

1 AN ACT relating to the Kentucky opportunity fund and making an appropriation
2 therefor.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 5 of this Act, unless the context requires otherwise:*

- 7 *(1) "Account" means a Kentucky opportunity account;*
- 8 *(2) "Authority" means the Kentucky Higher Education Assistance Authority;*
- 9 *(3) "Beneficiary" means an eligible child or formerly eligible child for whom the*
10 *authority deposited funds into an account;*
- 11 *(4) "Eligible child" means a minor born on or after January 1, 2023, who is a*
12 *Kentucky resident at the time the authority deposits funds into an account on his*
13 *or her behalf;*
- 14 *(5) "Fund" means the Kentucky opportunity fund established in Section 2 of this*
15 *Act;*
- 16 *(6) "Kentucky resident" has the same meaning as "resident" in KRS 141.010, except*
17 *that a minor child is a Kentucky resident if his or her parent or legal guardian is*
18 *a Kentucky resident unless the parent or legal guardian with sole custody lives*
19 *outside of Kentucky; and*
- 20 *(7) "Poverty line" means the annual poverty guidelines for the forty-eight (48)*
21 *contiguous states and the District of Columbia as published by the United States*
22 *Department of Health and Human Services.*
- 23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO
24 READ AS FOLLOWS:
- 25 *(1) The Kentucky opportunity fund is hereby established in the State Treasury. The*
26 *fund shall consist of state appropriations, gifts, grants, and federal funds.*
- 27 *(2) For fiscal years beginning on or after July 1, 2023, and before July 1, 2027,*

1 twenty-five million dollars (\$25,000,000) shall be transferred from the general
2 fund to the Kentucky opportunity fund annually.

3 (3) The fund shall be administered by the authority.

4 (4) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal
5 year shall not lapse.

6 (5) Moneys deposited in the fund are hereby appropriated for the purposes set forth
7 in this section and shall not be appropriated or transferred by the General
8 Assembly for any other purposes.

9 (6) Amounts deposited in the fund shall be used for the purpose of making
10 contributions to individual accounts and investing in accordance with subsection
11 (7) of this section.

12 (7) (a) Amounts deposited into the fund, including amounts contributed to
13 individual accounts, shall be invested in any of the following types of
14 securities that are deemed appropriate by the authority:

15 1. Government and agency bonds;

16 2. Investment grade asset-backed securities and corporate bonds;

17 3. Mortgages, excluding interest-only, principal-only, and inverse
18 floaters; and

19 4. Equities.

20 (b) Equities shall constitute no greater than sixty percent (60%) of the entire
21 portfolio, including up to ten percent (10%) in equities from outside the
22 United States.

23 (c) The duration of the fixed-income portion of the portfolio shall reflect the
24 future liability of the fund for distributions.

25 (d) Assets may be pooled for investment purposes with any other investment of
26 the Commonwealth that is eligible for asset pooling.

27 (e) Leveraging is strictly prohibited.

1 (8) The Kentucky Department of Revenue and the Kentucky Office of Vital Statistics
2 shall enter into information-sharing agreements with the authority to enable the
3 exchange of such information as may be necessary for the efficient
4 administration of the fund.

5 (9) The authority may promulgate administrative regulations under KRS Chapter
6 13A to administer this section.

7 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO
8 READ AS FOLLOWS:

9 (1) The authority shall establish an application process to allow the parents or legal
10 guardians of a child to apply to have an individual account opened in the child's
11 name. The authority shall open an individual account for each eligible child.

12 (2) The authority shall establish an annual certification process to allow the parents
13 or legal guardians of an eligible child to certify their household income in order
14 to receive an annual contribution.

15 (3) For each account opened under subsection (1) of this section, the authority shall
16 make an initial deposit of five hundred dollars (\$500) in the year that the account
17 is established.

18 (4) For each year following the year in which the account is established, if an
19 annual certification is filed prior to the end of the calendar year, the authority
20 shall, after confirming the household income, make an annual contribution to
21 the account of an eligible child in the amount indicated below:

22 (a) If household income is under one hundred percent (100%) of the federal
23 poverty line, the authority shall make an annual contribution of five
24 hundred dollars (\$500) to the account;

25 (b) If household income is under one hundred twenty-five percent (125%) of
26 the federal poverty line, the authority shall make an annual contribution of
27 four hundred dollars (\$400) to the account;

1 (c) If household income is under one hundred fifty percent (150%) of the
2 federal poverty line, the authority shall make an annual contribution of
3 three hundred dollars (\$300) to the account;

4 (d) If household income is under two hundred percent (200%) of the federal
5 poverty line, the authority shall make an annual contribution of two
6 hundred dollars (\$200) to the account;

7 (e) If household income is under two hundred fifty percent (250%) of the
8 federal poverty line, the authority shall make an annual contribution of one
9 hundred dollars (\$100) to the account;

10 (f) If household income is above two hundred fifty percent (250%) of the
11 federal poverty line, the authority shall not make an annual contribution to
12 the account; and

13 (g) Notwithstanding this section, if available funds in a given year are
14 insufficient to provide the maximum deposit amounts under this section, the
15 authority shall prorate the deposits accordingly.

16 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO
17 READ AS FOLLOWS:

18 (1) A beneficiary who is at least eighteen (18) years of age may withdraw money
19 from his or her individual account for any of the following purposes:

20 (a) Expenses associated with the purchase of the primary residence of the
21 beneficiary;

22 (b) Medical expenses of the beneficiary; or

23 (c) The payment of student loan debt.

24 (2) A beneficiary may withdraw money from his or her individual account for any
25 expense paid or incurred on or after the date the beneficiary attains the age of
26 sixty-two (62).

27 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO

1 READ AS FOLLOWS:

2 Upon the notification of a beneficiary's death, the authority shall close the
3 beneficiary's account and transfer any remaining balance to the fund.

4 ➔Section 6. 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 or her of the affairs of any person, or
11 information regarding the tax schedules, returns, or reports required to be filed with
12 the 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 or her properly authorized agent with
21 information respecting his or her 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 141.383 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;
- 13 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 14 credit;
- 15 13. KRS 141.524 for purposes of the Education Opportunity Account
- 16 Program tax credit;
- 17 14. KRS 141.398 for purposes of the development area tax credit;~~and~~
- 18 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 19 commercial mining of cryptocurrency; ***and***

20 **16. Providing information to the Kentucky Higher Education Assistance**
 21 **Authority under Section 2 of this Act.**

- 22 (3) The commissioner shall make available any information for official use only and on
- 23 a confidential basis to the proper officer, agency, board or commission of this state,
- 24 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 25 under reciprocal agreements whereby the department shall receive similar or useful
- 26 information in return.
- 27 (4) Access to and inspection of information received from the Internal Revenue Service

1 is for department use only, and is restricted to tax administration purposes.
2 Information received from the Internal Revenue Service shall not be made available
3 to any other agency of state government, or any county, city, or other state, and shall
4 not be inspected intentionally and without authorization by any present secretary or
5 employee of the Finance and Administration Cabinet, commissioner or employee of
6 the department, or any other person.

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

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

21 ➔Section 7. KRS 141.019 is amended to read as follows:

22 In the case of taxpayers other than corporations:

23 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
24 those taxpayers the deductions allowed individuals by Section 62 of the Internal
25 Revenue Code and adjusting as follows:

26 (a) Exclude income that is exempt from state taxation by the Kentucky
27 Constitution and the Constitution and statutory laws of the United States;

- 1 (b) Exclude income from supplemental annuities provided by the Railroad
2 Retirement Act of 1937 as amended and which are subject to federal income
3 tax by Pub. L. No. 89-699;
- 4 (c) Include interest income derived from obligations of sister states and political
5 subdivisions thereof;
- 6 (d) Exclude employee pension contributions picked up as provided for in KRS
7 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
8 and 161.540 upon a ruling by the Internal Revenue Service or the federal
9 courts that these contributions shall not be included as gross income until such
10 time as the contributions are distributed or made available to the employee;
- 11 (e) Exclude Social Security and railroad retirement benefits subject to federal
12 income tax;
- 13 (f) Exclude any money received because of a settlement or judgment in a lawsuit
14 brought against a manufacturer or distributor of "Agent Orange" for damages
15 resulting from exposure to Agent Orange by a member or veteran of the
16 Armed Forces of the United States or any dependent of such person who
17 served in Vietnam;
- 18 (g) 1. a. For taxable years beginning after December 31, 2005, but before
19 January 1, 2018, exclude up to forty-one thousand one hundred ten
20 dollars (\$41,110) of total distributions from pension plans, annuity
21 contracts, profit-sharing plans, retirement plans, or employee
22 savings plans; and
- 23 b. For taxable years beginning on or after January 1, 2018, exclude
24 up to thirty-one thousand one hundred ten dollars (\$31,110) of
25 total distributions from pension plans, annuity contracts, profit-
26 sharing plans, retirement plans, or employee savings plans.
- 27 2. As used in this paragraph:

- 1 a. "Annuity contract" has the same meaning as set forth in Section
2 1035 of the Internal Revenue Code;
- 3 b. "Distributions" includes but is not limited to any lump-sum
4 distribution from pension or profit-sharing plans qualifying for the
5 income tax averaging provisions of Section 402 of the Internal
6 Revenue Code; any distribution from an individual retirement
7 account as defined in Section 408 of the Internal Revenue Code;
8 and any disability pension distribution; and
- 9 c. "Pension plans, profit-sharing plans, retirement plans, or employee
10 savings plans" means any trust or other entity created or organized
11 under a written retirement plan and forming part of a stock bonus,
12 pension, or profit-sharing plan of a public or private employer for
13 the exclusive benefit of employees or their beneficiaries and
14 includes plans qualified or unqualified under Section 401 of the
15 Internal Revenue Code and individual retirement accounts as
16 defined in Section 408 of the Internal Revenue Code;
- 17 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
18 income from an S corporation subject to the franchise tax imposed
19 under KRS 136.505 or the capital stock tax imposed under KRS
20 136.300; and
- 21 b. Exclude the portion of the distributive share of a shareholder's net
22 income from an S corporation related to a qualified subchapter S
23 subsidiary subject to the franchise tax imposed under KRS
24 136.505 or the capital stock tax imposed under KRS 136.300.
- 25 2. The shareholder's basis of stock held in an S corporation where the S
26 corporation or its qualified subchapter S subsidiary is subject to the
27 franchise tax imposed under KRS 136.505 or the capital stock tax

- 1 imposed under KRS 136.300 shall be the same as the basis for federal
2 income tax purposes;
- 3 (i) Exclude income received for services performed as a precinct worker for
4 election training or for working at election booths in state, county, and local
5 primaries or regular or special elections;
- 6 (j) Exclude any capital gains income attributable to property taken by eminent
7 domain;
- 8 (k) 1. Exclude all income from all sources for members of the Armed Forces
9 who are on active duty and who are killed in the line of duty, for the year
10 during which the death occurred and the year prior to the year during
11 which the death occurred.
- 12 2. For the purposes of this paragraph, "all income from all sources" shall
13 include all federal and state death benefits payable to the estate or any
14 beneficiaries;
- 15 (l) Exclude all military pay received by members of the Armed Forces while on
16 active duty;
- 17 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
18 or 168; and
- 19 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 20 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 21 (o) Ignore any change in the cost basis of the surviving spouse's share of property
22 owned by a Kentucky community property trust occurring for federal income
23 tax purposes as a result of the death of the predeceasing spouse;~~and~~
- 24 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
25 278, related to the tax treatment of forgiven covered loans, deductions
26 attributable to those loans, and tax attributes associated with those loans for
27 taxable years ending on or after March 27, 2020, but before January 1, 2022;

1 and

2 (g) Exclude any amount in a Kentucky opportunity account, as described in
3 Section 3 of this Act, and any distribution from a Kentucky opportunity
4 account that was used to pay expenses allowed under Section 4 of this Act;
5 and

- 6 (2) Net income shall be calculated by subtracting from adjusted gross income all the
7 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
8 modified by KRS 141.0101, except:
- 9 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
 - 10 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
11 losses allowed under Section 165(d) of the Internal Revenue Code;
 - 12 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
 - 13 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
 - 14 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
15 deduction;
 - 16 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
17 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
18 the estate of a decedent, unless there is filed with the income return a
19 statement that the deduction has not been claimed under KRS 140.090(1)(h);
 - 20 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
21 any other deductions in lieu thereof;
 - 22 (h) Any deduction allowed for amounts paid to any club, organization, or
23 establishment which has been determined by the courts or an agency
24 established by the General Assembly and charged with enforcing the civil
25 rights laws of the Commonwealth, not to afford full and equal membership
26 and full and equal enjoyment of its goods, services, facilities, privileges,
27 advantages, or accommodations to any person because of race, color, religion,

1 national origin, or sex, except nothing shall be construed to deny a deduction
2 for amounts paid to any religious or denominational club, group, or
3 establishment or any organization operated solely for charitable or educational
4 purposes which restricts membership to persons of the same religion or
5 denomination in order to promote the religious principles for which it is
6 established and maintained; and

7 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
8 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
9 and as modified by this section.

10 ➔Section 8. KRS 205.200 is amended to read as follows:

11 (1) A needy aged person, a needy blind person, a needy child, a needy permanently and
12 totally disabled person, or a person with whom a needy child lives shall be eligible
13 to receive a public assistance grant only if he has made a proper application or an
14 application has been made on his behalf in the manner and form prescribed by
15 administrative regulation. No individual shall be eligible to receive public
16 assistance under more than one (1) category of public assistance for the same period
17 of time.

18 (2) The secretary shall, by administrative regulations, prescribe the conditions of
19 eligibility for public assistance in conformity with the public assistance titles of the
20 Social Security Act, its amendments, and other federal acts and regulations. The
21 secretary shall also promulgate administrative regulations to allow for between a
22 forty percent (40%) and a forty-five percent (45%) ratable reduction in the method
23 of calculating eligibility and benefits for public assistance under Title IV-A of the
24 Federal Social Security Act. In no instance shall grants to families with no income
25 be less than the appropriate grant maximum used for public assistance under Title
26 IV-A of the Federal Social Security Act. As used in this section, "ratable reduction"
27 means the percentage reduction applied to the deficit between the family's countable

1 income and the standard of need for the appropriate family size.

2 (3) The secretary may by administrative regulation prescribe as a condition of eligibility
3 that a needy child regularly attend school, and may further by administrative
4 regulation prescribe the degree of relationship of the person or persons in whose
5 home such needy child must reside.

6 (4) The secretary may by administrative regulation prescribe conditions for bringing
7 paternity proceedings or actions for support in cases of out of wedlock birth or
8 nonsupport by a parent in the public assistance under Title IV-A of the Federal
9 Social Security Act program.

10 (5) Public assistance shall not be payable to or in behalf of any individual who has
11 taken any legal action in his own behalf or in the behalf of others with the intent and
12 purpose of creating eligibility for the assistance.

13 (6) The cabinet shall promptly notify the appropriate law enforcement officials of the
14 furnishing of public assistance under Title IV-A of the Federal Social Security Act
15 in respect to a child who has been deserted or abandoned by a parent.

16 (7) No person shall be eligible for public assistance payments if, after having been
17 determined to be potentially responsible, and afforded notice and opportunity for
18 hearing, he refuses without good cause:

19 (a) To register for employment with the state employment service,

20 (b) To accept suitable training, or

21 (c) To accept suitable employment.

22 The secretary may prescribe by administrative regulation, subject to the provisions
23 of KRS Chapter 13A, standards of suitability for training and employment.

24 (8) To the extent permitted by federal law, scholarships, grants, or other types of
25 financial assistance for education shall not be considered as income for the purpose
26 of determining eligibility for public assistance.

27 (9) To the extent permitted by federal law, any money received because of a settlement

1 or judgment in a lawsuit brought against a manufacturer or distributor of "Agent
2 Orange" for damages resulting from exposure to "Agent Orange" by a member or
3 veteran of the Armed Forces of the United States or any dependent of such person
4 who served in Vietnam shall not be considered as income for the purpose of
5 determining eligibility or continuing eligibility for public assistance and shall not be
6 subject to a lien or be available for repayment to the Commonwealth for public
7 assistance received by the recipient.

8 (10) (a) Notwithstanding any other provision of Kentucky law, the following shall be
9 disregarded for the purposes of determining an individual's eligibility for a
10 means-tested public assistance program, and the amount of assistance or
11 benefits the individual is eligible to receive under the program:

- 12 1. Any amount in an ABLE account;
- 13 2. Any contributions to an ABLE account;~~and~~
- 14 3. Any distribution from an ABLE account for qualified disability
15 expenses;
- 16 **4. Any amount in a Kentucky opportunity account, as described in**
17 **Section 3 of this Act; and**
- 18 **5. Any distribution from a Kentucky opportunity account that is used to**
19 **pay expenses allowed under Section 4 of this Act.**

20 (b) For purposes of this subsection:

- 21 1. "ABLE account" means an account established within any state having a
22 qualified ABLE program as provided in 26 U.S.C. sec. 529A, as
23 amended;
- 24 2. "Kentucky law" includes:
 - 25 a. All provisions of the Kentucky Revised Statutes;
 - 26 b. Any contract to provide Medicaid managed care established
27 pursuant to this chapter;

- 1 c. Any agreement to operate a Medicaid program established
2 pursuant to this chapter; and
- 3 d. Any administrative regulation promulgated pursuant to this
4 chapter; and
- 5 3. "Qualified disability expenses" means expenses described in 26 U.S.C.
6 sec. 529A of a person who is the beneficiary of an ABLE account.