

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, 2022, 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;*  
15 *(6) "Kentucky resident" means a resident as defined in KRS 141.010, except that a*  
16 *minor child is a Kentucky resident if his or her parent or legal guardian is a*  
17 *Kentucky resident unless the parent or legal guardian with sole custody lives*  
18 *outside of Kentucky; and*  
19 *(7) "Poverty line" means the annual poverty guidelines for the forty-eight (48)*  
20 *contiguous states and the District of Columbia as published by the U.S.*  
21 *Department of Health and Human Services.*

22 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO  
23 READ AS FOLLOWS:

- 24 *(1) The Kentucky opportunity fund is hereby established in the State Treasury. The*  
25 *fund shall consist of state appropriations, gifts, grants, and federal funds.*  
26 *(2) For fiscal years beginning on or after July 1, 2022, and before July 1, 2026,*  
27 *twenty-five million dollars (\$25,000,000) shall be transferred from the general*

- 1        fund to the Kentucky opportunity fund annually.
- 2        (3) The fund shall be administered by the authority.
- 3        (4) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal  
4        year shall not lapse.
- 5        (5) Moneys deposited in the fund are hereby appropriated for the purposes set forth  
6        in this section and shall not be appropriated or transferred by the General  
7        Assembly for any other purposes.
- 8        (6) Amounts deposited in the fund shall be used for the purpose of making  
9        contributions to individual accounts and investing in accordance with subsection  
10       (7) of this section.
- 11       (7) (a) Amounts deposited into the fund, including amounts contributed to  
12       individual accounts, shall be invested in any of the following types of  
13       securities that are deemed appropriate by the authority:
- 14                1. Government and agency bonds;
- 15                2. Investment grade asset-backed securities and corporate bonds;
- 16                3. Mortgages, excluding interest-only, principal-only, and inverse  
17                floaters; and
- 18                4. Equities.
- 19        (b) Equities shall constitute no greater than sixty percent (60%) of the entire  
20        portfolio, including up to ten percent (10%) in equities from outside the  
21        United States.
- 22        (c) The duration of the fixed-income portion of the portfolio shall reflect the  
23        future liability of the fund for distributions.
- 24        (d) Assets may be pooled for investment purposes with any other investment of  
25        the Commonwealth that is eligible for asset pooling.
- 26        (e) Leveraging is strictly prohibited.
- 27        (8) The Kentucky Department of Revenue and the Kentucky Office of Vital Statistics

1 shall enter into information-sharing agreements with the authority to enable the  
2 exchange of such information as may be necessary for the efficient  
3 administration of the fund.

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

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

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

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

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

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

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

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

27 (c) If household income is under one hundred fifty percent (150%) of the

1 federal poverty line, the authority shall make an annual contribution of  
 2 three hundred dollars (\$300) to the account;

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

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

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

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

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

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

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

21 (b) Medical expenses of the beneficiary; or

22 (c) The payment of student loan debt.

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

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

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

3       ➔Section 6. KRS 131.190 is amended to read as follows:

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

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

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

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

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

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

25 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or  
26 energy resources assessed under KRS 132.820, or owners of surface land  
27 under which the unmined minerals lie, factual information about the owner's

1 property derived from third-party returns filed for that owner's property, under  
2 the provisions of KRS 132.820, that is used to determine the owner's  
3 assessment. This information shall be provided to the owner on a confidential  
4 basis, and the owner shall be subject to the penalties provided in KRS  
5 131.990(2). The third-party filer shall be given prior notice of any disclosure  
6 of information to the owner that was provided by the third-party filer;

7 (f) Providing to a third-party purchaser pursuant to an order entered in a  
8 foreclosure action filed in a court of competent jurisdiction, factual  
9 information related to the owner or lessee of coal, oil, gas reserves, or any  
10 other mineral resources assessed under KRS 132.820. The department may  
11 promulgate an administrative regulation establishing a fee schedule for the  
12 provision of the information described in this paragraph. Any fee imposed  
13 shall not exceed the greater of the actual cost of providing the information or  
14 ten dollars (\$10);

15 (g) Providing information to a licensing agency, the Transportation Cabinet, or  
16 the Kentucky Supreme Court under KRS 131.1817;

17 (h) Statistics of gasoline and special fuels gallonage reported to the department  
18 under KRS 138.210 to 138.448;

19 (i) Providing any utility gross receipts license tax return information that is  
20 necessary to administer the provisions of KRS 160.613 to 160.617 to  
21 applicable school districts on a confidential basis;

22 (j) Providing documents, data, or other information to a third party pursuant to an  
23 order issued by a court of competent jurisdiction;~~[-or]~~

24 (k) Providing information to the Legislative Research Commission under:

25 1. KRS 139.519 for purposes of the sales and use tax refund on building  
26 materials used for disaster recovery;

27 2. KRS 141.436 for purposes of the energy efficiency products credits;

- 1           3.    KRS 141.437 for purposes of the ENERGY STAR home and the
- 2                   ENERGY STAR manufactured home credits;
- 3           4.    KRS 148.544 for purposes of the film industry incentives;
- 4           5.    KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 5                   tax credits and the job assessment fees;
- 6           6.    KRS 141.068 for purposes of the Kentucky investment fund;
- 7           7.    KRS 141.396 for purposes of the angel investor tax credit;
- 8           8.    KRS 141.389 for purposes of the distilled spirits credit;
- 9           9.    KRS 141.408 for purposes of the inventory credit;
- 10          10.   KRS 141.390 for purposes of the recycling and composting credit;
- 11          11.   KRS 141.3841 for purposes of the selling farmer tax credit; and
- 12          12.   KRS 141.4231 for purposes of the renewable chemical production tax
- 13                   credit; or

14           *(l) Providing information to the Kentucky Higher Education Assistance*  
15                   *Authority under Section 2 of this Act.*

- 16   (3)   The commissioner shall make available any information for official use only and on  
17           a confidential basis to the proper officer, agency, board or commission of this state,  
18           any Kentucky county, any Kentucky city, any other state, or the federal government,  
19           under reciprocal agreements whereby the department shall receive similar or useful  
20           information in return.
- 21   (4)   Access to and inspection of information received from the Internal Revenue Service  
22           is for department use only, and is restricted to tax administration purposes.  
23           Information received from the Internal Revenue Service shall not be made available  
24           to any other agency of state government, or any county, city, or other state, and shall  
25           not be inspected intentionally and without authorization by any present secretary or  
26           employee of the Finance and Administration Cabinet, commissioner or employee of  
27           the department, or any other person.

- 1 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil  
2 excise tax requirements of KRS Chapter 137 and statistics of natural gas production  
3 as reported to the Department of Revenue under the natural resources severance tax  
4 requirements of KRS Chapter 143A may be made public by the department by  
5 release to the Energy and Environment Cabinet, Department for Natural Resources.
- 6 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map  
7 submissions for the 1989 tax year, the department may make public or divulge only  
8 those portions of mine maps submitted by taxpayers to the department pursuant to  
9 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-  
10 out parcel areas. These electronic maps shall not be relied upon to determine actual  
11 boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
12 required under KRS Chapters 350 and 352 shall not be construed to constitute land  
13 surveying or boundary surveys as defined by KRS 322.010 and any administrative  
14 regulations promulgated thereto.

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

16 For taxable years beginning on or after January 1, 2018, in the case of taxpayers other  
17 than corporations:

- 18 (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
19 those taxpayers the deductions allowed individuals by Section 62 of the Internal  
20 Revenue Code and adjusting as follows:
- 21 (a) Exclude income that is exempt from state taxation by the Kentucky  
22 Constitution and the Constitution and statutory laws of the United States;
- 23 (b) Exclude income from supplemental annuities provided by the Railroad  
24 Retirement Act of 1937 as amended and which are subject to federal income  
25 tax by Pub. L. No. 89-699;
- 26 (c) Include interest income derived from obligations of sister states and political  
27 subdivisions thereof;



- 1 (d) Exclude employee pension contributions picked up as provided for in KRS  
2 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
3 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
4 courts that these contributions shall not be included as gross income until such  
5 time as the contributions are distributed or made available to the employee;
- 6 (e) Exclude Social Security and railroad retirement benefits subject to federal  
7 income tax;
- 8 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
9 brought against a manufacturer or distributor of "Agent Orange" for damages  
10 resulting from exposure to Agent Orange by a member or veteran of the  
11 Armed Forces of the United States or any dependent of such person who  
12 served in Vietnam;
- 13 (g) 1. a. For taxable years beginning after December 31, 2005, but before  
14 January 1, 2018, exclude up to forty-one thousand one hundred ten  
15 dollars (\$41,110) of total distributions from pension plans, annuity  
16 contracts, profit-sharing plans, retirement plans, or employee  
17 savings plans; and
- 18 b. For taxable years beginning on or after January 1, 2018, exclude  
19 up to thirty-one thousand one hundred ten dollars (\$31,110) of  
20 total distributions from pension plans, annuity contracts, profit-  
21 sharing plans, retirement plans, or employee savings plans.
- 22 2. As used in this paragraph:
- 23 a. "Annuity contract" has the same meaning as set forth in Section  
24 1035 of the Internal Revenue Code;
- 25 b. "Distributions" includes but is not limited to any lump-sum  
26 distribution from pension or profit-sharing plans qualifying for the  
27 income tax averaging provisions of Section 402 of the Internal

- 1 Revenue Code; any distribution from an individual retirement  
2 account as defined in Section 408 of the Internal Revenue Code;  
3 and any disability pension distribution; and
- 4 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
5 savings plans" means any trust or other entity created or organized  
6 under a written retirement plan and forming part of a stock bonus,  
7 pension, or profit-sharing plan of a public or private employer for  
8 the exclusive benefit of employees or their beneficiaries and  
9 includes plans qualified or unqualified under Section 401 of the  
10 Internal Revenue Code and individual retirement accounts as  
11 defined in Section 408 of the Internal Revenue Code;
- 12 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net  
13 income from an S corporation subject to the franchise tax imposed  
14 under KRS 136.505 or the capital stock tax imposed under KRS  
15 136.300; and
- 16 b. Exclude the portion of the distributive share of a shareholder's net  
17 income from an S corporation related to a qualified subchapter S  
18 subsidiary subject to the franchise tax imposed under KRS  
19 136.505 or the capital stock tax imposed under KRS 136.300.
- 20 2. The shareholder's basis of stock held in an S corporation where the S  
21 corporation or its qualified subchapter S subsidiary is subject to the  
22 franchise tax imposed under KRS 136.505 or the capital stock tax  
23 imposed under KRS 136.300 shall be the same as the basis for federal  
24 income tax purposes;
- 25 (i) Exclude income received for services performed as a precinct worker for  
26 election training or for working at election booths in state, county, and local  
27 primaries or regular or special elections;

- 1 (j) Exclude any capital gains income attributable to property taken by eminent  
2 domain;
- 3 (k) 1. Exclude all income from all sources for members of the Armed Forces  
4 who are on active duty and who are killed in the line of duty, for the year  
5 during which the death occurred and the year prior to the year during  
6 which the death occurred.
- 7 2. For the purposes of this paragraph, "all income from all sources" shall  
8 include all federal and state death benefits payable to the estate or any  
9 beneficiaries;
- 10 (l) Exclude all military pay received by members of the Armed Forces while on  
11 active duty;
- 12 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
13 or 168; and
- 14 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 15 (n) Include the amount deducted under 26 U.S.C. sec. 199A;~~and~~
- 16 (o) Ignore any change in the cost basis of the surviving spouse's share of property  
17 owned by a Kentucky community property trust occurring for federal income  
18 tax purposes as a result of the death of the predeceasing spouse; and
- 19 **(p) Exclude any amount in a Kentucky opportunity account, as described in**  
20 **Section 3 of this Act, and any distribution from a Kentucky opportunity**  
21 **account that it used to pay expenses allowed under Section 4 of this Act.**
- 22 (2) Net income shall be calculated by subtracting from adjusted gross income all the  
23 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
24 modified by KRS 141.0101, except:
- 25 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 26 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering  
27 losses allowed under Section 165(d) of the Internal Revenue Code;

- 1 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 2 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 3 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous  
4 deduction;
- 5 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable  
6 under KRS 140.090(1)(h) in calculating the value of the distributive shares of  
7 the estate of a decedent, unless there is filed with the income return a  
8 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 9 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and  
10 any other deductions in lieu thereof;
- 11 (h) Any deduction allowed for amounts paid to any club, organization, or  
12 establishment which has been determined by the courts or an agency  
13 established by the General Assembly and charged with enforcing the civil  
14 rights laws of the Commonwealth, not to afford full and equal membership  
15 and full and equal enjoyment of its goods, services, facilities, privileges,  
16 advantages, or accommodations to any person because of race, color, religion,  
17 national origin, or sex, except nothing shall be construed to deny a deduction  
18 for amounts paid to any religious or denominational club, group, or  
19 establishment or any organization operated solely for charitable or educational  
20 purposes which restricts membership to persons of the same religion or  
21 denomination in order to promote the religious principles for which it is  
22 established and maintained; and
- 23 (i) A taxpayer may elect to claim the standard deduction allowed by KRS  
24 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
25 and as modified by this section.

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

- 27 (1) A needy aged person, a needy blind person, a needy child, a needy permanently and

1           totally disabled person, or a person with whom a needy child lives shall be eligible  
2           to receive a public assistance grant only if he has made a proper application or an  
3           application has been made on his behalf in the manner and form prescribed by  
4           administrative regulation. No individual shall be eligible to receive public  
5           assistance under more than one (1) category of public assistance for the same period  
6           of time.

7       (2) The secretary shall, by administrative regulations, prescribe the conditions of  
8           eligibility for public assistance in conformity with the public assistance titles of the  
9           Social Security Act, its amendments, and other federal acts and regulations. The  
10          secretary shall also promulgate administrative regulations to allow for between a  
11          forty percent (40%) and a forty-five percent (45%) ratable reduction in the method  
12          of calculating eligibility and benefits for public assistance under Title IV-A of the  
13          Federal Social Security Act. In no instance shall grants to families with no income  
14          be less than the appropriate grant maximum used for public assistance under Title  
15          IV-A of the Federal Social Security Act. As used in this section, "ratable reduction"  
16          means the percentage reduction applied to the deficit between the family's countable  
17          income and the standard of need for the appropriate family size.

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

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

26       (5) Public assistance shall not be payable to or in behalf of any individual who has  
27          taken any legal action in his own behalf or in the behalf of others with the intent and

1           purpose of creating eligibility for the assistance.

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

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

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

9           (b) To accept suitable training, or

10          (c) To accept suitable employment.

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

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

16       (9) To the extent permitted by federal law, any money received because of a settlement  
17       or judgment in a lawsuit brought against a manufacturer or distributor of "Agent  
18       Orange" for damages resulting from exposure to "Agent Orange" by a member or  
19       veteran of the Armed Forces of the United States or any dependent of such person  
20       who served in Vietnam shall not be considered as income for the purpose of  
21       determining eligibility or continuing eligibility for public assistance and shall not be  
22       subject to a lien or be available for repayment to the Commonwealth for public  
23       assistance received by the recipient.

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

- 1           1. Any amount in an ABLE account;
- 2           2. Any contributions to an ABLE account;~~[-and]~~
- 3           3. Any distribution from an ABLE account for qualified disability
- 4           expenses;
- 5           **4. Any amount in a Kentucky opportunity account, as described in**
- 6           **Section 3 of this Act; and**
- 7           **5. Any distribution from a Kentucky opportunity account that is used to**
- 8           **pay expenses allowed under Section 4 of this Act.**

9           (b) For purposes of this subsection:

- 10          1. "ABLE account" means an account established within any state having a
- 11          qualified ABLE program as provided in 26 U.S.C. sec. 529A, as
- 12          amended;
- 13          2. "Kentucky law" includes:
- 14           a. All provisions of the Kentucky Revised Statutes;
- 15           b. Any contract to provide Medicaid managed care established
- 16           pursuant to this chapter;
- 17           c. Any agreement to operate a Medicaid program established
- 18           pursuant to this chapter; and
- 19           d. Any administrative regulation promulgated pursuant to this
- 20           chapter; and
- 21          3. "Qualified disability expenses" means expenses described in 26 U.S.C.
- 22          sec. 529A of a person who is the beneficiary of an ABLE account.