



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

Andy Beshear
GOVERNOR

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VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 372 OF THE
2021 REGULAR SESSION

I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:

House Bill 372 of the 2021 Regular Session of the General Assembly in its entirety.

I am vetoing House Bill 372 because while I support the concept of programs to incentivize remote workers to locate in the Commonwealth and reasonable incentives to support the creation of data centers, I have concerns about the drafting of this particular language, as well as the rushed nature in which the bill was passed. Legislation creating these programs requires more time, discussion, and nuance.

I also have concerns about the amount of up-front dollars that the bill provides based merely on the promise of a project, as well as the lack of discretion to say "no" to a project that is certain to fail.

This the 9th day of April, 2021.

Andy Beshear
Governor

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DATE

4/9/2021

2:52 PM

MICHAEL G. ADAMS

SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY

BY

Sarah M. Burgh



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2021 REGULAR SESSION

HOUSE BILL NO. 372

AS ENACTED

TUESDAY, MARCH 30, 2021

RECEIVED AND FILED

DATE 4/9/2021
2:52 PM

MICHAEL G. ADAMS
SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY
BY Sarah M. Burgin

1 AN ACT relating to tax incentives.

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

3 →SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
4 READ AS FOLLOWS:

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

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

9 *(b) Data center equipment for use in that data center;*
10 *purchased by a person engaged primarily in a commercial activity or separately*
11 *operated segment of business that exists for the purposes of engaging solely in*
12 *the operation of a data center or operating by collocating with a person that*
13 *operates a data center.*

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

18 *(3) To qualify for the exemption provided in subsection (1) of this section, the data*
19 *center shall certify to the department that it shall:*

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

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

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

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center:

1. The progress made toward achieving performance targets, which shall

include:

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

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

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

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

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

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

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

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

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

5. A statement as to whether the data center is located in a federal opportunity zone as designated in 26 U.S.C. sec. 1400Z-1 and 1400Z-2; and

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

(b) If a data center fails to meet the reporting, investment, and job creation requirements provided within the time periods required in this section, it shall repay the sales or use taxes that were exempted, plus accrued interest

1 from the dates on which purchases were made, to the department within
2 sixty (60) days of the noncompliance.

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

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

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

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

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

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

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

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

22 (6) Notwithstanding KRS 139.720, every qualifying data center using this exemption
23 shall keep the records, receipts, invoices, and other pertinent papers in such form
24 and timeframe as the department may require.

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

1 (8) As used in this section:

2 (a) "Capital investment" means:

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

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

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

13 4. All costs of architectural and engineering services, including test
 14 borings, surveys, estimates, plans, specifications, preliminary
 15 investigations, supervision of construction, and the performance of all
 16 the duties required by or consequent upon the acquisition,
 17 construction, installation, equipping, and rehabilitation of a project;

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

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

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

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

27 (d) "Data center" means a person that has a facility comprised of one (1) or

1 more buildings in Kentucky that is used to house and continuously operate
 2 computer servers and associated data center equipment for the transmission
 3 and storage of data where the facility has the following characteristics:

- 4 1. Uninterruptible power supplies, generator power, or both;
 5 2. Sophisticated fire suppression and prevention systems;
 6 3. Enhanced physical security; and
 7 4. Restricted access;

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

- 9 a. Equipment that is used to outfit, operate, or benefit a data
 10 center; and
 11 b. Component parts, installations, refreshments, replacements, and
 12 upgrades to the equipment, regardless of whether any of the
 13 equipment is affixed to or incorporated into real property.

14 2. Eligible "data center equipment" includes:

- 15 a. Equipment necessary for the transformation, generation,
 16 distribution, or management of electricity that is required to
 17 operate computer servers or similar data storage equipment,
 18 including:
 19 i. Uninterruptible energy supplies;
 20 ii. Generators;
 21 iii. Conduit;
 22 iv. Gaseous fuel piping;
 23 v. Cabling;
 24 vi. Duct banks;
 25 vii. Switches;
 26 viii. Switchboards;
 27 ix. Batteries; and

- 1 x. Testing equipment;
- 2 b. Equipment necessary to cool and maintain a controlled
- 3 environment for the operation of computer servers or data
- 4 storage systems and other components of a computer data center,
- 5 including:
- 6 i. Mechanical equipment;
- 7 ii. Refrigerant piping;
- 8 iii. Gaseous fuel piping;
- 9 iv. Adiabatic and free cooling systems;
- 10 v. Cooling towers;
- 11 vi. Water softeners;
- 12 vii. Air handling units;
- 13 viii. Indoor direct exchange units;
- 14 ix. Fans;
- 15 x. Ducting; and
- 16 xi. Filters;
- 17 c. Water conservation systems, including facilities or mechanisms
- 18 that are designed to collect, conserve, and reuse water;
- 19 d. Software, including but not limited to:
- 20 i. Enabling software and licensing agreements;
- 21 ii. Computer servers or similar data storage equipment;
- 22 iii. Chassis;
- 23 iv. Networking equipment;
- 24 v. Switches;
- 25 vi. Racks;
- 26 vii. Cabling;
- 27 viii. Trays; and

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- ix. Conduits;
- e. Monitoring equipment;
- f. Security systems;
- g. i. Modular data centers; and
 - ii. Preassembled components of any item, including components used in the manufacturing of modular data centers; and
- h. Other tangible personal property that is essential to the operations of a computer data center;
- (f) "Full-time employee" means a person employed for a minimum of thirty-five (35) hours per week and subject to the tax imposed by KRS 141.020;
and
- (g) 1. "New jobs" means new jobs that:
 - a. Are created and located in the state;
 - b. Are nonseasonal;
 - c. Are full-time, meaning a minimum of thirty-five (35) hours a week and subject to the state income tax imposed by KRS 141.020;
 - d. i. Collectively pay an average weekly wage that equals or exceeds one hundred twenty-five percent (125%) of the average weekly wage for the county where the data center is located, as determined by the most recent report of the United States Bureau of Labor Statistics; and
 - ii. If the average weekly wage calculated in subpart i. of this subdivision is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal

1 minimum wage.

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

4 →SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 5 READ AS FOLLOWS:

6 (1) As used in this section:

7 (a) "Affiliate" means:

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

11 2. An individual and a corporation, of which more than twenty percent
 12 (20%) in value of the outstanding stock is owned, directly or indirectly,
 13 by or for that individual; or

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

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

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

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

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

27 3. Is employed by the business entity as a full-time employee, working a

- 1 minimum of thirty-five (35) hours per week; and
- 2 4. a. Has moved into this state on or after January 1, 2021; or
- 3 b. On or after January 1, 2021:
- 4 i. Was a student attending a college or university in Kentucky
- 5 and remains in this state for employment; or
- 6 ii. Was a member of the Armed Forces, receives a military
- 7 discharge, and returns to or remains in this state for
- 8 employment.
- 9 (2) For taxable years beginning on or after January 1, 2021, there is hereby
- 10 established the remote worker tax credit as a credit against the tax imposed under
- 11 KRS 141.020, with the ordering of credits under Section 4 of this Act.
- 12 (3) (a) The remote worker tax credit allowed under subsection (2) of this section:
- 13 1. Shall be:
- 14 a. Nonrefundable and nontransferable; and
- 15 b. Allowed to any individual qualifying as a remote worker; and
- 16 2. May be composed of the two (2) calculations under paragraphs (b)
- 17 and (c) of this subsection.
- 18 (b) 1. The tax credit shall be in an amount equal to:
- 19 a. For the first taxable year the credit is allowed for the remote
- 20 worker, five thousand dollars (\$5,000);
- 21 b. For the second taxable year that the credit is allowed for the
- 22 remote worker, four thousand dollars (\$4,000);
- 23 c. For the third taxable year that the credit is allowed for the
- 24 remote worker, three thousand dollars (\$3,000);
- 25 d. For the fourth taxable year that the credit is allowed for the
- 26 remote worker, two thousand dollars (\$2,000);
- 27 e. For the fifth taxable year that the credit is allowed for the remote

- 1 worker, one thousand dollars (\$1,000);
2 f. Zero for any taxable year after the fifth taxable year that the
3 credit is allowed for the remote worker;
4 2. a. The amounts in subparagraph 1. of this paragraph shall be
5 factored according to the following amounts, which are based on
6 the population density of the county in which a remote worker's
7 principal place of residence is located:
8 i. One hundred percent (100%) if the county has a population
9 density of less than sixty-two (62) persons per square mile;
10 ii. Ninety percent (90%) if the county has a population density
11 between sixty-two persons (62) persons per square mile and
12 up to one hundred four (104) persons per square mile; and
13 iii. Eighty percent (80%) if the county has a population density
14 of one hundred four persons (104) or more per square
15 mile.
16 b. Notwithstanding subdivision a. of this subparagraph, the
17 amounts in subparagraph 1. of this paragraph shall be factored
18 by one hundred percent (100%) if the remote worker's principal
19 place of residence is located in a Kentucky opportunity zone.
20 c. The population density for a county shall be calculated by
21 dividing the number of residents in the county, based on the
22 most recent federal decennial census, by the square miles in the
23 county.
24 (c) 1. In addition to the amount of tax credit provided in paragraph (b) of
25 this subsection, the remote worker shall also receive an additional
26 amount of tax credit if the remote worker is a first-time home buyer in
27 Kentucky during the five (5) year tax credit period.

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

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

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

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

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

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

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

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

- 1 c. One hundred four persons (104) or more per square mile; and
 2 3. A statement as to whether the remote worker is located in a federal
 3 opportunity zone as designated in 26 U.S.C. sec. 1400Z-1 and 1400Z-
 4 2;
 5 4. The amount of gross income reported by the taxpayer;
 6 5. The amount of tax credit allowed for each taxable year;
 7 6. The total amount of all tax credits claimed by all taxpayers for the
 8 fiscal year; and
 9 7. Based on ranges of adjusted gross income of no larger than five
 10 thousand dollars (\$5,000) for the taxable year, the total amount of tax
 11 credits claimed and the number of returns claiming a tax credit for
 12 each adjusted gross income range.
 13 (b) The report required under paragraph (a) of this subsection shall be
 14 submitted to the Interim Joint Committee on Appropriations and Revenue
 15 by November 1, 2022, and each November 1 thereafter as long as the remote
 16 worker tax credit is claimed on a return processed by the department.

17 ➔ Section 3. 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 of the affairs of any person, or information
 24 regarding the tax schedules, returns, or reports required to be filed with the
 25 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 properly authorized agent with information
7 respecting his 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 148.544 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; ~~and~~
- 26 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 27 credit;

1 13. Section 1 of this Act for the purposes of the data center sales and use
2 tax exemption; and

3 14. Section 2 of this Act for the purposes of the remote worker tax credit.

- 4 (3) The commissioner shall make available any information for official use only and on
5 a confidential basis to the proper officer, agency, board or commission of this state,
6 any Kentucky county, any Kentucky city, any other state, or the federal government,
7 under reciprocal agreements whereby the department shall receive similar or useful
8 information in return.
- 9 (4) Access to and inspection of information received from the Internal Revenue Service
10 is for department use only, and is restricted to tax administration purposes.
11 Information received from the Internal Revenue Service shall not be made available
12 to any other agency of state government, or any county, city, or other state, and shall
13 not be inspected intentionally and without authorization by any present secretary or
14 employee of the Finance and Administration Cabinet, commissioner or employee of
15 the department, or any other person.
- 16 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
17 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
18 as reported to the Department of Revenue under the natural resources severance tax
19 requirements of KRS Chapter 143A may be made public by the department by
20 release to the Energy and Environment Cabinet, Department for Natural Resources.
- 21 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
22 submissions for the 1989 tax year, the department may make public or divulge only
23 those portions of mine maps submitted by taxpayers to the department pursuant to
24 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
25 out parcel areas. These electronic maps shall not be relied upon to determine actual
26 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
27 required under KRS Chapters 350 and 352 shall not be construed to constitute land

1 surveying or boundary surveys as defined by KRS 322.010 and any administrative
2 regulations promulgated thereto.

3 →Section 4. KRS 141.0205 is amended to read as follows:

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


7 (1) The nonrefundable business incentive credits against the tax imposed by KRS
8 141.020 shall be taken in the following order:

- 9 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 10 (b) The economic development credits computed under KRS 141.347, 141.381,
11 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
12 207, and 154.12-2088;
- 13 (c) The qualified farming operation credit permitted by KRS 141.412;
- 14 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 15 (e) The health insurance credit permitted by KRS 141.062;
- 16 (f) The tax paid to other states credit permitted by KRS 141.070;
- 17 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 18 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 19 (i) The tax credit for cash contributions in 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 under 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;

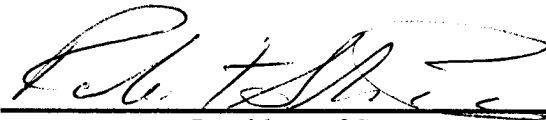
- 1 (o) The ethanol credit permitted by KRS 141.4242;
- 2 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 3 (q) The energy efficiency credits permitted by KRS 141.436;
- 4 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 5 (s) The Endow Kentucky credit permitted 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;
- 11 (x) The inventory credit permitted by KRS 141.408; and
- 12 (y) The renewable chemical production credit permitted by KRS 141.4231.
- 13 (2) After the application of the nonrefundable credits in subsection (1) of this section,
14 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
15 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; and
- 21 **(f) The remote worker credit permitted by Section 2 of this Act.**
- 22 (3) After the application of the nonrefundable credits provided for in subsection (2) of
23 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
24 taken in the following order:
- 25 (a) The individual withholding tax credit permitted by KRS 141.350;
- 26 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 27 (c) The certified rehabilitation credit permitted by KRS 171.3961 and

- 1 171.397(1)(b); and
- 2 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 3 approved prior to April 27, 2018.
- 4 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
- 5 tax imposed by KRS 141.040.
- 6 (5) The following nonrefundable credits shall be applied against the sum of the tax
- 7 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
- 8 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 9 (a) The economic development credits computed under KRS 141.347, 141.381,
- 10 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
- 11 207, and 154.12-2088;
- 12 (b) The qualified farming operation credit permitted by KRS 141.412;
- 13 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 14 (d) The health insurance credit permitted by KRS 141.062;
- 15 (e) The unemployment credit permitted by KRS 141.065;
- 16 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 17 (g) The coal conversion credit permitted by KRS 141.041;
- 18 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 19 ending prior to January 1, 2008;
- 20 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 21 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 22 154.20-258;
- 23 (j) The research facilities credit permitted by KRS 141.395;
- 24 (k) The employer High School Equivalency Diploma program incentive credit
- 25 permitted by KRS 151B.402;
- 26 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 27 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

- 1 (n) The clean coal incentive credit permitted by KRS 141.428;
- 2 (o) The ethanol credit permitted by KRS 141.4242;
- 3 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 4 (q) The energy efficiency credits permitted by KRS 141.436;
- 5 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 6 permitted by KRS 141.437;
- 7 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 8 (t) The railroad expansion credit permitted by KRS 141.386;
- 9 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 10 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 11 (w) The distilled spirits credit permitted by KRS 141.389;
- 12 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 13 on or after April 27, 2018;
- 14 (y) The inventory credit permitted by KRS 141.408; and
- 15 (z) The renewable chemical production tax credit permitted by KRS 141.4231.
- 16 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 17 the refundable credits shall be taken in the following order:
- 18 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 19 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
- 20 171.397(1)(b); and
- 21 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 22 approved prior to April 27, 2018.
- 23 ➔Section 5. Section 1 of this Act takes effect on July 1, 2021.



Speaker-House of Representatives



President of Senate

Attest:



Chief Clerk of House of Representatives

Approved _____

Governor

Date _____