

1 AN ACT relating to opportunities in education.

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

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

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

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

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

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

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

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

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

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

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

27 3. Is a member of the household of an eligible student that is currently

- 1 receiving a scholarship from a qualified scholarship-granting
2 organization under this section; or
- 3 4. Is currently in the Commonwealth's foster care program;
- 4 (g) "Emotional-behavioral disability" has the same meaning as in KRS
5 157.200;
- 6 (h) "Hearing impairment" has the same meaning as in KRS 157.200;
- 7 (i) "Income" has the same meaning as in the United States Department of
8 Agriculture, Food and Nutrition Service, Child Nutrition Programs, Income
9 Eligibility Guidelines, Federal Register Vol. 83, No. 89, published May 8,
10 2018, and as updated annually as authorized by 42 U.S.C. sec.
11 1758(b)(1)(A);
- 12 (j) "Individualized education program" has the same meaning as in KRS
13 158.281;
- 14 (k) "Mental disability" has the same meaning as in KRS 157.200;
- 15 (l) "Orthopedic impairment" has the same meaning as in KRS 157.200;
- 16 (m) "Other health impairment" has the same meaning as other health impaired
17 in KRS 157.200;
- 18 (n) "Qualified nonpublic school" means a nonpublic kindergarten, elementary,
19 or secondary school located in this state that appears on the annual list of
20 certified nonpublic schools issued by the Kentucky Board of Education or
21 on the annual list of schools seeking certification by the board as a
22 nonpublic school as provided by Section 6 of this Act;
- 23 (o) "Qualified scholarship-granting organization" means a nonprofit
24 organization that:
- 25 1. Is exempt from federal taxation under Section 501(c)(3) of the
26 Internal Revenue Code for charitable purposes, including but not
27 limited to receiving contributions to provide financial assistance in the

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

- 1 3. Provides scholarships to eligible students who are currently in the
2 Commonwealth's foster care program regardless of household income
3 or financial need; and
- 4 4. Has written policies and procedures in place:
- 5 a. Regarding scholarships issued to eligible students who withdraw
6 from a scholarship program prior to the end of the period for
7 which the scholarship was issued; and
- 8 b. That maintain the confidentiality of information pertaining to
9 student eligibility, including household income and disability
10 information;
- 11 (s) "School age" means the earliest admission age to a qualified nonpublic
12 school's kindergarten program or, if no kindergarten program is provided,
13 the qualified nonpublic school's earliest admission age for beginners, until
14 the student graduates from high school or at the end of the school year in
15 which the student reaches twenty-one (21) years of age, whichever occurs
16 first;
- 17 (t) "Speech or language impairment" has the same meaning as in KRS
18 157.200;
- 19 (u) "Student with special needs" means a resident school-age student who
20 prior to applying for a scholarship under this section:
- 21 1. a. Is diagnosed by a licensed medical professional as having a
22 mental disability, a hearing impairment, an orthopedic
23 impairment, another health impairment, an emotional-
24 behavioral disability, a traumatic brain injury, a developmental
25 delay, or autism, or who is visually disabled or deaf-blind; or
- 26 b. Is diagnosed by a reading specialist as having a speech or
27 language impairment; and

- 1 2. If previously enrolled in the Commonwealth's public schools:
- 2 a. Has an active individualized education program; or
- 3 b. Has a 504 accommodation plan issued under Section 504 of the
- 4 Rehabilitation Act of 1973;
- 5 (v) "Taxpayer" means a person subject to the tax imposed under KRS 136.505,
- 6 141.020, 141.040, or 141.0401;
- 7 (w) "Traumatic brain injury" has the same meaning as in KRS 157.200; and
- 8 (x) "Visually disabled" has the same meaning as in KRS 157.200.
- 9 (2) (a) Effective for taxable years beginning on or after January 1, 2020, a
- 10 nonrefundable, nontransferable tax credit shall be permitted against the tax
- 11 imposed by KRS 136.505, 141.020, or 141.040 and 141.0401, with the
- 12 ordering of credit as provided in Section 3 or 5 of this Act, as applicable, for
- 13 contributions made during a taxable year to one (1) or more qualified
- 14 scholarship-granting organizations. To qualify for this credit, a taxpayer
- 15 filing as an individual shall elect to claim a federal and Kentucky
- 16 contribution deduction associated with the contributions made to qualified
- 17 scholarship-granting organizations that does not exceed an amount equal to
- 18 the total contribution for the taxable year less the amount of credit allowed
- 19 by this section for the taxable year.
- 20 (b) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit
- 21 against the limited liability entity tax imposed by KRS 141.0401, and shall
- 22 also pass the credit through to its members, partners, or shareholders in the
- 23 same proportion as the distributive share of income or loss is passed
- 24 through.
- 25 (c) The aggregate value of the total annual tax credit cap awarded shall be
- 26 determined as follows:
- 27 1. For fiscal year July 1, 2020, through June 30, 2021, the credit

1 awarded shall not exceed twenty-five million dollars (\$25,000,000);

2 and

3 2. In each subsequent fiscal year:

4 a. If the aggregate value of all credits awarded during the
5 immediately preceding fiscal year equals at least ninety percent
6 (90%) of the annual credit cap available for that year, the
7 annual credit cap for the current fiscal year shall be increased by
8 twenty-five percent (25%) over the credit cap amount established
9 for the immediately preceding fiscal year; or

10 b. If the aggregate value of all credits awarded during the
11 immediately preceding fiscal year does not equal at least ninety
12 percent (90%) of the annual credit cap available for that fiscal
13 year, the annual credit cap shall remain at the same level as the
14 annual credit cap for the immediately preceding fiscal year.

15 (d) The credit amount awarded per taxpayer per taxable year shall be no more
16 than the lesser of:

17 1. Ninety-five percent (95%) of the total contributions made to qualified
18 scholarship-granting organizations, except as provided in paragraph
19 (e) of this subsection; or

20 2. One million dollars (\$1,000,000).

21 (e) 1. The taxpayer may elect to pledge a contribution for multiple taxable
22 years, not to exceed a total of four (4) taxable years.

23 2. If the multi-year pledge is made by the taxpayer and the amount of the
24 contributions for each of the multiple taxable years is equal to or more
25 than the amount of contributions made to the qualified scholarship-
26 granting organizations in the taxable year within which the pledge is
27 made, the amount of allowable credit shall be increased by two (2)

1 percentage points to ninety-seven percent (97%) in the taxable year
2 within which the pledge is made and for each pledged year.

3 3. If the taxpayer does not remit the pledged amount of contributions
4 during any taxable year for which a multi-year pledge is made, the
5 taxpayer shall repay the portion of the credit resulting from the
6 increase allowed by this paragraph.

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

10 (3) Tax credits under this section shall be awarded on a first-come, first-served basis
11 each fiscal year within the limitations set forth in this section. The date and time
12 stamp from each application for preapproval shall establish the order in which
13 the application was received. For contributions pledged for multiple tax years, the
14 contribution shall be considered the first in-line for the years subsequent to the
15 initial year of the pledge.

16 (4) (a) Prior to making a contribution to a qualified scholarship-granting
17 organization, the taxpayer or a qualified scholarship-granting organization
18 acting on behalf of the taxpayer shall apply to the department for
19 preapproval of the tax credit in a manner prescribed by the department.
20 Each application shall be submitted separately and shall provide the total
21 amount of proposed contributions and the year or years in which the
22 contributions will be made, whether the proposed contributions will be in
23 the form of cash or marketable securities, and the name of the qualified
24 scholarship-granting organizations to which the contributions will be made.

25 (b) Subject to the annual tax credit cap, the department shall preliminarily
26 approve the amount of tax credit within ten (10) business days of receipt of
27 the application and shall notify the taxpayer and the qualified scholarship-

1 granting organizations. The notification shall include the amount of the tax
2 credit preliminarily approved, the name of the qualified scholarship-
3 granting organization to which contributions may be made, and any other
4 information the department deems necessary.

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

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

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

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

27 (6) (a) The qualified scholarship-granting organization shall certify to the

1 department the name of the taxpayer, amount of the contribution made, and
2 the date on which the contribution was made within ten (10) days of when
3 the contribution has been made.

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

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

11 (a) Create the tax credit application form, the forms to be used by the
12 department to notify the taxpayer and the qualified scholarship-granting
13 organization of preapproval or denial of the credit, and the educational
14 materials to be distributed by the qualified scholarship-granting
15 organizations;

16 (b) Create a Web site listing the amount of the total credit pending verification,
17 the amount of the total credit allocated to date, and the remaining credit
18 available to taxpayers making contributions to qualified scholarship-
19 granting organizations;

20 (c) Notify the taxpayer and the qualified scholarship-granting organization of
21 the amount of credit allocated to the taxpayer upon certification that the
22 contribution has been made by the issuance of a tax credit allocation letter,
23 which the taxpayer shall submit with the taxpayer's return when claiming
24 the credit; and

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

27 (8) (a) The department shall promulgate administrative regulations in accordance

1 with KRS Chapter 13A to establish the procedures and timelines for:

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

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

8 b. A description of the scholarship program, including detailed
9 information concerning the application and review process, and
10 eligibility verification procedures utilized by the organization;
11 and

12 c. A voluntary agreement by the organization to provide the
13 information necessary for the department to comply with Section
14 2 of this Act; and

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

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

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

22 1. A list of qualified scholarship-granting organizations; and

23 2. A list of organizations that have been approved to evaluate the
24 financial aid needs of students seeking approval for scholarships
25 based upon annual household income.

26 (b) The department shall make the lists available to the Kentucky Department
27 of Education, which shall also publish the lists on its Web site.

1 (c) If a qualified scholarship-granting organization fails to meet the
2 requirements of this section, the department shall not include the
3 organization on the list of qualified scholarship-granting organizations the
4 following calendar year.

5 (d) Only contributions to qualified scholarship-granting organizations on the
6 list maintained by the department for each calendar year shall be
7 recognized for tax credits under this section.

8 (10) All members of the qualified scholarship-granting organization and all
9 employees of the qualified scholarship-granting organization shall submit to a
10 nationwide criminal background investigation by means of a fingerprint check by
11 the Department of Kentucky State Police and the Federal Bureau of Investigation
12 at the expense of the qualified scholarship organization. The results of the state
13 and national criminal background check shall be sent to the board of directors of
14 the qualified scholarship-granting organization.

15 (11) (a) Qualified scholarship-granting organizations shall:

16 1. Assist the department in educating taxpayers by distributing materials
17 produced by the department regarding factual information about the
18 tax credit;

19 2. Provide a receipt to the taxpayer for the amount of contribution made;

20 3. a. No later than the last day of the qualified scholarship-granting
21 organization's immediately succeeding calendar year or fiscal
22 year, as applicable, distribute a minimum of ninety percent
23 (90%) of its annual receipts directly to scholarship programs in
24 this state unless the current year annual receipts exceed an
25 amount equal to the average of the annual receipts received in
26 the immediately preceding three (3) years by more than fifteen
27 percent (15%), in which case the excess amount may be carried

1 forward and expended for scholarships in three (3) equal
2 installments over the immediately succeeding three (3) years.

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

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

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

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

18 b. Approved by the department;

19 6. Award scholarships in the following order:

20 a. First, eligible students who have received a scholarship from a
21 qualified scholarship-granting organization under this section
22 during the immediately preceding school year, siblings, and
23 members of that household shall be awarded scholarships,
24 provided there are sufficient funds to fulfill the demand for
25 scholarship aid for these students. If there are insufficient funds,
26 scholarship awards shall be based upon a lottery selection
27 among these students; and

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

3 ii. The number of scholarships awarded to first-time
4 recipients of a scholarship under this section who are
5 students with special needs, students in the
6 Commonwealth's foster care program, or students whose
7 household income does not exceed that necessary to
8 establish eligibility for reduced-price meals based on size of
9 household as determined annually by the United States
10 Department of Agriculture applicable to the
11 Commonwealth, pursuant to 42 U.S.C. secs. 1751 to 1789,
12 shall be the majority of scholarships awarded.

13 iii. If the criteria outlined in subpart ii. of this subdivision are
14 met, scholarships shall be awarded proportionately to other
15 eligible students who are first-time applicants. If the
16 criteria are not met, and funds are remaining, the qualified
17 scholarship-granting organization shall transfer those
18 funds to another qualified scholarship-granting
19 organization to meet scholarship demand by the receiving
20 qualified scholarship-granting organization.

21 iv. If there are insufficient funds to fulfill the demand for
22 scholarship aid to students, awards shall be based upon a
23 lottery selection among eligible students, provided that the
24 resulting number of students receiving awards shall satisfy
25 the requirement of subpart ii. of this subdivision;

26 7. Provide funding for scholarship programs to more than one (1)
27 qualified nonpublic school;

1 8. Provide the department with an annual monitoring report for each
2 eligible student, which shall include:

3 a. The amount of scholarship received;

4 b. The student's grade level;

5 c. The student's county of residence;

6 d. The name of the public school the student attended the previous
7 school year, if applicable, and the county in which it is located;

8 e. The household income of the student, if the scholarship was
9 granted based the student's demonstrated financial needs;

10 f. Notification if the student is a student with special needs;

11 g. Notification if the student is currently in the Commonwealth's
12 foster care program;

13 h. Notification if the student has previously received a scholarship
14 under this section; and

15 i. Notification if the student is a member of a household of a
16 student that has previously received a scholarship under this
17 section; and

18 9. Submit to the department a copy of an independent financial audit
19 performed annually by a certified public accountant in accordance
20 with generally accepted accounting principles to verify the total
21 annual receipts, the use of annual receipts, the amount of
22 administrative fees, and compliance with this section.

23 (b) Qualified scholarship-granting organizations shall not:

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

26 2. Accept a contribution from a taxpayer if the taxpayer designates that
27 the contribution shall be used to award scholarships to a particular

1 student or used for athletics or other extracurricular activities;

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

7 4. Award a scholarship for athletics or other extracurricular activities or
8 for any associated costs or fees.

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

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

15 (1) The purpose of Section 1 of this Act is to provide resources to students through
16 educational scholarships that:

17 (a) Provide more choices in education for students from low- and middle-
18 income families and students in the Commonwealth's foster care program;
19 and

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

23 (2) (a) A scholarship provided by a qualified scholarship-granting organization
24 under Section 1 of this Act shall be considered assistance to the eligible
25 student and shall not be considered assistance to the qualified nonpublic
26 school or to the provider of qualified special educational services to a
27 student with special needs.

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

5 1. Qualified nonpublic school, including any aspect of the school's
6 admissions, staffing, tuition or fees, specific instructional content,
7 academic standards or assessments, curricula, or program of
8 instruction; or

9 2. Provider of qualified special educational services.

10 (3) The department shall provide the following information to the Legislative
11 Research Commission no later than November 1, 2021, and no later than
12 November 1 of each year thereafter as long as the credits are permitted:

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

17 (b) The number and total amount of scholarships awarded by qualified
18 scholarship-granting organizations to eligible students:

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

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

23 3. Who are students with special needs;

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

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

27 (c) Any other information that may be necessary to assist the members of the

General Assembly in determining that the purposes of this tax credit are being fulfilled.

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

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

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

- (a) The limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
- (c) The qualified farming operation credit permitted by KRS 141.412;
- (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- (e) The health insurance credit permitted by KRS 141.062;
- (f) The tax paid to other states credit permitted by KRS 141.070;
- (g) The credit for hiring the unemployed permitted by KRS 141.065;
- (h) The recycling or composting equipment credit permitted by KRS 141.390;
- (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- (j) The research facilities credit permitted by KRS 141.395;
- (k) The employer High School Equivalency Diploma program incentive credit permitted by~~under~~ KRS 151B.402;
- (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- (n) The clean coal incentive credit permitted by KRS 141.428;

- 1 (o) The ethanol credit permitted by KRS 141.4242;
- 2 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 3 (q) The energy efficiency credits permitted by KRS 141.436;
- 4 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 5 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 6 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 7 (u) The distilled spirits credit permitted by KRS 141.389;
- 8 (v) The angel investor credit permitted by KRS 141.396;
- 9 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 10 on or after April 27, 2018;~~[-and]~~
- 11 (x) The inventory credit permitted by KRS 141.408; and
- 12 (y) The scholarship tax credit permitted by Section 1 of this Act.
- 13 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 14 the nonrefundable personal tax credits permitted against the tax imposed by KRS
- 15 141.020 shall be taken in the following order:
- 16 (a) The individual credits permitted by KRS 141.020(3);
- 17 (b) The credit permitted by KRS 141.066;
- 18 (c) The tuition credit permitted by KRS 141.069;
- 19 (d) The household and dependent care credit permitted by KRS 141.067; and
- 20 (e) The income gap credit permitted by KRS 141.066.
- 21 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 22 this section, the refundable credits permitted against the tax imposed by KRS
- 23 141.020 shall be taken in the following order:
- 24 (a) The individual withholding tax credit permitted by KRS 141.350;
- 25 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 26 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
- 27 171.397(1)(b); and

- 1 (d) The film industry tax credit permitted by KRS 141.383 for applications
2 approved prior to April 27, 2018.
- 3 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
4 tax imposed by KRS 141.040.
- 5 (5) The following nonrefundable credits shall be applied against the sum of the tax
6 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
7 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 8 (a) The economic development credits computed under KRS 141.347, 141.381,
9 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
10 154.12-2088;
- 11 (b) The qualified farming operation credit permitted by KRS 141.412;
- 12 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 13 (d) The health insurance credit permitted by KRS 141.062;
- 14 (e) The unemployment credit permitted by KRS 141.065;
- 15 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 16 (g) The coal conversion credit permitted by KRS 141.041;
- 17 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
18 ending prior to January 1, 2008;
- 19 (i) The tax credit for cash contributions to investment funds permitted by KRS
20 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
21 154.20-258;
- 22 (j) The research facilities credit permitted by KRS 141.395;
- 23 (k) The employer High School Equivalency Diploma program incentive credit
24 permitted by KRS 151B.402;
- 25 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 26 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 27 (n) The clean coal incentive credit permitted by KRS 141.428;

- 1 (o) The ethanol credit permitted by KRS 141.4242;
- 2 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 3 (q) The energy efficiency credits permitted by KRS 141.436;
- 4 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 5 permitted by KRS 141.437;
- 6 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 7 (t) The railroad expansion credit permitted by KRS 141.386;
- 8 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 9 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 10 (w) The distilled spirits credit permitted by KRS 141.389;
- 11 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 12 on or after April 27, 2018;~~and~~
- 13 (y) The inventory credit permitted by KRS 141.408; **and**
- 14 **(z) The scholarship tax credit permitted by Section 1 of this Act.**
- 15 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 16 the refundable credits shall be taken in the following order:
- 17 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 18 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
- 19 171.397(1)(b); and
- 20 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 21 approved prior to April 27, 2018.
- 22 ➔SECTION 4. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED
- 23 TO READ AS FOLLOWS:
- 24 **(1) As used in this section:**
- 25 **(a) "Contribution" has the same meaning as in Section 1 of this Act; and**
- 26 **(b) "Qualified scholarship-granting organization" has the same meaning as in**
- 27 **Section 1 of this Act.**

1 (2) Effective for tax years beginning on or after January 1, 2020, a financial
2 institution shall be permitted a nonrefundable, nontransferable tax credit against
3 the tax imposed by KRS 136.505 for contributions made during a taxable year to
4 one (1) or more qualified scholarship-granting organizations as provided by
5 Section 1 of this Act.

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

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

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

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

15 (a) The credit for cash contributions in investment funds permitted by KRS
16 154.20-258; and

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

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

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

23 (1) As used in this section:

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

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

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

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

6 (3) The Kentucky Department of Education shall:

7 (a) Maintain a list of nonpublic schools seeking certification and shall
8 promulgate administrative regulations in accordance with KRS Chapter
9 13A to:

10 1. Establish timelines for meeting existing certification criteria and
11 reporting requirements that ensure that the nonpublic schools are
12 progressing through the certification process;

13 2. Provide that the nonpublic school shall complete the certification
14 process within eight (8) years of beginning operations in the
15 Commonwealth or within eight (8) years of the effective date of this
16 Act, whichever occurs last; and

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

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

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

24 2. The statewide percentage of students that individually qualify for free
25 and reduced-price meals based upon household income for the
26 immediately preceding school year.

27 ➔Section 7. KRS 131.190 is amended to read as follows:

- 1 (1) No present or former commissioner or employee of the department, present or
2 former member of a county board of assessment appeals, present or former property
3 valuation administrator or employee, present or former secretary or employee of the
4 Finance and Administration Cabinet, former secretary or employee of the Revenue
5 Cabinet, or any other person, shall intentionally and without authorization inspect or
6 divulge any information acquired by him of the affairs of any person, or information
7 regarding the tax schedules, returns, or reports required to be filed with the
8 department or other proper officer, or any information produced by a hearing or
9 investigation, insofar as the information may have to do with the affairs of the
10 person's business.
- 11 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 12 (a) Information required in prosecutions for making false reports or returns of
13 property for taxation, or any other infraction of the tax laws;
- 14 (b) Any matter properly entered upon any assessment record, or in any way made
15 a matter of public record;
- 16 (c) Furnishing any taxpayer or his properly authorized agent with information
17 respecting his own return;
- 18 (d) Testimony provided by the commissioner or any employee of the department
19 in any court, or the introduction as evidence of returns or reports filed with the
20 department, in an action for violation of state or federal tax laws or in any
21 action challenging state or federal tax laws;
- 22 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
23 energy resources assessed under KRS 132.820, or owners of surface land
24 under which the unmined minerals lie, factual information about the owner's
25 property derived from third-party returns filed for that owner's property, under
26 the provisions of KRS 132.820, that is used to determine the owner's
27 assessment. This information shall be provided to the owner on a confidential

- 1 basis, and the owner shall be subject to the penalties provided in KRS
2 131.990(2). The third-party filer shall be given prior notice of any disclosure
3 of information to the owner that was provided by the third-party filer;
- 4 (f) Providing to a third-party purchaser pursuant to an order entered in a
5 foreclosure action filed in a court of competent jurisdiction, factual
6 information related to the owner or lessee of coal, oil, gas reserves, or any
7 other mineral resources assessed under KRS 132.820. The department may
8 promulgate an administrative regulation establishing a fee schedule for the
9 provision of the information described in this paragraph. Any fee imposed
10 shall not exceed the greater of the actual cost of providing the information or
11 ten dollars (\$10);
- 12 (g) Providing information to a licensing agency, the Transportation Cabinet, or
13 the Kentucky Supreme Court under KRS 131.1817;
- 14 (h) Statistics of gasoline and special fuels gallonage reported to the department
15 under KRS 138.210 to 138.448;
- 16 (i) Providing any utility gross receipts license tax return information that is
17 necessary to administer the provisions of KRS 160.613 to 160.617 to
18 applicable school districts on a confidential basis;
- 19 (j) Providing documents, data, or other information to a third party pursuant to an
20 order issued by a court of competent jurisdiction; or
- 21 (k) Providing information to the Legislative Research Commission under:
- 22 1. KRS 139.519 for purposes of the sales and use tax refund on building
23 materials used for disaster recovery;
- 24 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 25 3. KRS 141.437 for purposes of the ENERGY STAR home and the
26 ENERGY STAR manufactured home credits;
- 27 4. KRS 148.544 for purposes of the film industry incentives;

- 1 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 2 tax credits and the job assessment fees;
- 3 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 4 7. KRS 141.396 for purposes of the angel investor tax credit;
- 5 8. KRS 141.389 for purposes of the distilled spirits credit;
- 6 9. KRS 141.408 for purposes of the inventory credit;~~[-and]~~
- 7 10. KRS 141.390 for purposes of the recycling and composting credit; and
- 8 11. Section 1 of this Act for purposes of the scholarship tax credit.

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

14 (4) Access to and inspection of information received from the Internal Revenue Service
15 is for department use only, and is restricted to tax administration purposes.
16 Information received from the Internal Revenue Service shall not be made available
17 to any other agency of state government, or any county, city, or other state, and shall
18 not be inspected intentionally and without authorization by any present secretary or
19 employee of the Finance and Administration Cabinet, commissioner or employee of
20 the department, or any other person.

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

26 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
27 submissions for the 1989 tax year, the department may make public or divulge only

1 those portions of mine maps submitted by taxpayers to the department pursuant to
2 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
3 out parcel areas. These electronic maps shall not be relied upon to determine actual
4 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
5 required under KRS Chapters 350 and 352 shall not be construed to constitute land
6 surveying or boundary surveys as defined by KRS 322.010 and any administrative
7 regulations promulgated thereto.