a. For taxable years beginning after December 31, 2005, but before

1 January 1, 2018, exclude up to forty-one thousand one hundred ten  
2 dollars (\$41,110) of total distributions from pension plans, annuity  
3 contracts, profit-sharing plans, retirement plans, or employee  
4 savings plans; and

5 b. For taxable years beginning on or after January 1, 2018, exclude  
6 up to thirty-one thousand one hundred ten dollars (\$31,110) of  
7 total distributions from pension plans, annuity contracts, profit-  
8 sharing plans, retirement plans, or employee savings plans.

9 2. As used in this paragraph:

10 a. "Annuity contract" has the same meaning as set forth in Section  
11 1035 of the Internal Revenue Code;

12 b. "Distributions" includes but is not limited to any lump-sum  
13 distribution from pension or profit-sharing plans qualifying for the  
14 income tax averaging provisions of Section 402 of the Internal  
15 Revenue Code; any distribution from an individual retirement  
16 account as defined in Section 408 of the Internal Revenue Code;  
17 and any disability pension distribution; and

18 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
19 savings plans" means any trust or other entity created or organized  
20 under a written retirement plan and forming part of a stock bonus,  
21 pension, or profit-sharing plan of a public or private employer for  
22 the exclusive benefit of employees or their beneficiaries and  
23 includes plans qualified or unqualified under Section 401 of the  
24 Internal Revenue Code and individual retirement accounts as  
25 defined in Section 408 of the Internal Revenue Code;

26 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net  
27 income from an S corporation subject to the franchise tax imposed

- 1                   under KRS 136.505 or the capital stock tax imposed under KRS  
2                   136.300; and
- 3                   b.   Exclude the portion of the distributive share of a shareholder's net  
4                   income from an S corporation related to a qualified subchapter S  
5                   subsidiary subject to the franchise tax imposed under KRS  
6                   136.505 or the capital stock tax imposed under KRS 136.300.
- 7                   2.   The shareholder's basis of stock held in an S corporation where the S  
8                   corporation or its qualified subchapter S subsidiary is subject to the  
9                   franchise tax imposed under KRS 136.505 or the capital stock tax  
10                  imposed under KRS 136.300 shall be the same as the basis for federal  
11                  income tax purposes;
- 12                  (i)   Exclude income received for services performed as a precinct worker for  
13                  election training or for working at election booths in state, county, and local  
14                  primaries or regular or special elections;
- 15                  (j)   Exclude any capital gains income attributable to property taken by eminent  
16                  domain;
- 17                  (k)   1.   Exclude all income from all sources for members of the Armed Forces  
18                  who are on active duty and who are killed in the line of duty, for the year  
19                  during which the death occurred and the year prior to the year during  
20                  which the death occurred.
- 21                  2.   For the purposes of this paragraph, "all income from all sources" shall  
22                  include all federal and state death benefits payable to the estate or any  
23                  beneficiaries;
- 24                  (l)   Exclude all military pay received by members of the Armed Forces while on  
25                  active duty;
- 26                  (m)   1.   Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
27                  or 168; and

- 1           2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 2           (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 3           (o) Ignore any change in the cost basis of the surviving spouse's share of property
- 4           owned by a Kentucky community property trust occurring for federal income
- 5           tax purposes as a result of the death of the predeceasing spouse; ~~and~~
- 6           (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
- 7           278, related to the tax treatment of forgiven covered loans, deductions
- 8           attributable to those loans, and tax attributes associated with those loans for
- 9           taxable years ending on or after March 27, 2020, but before January 1, 2022;
- 10          and
- 11          ~~(q) For taxable years beginning on or after January 1, 2022, but before~~
- 12          ~~January 1, 2026, include the amount deducted under 26 U.S.C. sec.~~
- 13          ~~62(a)(2)(D) for expenses of elementary and secondary school teachers; and~~
- 14          (2) Net income shall be calculated by subtracting from adjusted gross income all the
- 15          deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
- 16          modified by KRS 141.0101, except:
- 17          (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 18          (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
- 19          losses allowed under Section 165(d) of the Internal Revenue Code;
- 20          (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 21          (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 22          (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
- 23          deduction;
- 24          (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
- 25          under KRS 140.090(1)(h) in calculating the value of the distributive shares of
- 26          the estate of a decedent, unless there is filed with the income return a
- 27          statement that the deduction has not been claimed under KRS 140.090(1)(h);

- 1 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and  
2 any other deductions in lieu thereof;
- 3 (h) Any deduction allowed for amounts paid to any club, organization, or  
4 establishment which has been determined by the courts or an agency  
5 established by the General Assembly and charged with enforcing the civil  
6 rights laws of the Commonwealth, not to afford full and equal membership  
7 and full and equal enjoyment of its goods, services, facilities, privileges,  
8 advantages, or accommodations to any person because of race, color, religion,  
9 national origin, or sex, except nothing shall be construed to deny a deduction  
10 for amounts paid to any religious or denominational club, group, or  
11 establishment or any organization operated solely for charitable or educational  
12 purposes which restricts membership to persons of the same religion or  
13 denomination in order to promote the religious principles for which it is  
14 established and maintained; and
- 15 (i) A taxpayer may elect to claim the standard deduction allowed by KRS  
16 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
17 and as modified by this section.

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

20 **(1) As used in this section:**

21 **(a) "Eligible educator" has the same meaning as the term used in Section 62 of**  
22 **the Internal Revenue Code; and**

23 **(b) "Eligible expenses" means certain expenses of elementary and secondary**  
24 **school teachers under Section 62 of the Internal Revenue Code, not in**  
25 **excess of two hundred fifty dollars (\$250).**

26 **(2) For taxable years beginning on or after January 1, 2022, but before January 1,**  
27 **2026, there shall be allowed an educator expense tax credit against tax imposed**

1 under KRS 141.020, in the order provided under Section 3 of this Act. The credit  
 2 shall be on a dollar-for-dollar basis for unreimbursed eligible educator expenses  
 3 paid by an eligible educator.

4 (3) The credit shall not exceed:

5 (a) Two hundred fifty dollars (\$250) for the taxable year; or

6 (b) Five hundred dollars (\$500) for the taxable year if two (2) eligible educators  
 7 are married and file on a combined form.

8 (4) (a) The tax credit shall be nonrefundable, nontransferable, and shall not  
 9 exceed the tax liability of the taxpayer for the taxable year.

10 (b) Any excess credit shall not be carried forward or back to any other taxable  
 11 year.

12 (5) In order to evaluate the effectiveness of this credit, the department shall report  
 13 the following information to the Legislative Research Commission on or before  
 14 December 1, 2023, and on or before each December 1 thereafter, as long as the  
 15 credit is claimed on a tax return:

16 a. The number of returns claiming the educator expense credit; and

17 b. The total amount of credit claimed for each taxable year.

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

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

22 (1) The nonrefundable business incentive credits against the tax imposed by KRS  
 23 141.020 shall be taken in the following order:

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

25 (b) The economic development credits computed under KRS 141.347, 141.381,  
 26 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-  
 27 207, and 154.12-2088;

- 1 (c) The qualified farming operation credit permitted by KRS 141.412;
- 2 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 3 (e) The health insurance credit permitted by KRS 141.062;
- 4 (f) The tax paid to other states credit permitted by KRS 141.070;
- 5 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 6 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 7 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 8 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 9 154.20-258;
- 10 (j) The research facilities credit permitted by KRS 141.395;
- 11 (k) The employer High School Equivalency Diploma program incentive credit
- 12 permitted under KRS 151B.402;
- 13 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 14 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 15 (n) The clean coal incentive credit permitted by KRS 141.428;
- 16 (o) The ethanol credit permitted by KRS 141.4242;
- 17 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 18 (q) The energy efficiency credits permitted by KRS 141.436;
- 19 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 20 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 21 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 22 (u) The distilled spirits credit permitted by KRS 141.389;
- 23 (v) The angel investor credit permitted by KRS 141.396;
- 24 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 25 on or after April 27, 2018, but before January 1, 2022;
- 26 (x) The inventory credit permitted by KRS 141.408; and
- 27 (y) The renewable chemical production credit permitted by KRS 141.4231.

- 1 (2) After the application of the nonrefundable credits in subsection (1) of this section,  
2 the nonrefundable personal tax credits against the tax imposed by KRS 141.020  
3 shall be taken in the following order:
- 4 (a) The individual credits permitted by KRS 141.020(3);
  - 5 (b) The credit permitted by KRS 141.066;
  - 6 (c) The tuition credit permitted by KRS 141.069;
  - 7 (d) The household and dependent care credit permitted by KRS 141.067;
  - 8 (e) The income gap credit permitted by KRS 141.066; and
  - 9 (f) The Education Opportunity Account Program tax credit permitted by KRS  
10 141.522.
- 11 (3) After the application of the nonrefundable credits provided for in subsection (2) of  
12 this section, the refundable credits against the tax imposed by KRS 141.020 shall be  
13 taken in the following order:
- 14 (a) The individual withholding tax credit permitted by KRS 141.350;
  - 15 (b) The individual estimated tax payment credit permitted by KRS 141.305;
  - 16 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and  
17 171.397(1)(b);
  - 18 (d) The film industry tax credit permitted by KRS 141.383 for applications  
19 approved prior to April 27, 2018, or on or after January 1, 2022; ~~and~~
  - 20 (e) The development area tax credit permitted by KRS 141.398; and
  - 21 (f) The educator expense credit permitted by Section 2 of this Act.
- 22 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the  
23 tax imposed by KRS 141.040.
- 24 (5) The following nonrefundable credits shall be applied against the sum of the tax  
25 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)  
26 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 27 (a) The economic development credits computed under KRS 141.347, 141.381,



- 1           141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-  
2           207, and 154.12-2088;
- 3           (b) The qualified farming operation credit permitted by KRS 141.412;
- 4           (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 5           (d) The health insurance credit permitted by KRS 141.062;
- 6           (e) The unemployment credit permitted by KRS 141.065;
- 7           (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 8           (g) The coal conversion credit permitted by KRS 141.041;
- 9           (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods  
10           ending prior to January 1, 2008;
- 11           (i) The tax credit for cash contributions to investment funds permitted by KRS  
12           154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS  
13           154.20-258;
- 14           (j) The research facilities credit permitted by KRS 141.395;
- 15           (k) The employer High School Equivalency Diploma program incentive credit  
16           permitted by KRS 151B.402;
- 17           (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 18           (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 19           (n) The clean coal incentive credit permitted by KRS 141.428;
- 20           (o) The ethanol credit permitted by KRS 141.4242;
- 21           (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 22           (q) The energy efficiency credits permitted by KRS 141.436;
- 23           (r) The ENERGY STAR home or ENERGY STAR manufactured home credit  
24           permitted by KRS 141.437;
- 25           (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 26           (t) The railroad expansion credit permitted by KRS 141.386;
- 27           (u) The Endow Kentucky credit permitted by KRS 141.438;

- 1 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 2 (w) The distilled spirits credit permitted by KRS 141.389;
- 3 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 4 on or after April 27, 2018, but before January 1, 2022;
- 5 (y) The inventory credit permitted by KRS 141.408;
- 6 (z) The renewable chemical production tax credit permitted by KRS 141.4231;
- 7 and
- 8 (aa) The Education Opportunity Account Program tax credit permitted by KRS
- 9 141.522.
- 10 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 11 the refundable credits shall be taken in the following order:
- 12 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 13 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 14 171.397(1)(b); and
- 15 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 16 approved prior to April 27, 2018, or on or after January 1, 2022.
- 17 ➔Section 4. KRS 131.190 is amended to read as follows:
- 18 (1) No present or former commissioner or employee of the department, present or
- 19 former member of a county board of assessment appeals, present or former property
- 20 valuation administrator or employee, present or former secretary or employee of the
- 21 Finance and Administration Cabinet, former secretary or employee of the Revenue
- 22 Cabinet, or any other person, shall intentionally and without authorization inspect or
- 23 divulge any information acquired by him or her of the affairs of any person, or
- 24 information regarding the tax schedules, returns, or reports required to be filed with
- 25 the department or other proper officer, or any information produced by a hearing or
- 26 investigation, insofar as the information may have to do with the affairs of the
- 27 person's business.

- 1 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 2 (a) Information required in prosecutions for making false reports or returns of  
3 property for taxation, or any other infraction of the tax laws;
- 4 (b) Any matter properly entered upon any assessment record, or in any way made  
5 a matter of public record;
- 6 (c) Furnishing any taxpayer or his or her properly authorized agent with  
7 information respecting his or her own return;
- 8 (d) Testimony provided by the commissioner or any employee of the department  
9 in any court, or the introduction as evidence of returns or reports filed with the  
10 department, in an action for violation of state or federal tax laws or in any  
11 action challenging state or federal tax laws;
- 12 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or  
13 energy resources assessed under KRS 132.820, or owners of surface land  
14 under which the unmined minerals lie, factual information about the owner's  
15 property derived from third-party returns filed for that owner's property, under  
16 the provisions of KRS 132.820, that is used to determine the owner's  
17 assessment. This information shall be provided to the owner on a confidential  
18 basis, and the owner shall be subject to the penalties provided in KRS  
19 131.990(2). The third-party filer shall be given prior notice of any disclosure  
20 of information to the owner that was provided by the third-party filer;
- 21 (f) Providing to a third-party purchaser pursuant to an order entered in a  
22 foreclosure action filed in a court of competent jurisdiction, factual  
23 information related to the owner or lessee of coal, oil, gas reserves, or any  
24 other mineral resources assessed under KRS 132.820. The department may  
25 promulgate an administrative regulation establishing a fee schedule for the  
26 provision of the information described in this paragraph. Any fee imposed  
27 shall not exceed the greater of the actual cost of providing the information or

- 1           ten dollars (\$10);
- 2           (g) Providing information to a licensing agency, the Transportation Cabinet, or
- 3           the Kentucky Supreme Court under KRS 131.1817;
- 4           (h) Statistics of gasoline and special fuels gallonage reported to the department
- 5           under KRS 138.210 to 138.448;
- 6           (i) Providing any utility gross receipts license tax return information that is
- 7           necessary to administer the provisions of KRS 160.613 to 160.617 to
- 8           applicable school districts on a confidential basis;
- 9           (j) Providing documents, data, or other information to a third party pursuant to an
- 10          order issued by a court of competent jurisdiction; or
- 11          (k) Providing information to the Legislative Research Commission under:
- 12           1. KRS 139.519 for purposes of the sales and use tax refund on building
- 13           materials used for disaster recovery;
- 14           2. KRS 141.436 for purposes of the energy efficiency products credits;
- 15           3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 16           ENERGY STAR manufactured home credits;
- 17           4. KRS 141.383 for purposes of the film industry incentives;
- 18           5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 19           tax credits and the job assessment fees;
- 20           6. KRS 141.068 for purposes of the Kentucky investment fund;
- 21           7. KRS 141.396 for purposes of the angel investor tax credit;
- 22           8. KRS 141.389 for purposes of the distilled spirits credit;
- 23           9. KRS 141.408 for purposes of the inventory credit;
- 24           10. KRS 141.390 for purposes of the recycling and composting credit;
- 25           11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 26           12. KRS 141.4231 for purposes of the renewable chemical production tax
- 27           credit;

- 1           13. KRS 141.524 for purposes of the Education Opportunity Account  
2                    Program tax credit;
- 3           14. KRS 141.398 for purposes of the development area tax credit; ~~and~~
- 4           15. KRS 139.516 for the purposes of the sales and use tax exemption on the  
5                    commercial mining of cryptocurrency; and

6           **16. Section 2 of this Act for purposes of the educator expense tax credit.**

- 7   (3) The commissioner shall make available any information for official use only and on  
8           a confidential basis to the proper officer, agency, board or commission of this state,  
9           any Kentucky county, any Kentucky city, any other state, or the federal government,  
10           under reciprocal agreements whereby the department shall receive similar or useful  
11           information in return.
- 12   (4) Access to and inspection of information received from the Internal Revenue Service  
13           is for department use only, and is restricted to tax administration purposes.  
14           Information received from the Internal Revenue Service shall not be made available  
15           to any other agency of state government, or any county, city, or other state, and shall  
16           not be inspected intentionally and without authorization by any present secretary or  
17           employee of the Finance and Administration Cabinet, commissioner or employee of  
18           the department, or any other person.
- 19   (5) Statistics of crude oil as reported to the department under the crude oil excise tax  
20           requirements of KRS Chapter 137 and statistics of natural gas production as  
21           reported to the department under the natural resources severance tax requirements  
22           of KRS Chapter 143A may be made public by the department by release to the  
23           Energy and Environment Cabinet, Department for Natural Resources.
- 24   (6) Notwithstanding any provision of law to the contrary, beginning with mine-map  
25           submissions for the 1989 tax year, the department may make public or divulge only  
26           those portions of mine maps submitted by taxpayers to the department pursuant to  
27           KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-

1 out parcel areas. These electronic maps shall not be relied upon to determine actual  
2 boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
3 required under KRS Chapters 350 and 352 shall not be construed to constitute land  
4 surveying or boundary surveys as defined by KRS 322.010 and any administrative  
5 regulations promulgated thereto.