

KY H 487, Enacted - Final

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Kentucky

SUMMARY: Establishes the Volkswagen Settlement Fund for moneys designated from that settlement, to be administered by the Energy and Environment Cabinet.~ SAME AS:

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

02/26/2018 INTRODUCED.

02/28/2018 To HOUSE Committee on ECONOMIC DEVELOPMENT & WORKFORCE INVESTMENT.

03/12/2018 Posted in committee.

03/14/2018 From HOUSE Committee on ECONOMIC DEVELOPMENT and WORKFORCE INVESTMENT:

Reported favorably with substitute and amendment.

03/14/2018 1st reading, to Calendar.

03/15/2018 2nd Reading, to Committee on RULES.

03/16/2018 Posted for passage in Regular Orders of the Day.

03/19/2018 3rd Reading.

03/19/2018 Committee Substitute and Amendment adopted on HOUSE floor: Amendment No. (1-title).

03/19/2018 Passed HOUSE. *****To SENATE.

03/21/2018 Taken from SENATE Committee on COMMITTEES.

03/21/2018 1st Reading.

03/21/2018 Returned to SENATE Committee on COMMITTEES.

03/21/2018 To SENATE Committee on APPROPRIATIONS AND REVENUE.

03/22/2018 Taken from SENATE Committee on APPROPRIATIONS AND REVENUE.

03/22/2018 2nd Reading.

03/22/2018 Returned to SENATE Committee on APPROPRIATIONS AND REVENUE.

04/14/2018 From SENATE Committee on APPROPRIATIONS AND REVENUE: Reported favorably with substitute and amendment.

04/14/2018 To Rules.

04/14/2018 Posted for passage in Regular Orders of the Day.

04/14/2018 3rd Reading.

04/14/2018 Committee Substitute and Amendment adopted on SENATE floor: Amendment No. (1-title).

04/14/2018 Passed SENATE. *****To HOUSE for concurrence.

04/14/2018 To HOUSE Committee on RULES.

04/14/2018 Taken from RULES Committee.

04/14/2018 Posted for passage for Concurrence.

04/14/2018 HOUSE concurred in SENATE Substitute.

04/14/2018 HOUSE concurred in SENATE Amendment No. (1-title).

04/14/2018 Enrolled.

04/14/2018 *****To GOVERNOR.

04/26/2018 Became law without GOVERNOR'S signature.

04/26/2018 Act No. 207

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session: Kentucky 2018 Regular

Session cite: 2018 KY H 487

Enacted - Final

April 26, 2018

Pratt

KENTUCKY LEGISLATURE

HB 487

2018 Regular Session

(Act ch. 207)

AN ACT relating to fiscal matters and declaring an emergency.

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

***** TEXT OMITTED, DOES NOT PERTAIN TO FILM *****

(1) It is the intent and purpose of the General Assembly in enacting this section and 139.990(5), to encourage the motion picture industry to choose locations in the Commonwealth for the filming or producing of motion pictures, by providing an exemption from sales and use taxes. The exemption is accomplished by granting a refundable credit for sales and use taxes paid on purchases made in connection with the filming or producing of motion pictures in Kentucky.

(2) ***(a) On or after the effective date of this Act, and until July 1, 2022, the department shall not accept any new applications as provided by subsection (4) of this section.***

(b) On or before June 1, 2019, the department shall provide the following information to the Interim Joint Committee on Appropriations and Revenue for all fiscal years data is available:

1. The name of the motion picture company;

2. The filming location or locations in this state;

3. A brief description of the production;

4. The amount of sales and use tax refunded; and

5. The total amount of all sales and use tax refunded to motion picture production companies during each fiscal year reported.

(3) As used in this section and KRS 139.990(5):

(a) "Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance;

(b) "Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication; and

(c) "Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.

(4) ~~(3)~~ Any motion picture production company that intends to film all or parts of a motion picture in the Commonwealth and desires to receive the credit provided for in subsection ~~(7)~~ ~~(6)~~ of this section shall, prior to the commencement of filming:

(a) Provide the department with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining these records; and

(b) File an application for the tax credit within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with administrative regulations promulgated by the department.

(5) ~~(4)~~ To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.

(6) ~~(5)~~ The twelve (12) month period during which expenditures may qualify for the tax credit shall begin on the date of the earliest expenditure reported.

- (7) ~~(6)~~ Any motion picture production company which films or produces one (1) or more motion pictures in the Commonwealth during any twelve (12) month period shall, upon making application therefor and meeting the other requirements prescribed in this section, be entitled to a refundable tax credit equal to the amount of Kentucky sales and use tax paid for purchases made in connection with the filming or production of a motion picture.
- (8) ~~(7)~~ The department shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the amount of the credit to the secretary. In the case of an audit, as provided for in subsection ~~(12)~~ (13) of this section, the department shall certify the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.
- (9) ~~(8)~~ Upon receipt of the certification of the amount of credit from the department, the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation but shall be deducted from tax receipts for the current fiscal year.
- ~~(10)~~(9) The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.
- ~~(11)~~(10) Any tax credit or part thereof paid to a motion picture production company as a result of error by the department shall be repaid by such company to the secretary.
- ~~(12)~~(11) Any tax credit or part thereof paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company shall be repaid by such company to the secretary, together with interest, at the tax interest rate provided for in KRS 131.010(6).
- ~~(13)~~(12) The department may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the department auditors to verify expenditures.
- ~~(14)~~(13) For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company," the department may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.
- ~~(15)~~(14) The department may promulgate appropriate administrative regulations to carry out the intent and purposes of this section.

***** TEXT OMITTED, DOES NOT PERTAIN TO FILM *****

Section 61. KRS 148.542 is amended to read as follows:

As used in KRS 148.542 to 148.546:

- (1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;

- (2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;
- (3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 148.544;
- (4) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:
- (a) Casting assistants;
 - (b) Costume design;
 - (c) Extras;
 - (d) Gaffers;
 - (e) Grips;
 - (f) Location managers;
 - (g) Production assistants;
 - (h) Set construction staff; and
 - (i) Set design staff;
- (5) "Cabinet" means the Finance and Administration Cabinet;
- (6) ~~"Commercial" means an individual production or series of live-action or animated productions, music videos, infomercials, or interstitials that are:~~
- ~~(a) Less than thirty-one (31) minutes in length;~~
 - ~~(b) Made for the purpose of promoting a product, service, or idea; and~~
 - ~~(c) Produced for regional or national distribution via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices;~~
- ~~(7)~~ "Commonwealth" means the Commonwealth of Kentucky;
- (7) ~~(8)~~ "Compensation" means compensation included in adjusted gross income as defined in KRS 141.010 ~~(10)~~ ;
- (8) ~~(9)~~ "Documentary" means a production based upon factual information and not subjective interjections;
- (9) ~~(10)~~ "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;
- (10) ~~(11)~~ "Employee" *has the same meaning as* ~~means the same as defined~~ in KRS 141.010 ~~(20)~~ ;
- (11) ~~(12)~~ "Enhanced incentive county" has the same meaning as in KRS 154.32-010;

- (12) ~~(13)~~ “Feature-length film” means a live-action or animated production that is:
- (a) More than thirty (30) minutes in length; and
 - (b) Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;
- (13) ~~(14)~~ “Industrial film” means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;
- (14) ~~(15)~~ “Kentucky-based company” has the same meaning as in KRS 164.6011;
- (15) ~~(16)~~ (a) “Motion picture or entertainment production” means:
- 1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:
 - a. A feature-length film;
 - b. A television program;
 - c. An industrial film; *or*
 - d. A documentary; ~~or~~
 - e. ~~A commercial;~~ or
 - 2. A national touring production of a Broadway show produced in Kentucky;
- (b) “Motion picture or entertainment production” does not include the filming or production of obscene material or television coverage of news or athletic events;
- (16) ~~(17)~~ “Obscene” *has the same meaning as* ~~means the same as defined~~ in KRS 531.010;
- (17) ~~(18)~~ “Office” means the Kentucky Film Office in the Tourism, Arts and Heritage Cabinet;
- (18) ~~(19)~~ “Person” *has the same meaning as* ~~means the same as defined~~ in KRS 141.010 ~~(15)~~ ;
- (19) ~~(20)~~ (a) “Qualifying expenditure” means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:
- 1. The production script and synopsis;
 - 2. Set construction and operations, wardrobe, accessories, and related services;
 - 3. Lease or rental of real property in Kentucky as a set location;
 - 4. Photography, sound synchronization, lighting, and related services;
 - 5. Editing and related services;
 - 6. Rental of facilities and equipment;
 - 7. Vehicle leases;

- 8. Food; and
- 9. Accommodations.

(b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;

(20) ~~(21)~~ "Qualifying payroll expenditure" means compensation paid to above-the-line crew and below-the line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;

(21) ~~(22)~~ "Resident" has the same meaning as in KRS 141.010;

(22) ~~(23)~~ "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet;

(23) ~~(24)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS 148.546 between the office and the approved company; and

(24) ~~(25)~~ "Television program" means any live-action or animated production or documentary, including but not limited to:

- (a) An episodic series;
- (b) A miniseries;
- (c) A television movie; or (d) A television pilot; that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices.

Section 62. KRS 148.544 is amended to read as follows:

- (1) The purposes of KRS 141.383 and 148.542 to 148.546 are to:
 - (a) Encourage the film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;
 - (b) Encourage the development of a film and entertainment industry in Kentucky;
 - (c) Encourage increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and
 - (d) Encourage the development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.
- (2) The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage Cabinet to administer, together with the Finance and Administration Cabinet and the Tourism Development Finance Authority, the tax incentive established by KRS 141.383 and 148.542 to 148.546.
- (3) To qualify for the tax incentive provided in subsection ~~(5)~~ ~~(4)~~ of this section, the following requirements shall be met:
 - (a) For an approved company that is also a Kentucky-based company that:
 - 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and

qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);

2. ~~Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars (\$100,000);~~

3. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or

3. ~~4.~~ Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and (b) For an approved company that is not a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); **or**

2. ~~Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars (\$100,000); or~~

3. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).

(4) (a) **Beginning on the effective date of this Act, the total tax incentive approved under KRS 141.383 and 148.542 to 148.546 shall be limited to one hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year thereafter.**

(b) On the effective date of this Act, if applications have been approved during the 2018 calendar year which exceed the amount in paragraph (a) of this subsection, the office shall immediately cease in approving any further applications for tax incentives for that calendar year.

(5) (a) The incentive available under KRS 141.383 and 148.542 to 148.546 is :

1. A refundable credit **for applications approved prior to the effective date of this Act; and**

2. **A nonrefundable and nontransferable credit for applications approved on or after the effective date of this Act;** against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, as provided in KRS 141.383.

(b) 1. For a motion picture or entertainment production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:

a. Qualifying expenditures;

- b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and
 - c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
2. a. To the extent the approved company films or produces a motion picture or entertainment production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (c) of this subsection.
 - b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.
- (c) For a motion picture or entertainment production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:
1. Thirty percent (30%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
 - c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and
 2. Thirty-five percent (35%) of the approved company's:
 - a. Qualifying payroll expenditures paid to resident below-the-line production crew; and
 - b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
- (d) ***Prior to June 1, 2019, the office and the Department of Revenue shall work jointly to provide the following information for each approved motion picture or entertainment production project to the Interim Joint Committee on Appropriations and Revenue by taxable year for all years that a credit under KRS 141.383 is or has been claimed:***
- 1. The name of the approved company and whether it is Kentucky-based or not;***
 - 2. A brief description of the motion picture or entertainment production project;***
 - 3. The amount of qualifying expenditures and the amount of qualifying payroll expenditures included in the agreement;***
 - 4. The amount of qualifying expenditures and the amount of qualifying payroll expenditures paid to below-the-line production crew and paid to above-the-line production crew in an enhanced incentive county;***

5. *The amount of qualifying expenditures and the amount of qualifying payroll expenditures paid to below-the-line production crew and paid to above-the line production crew in a county other than an enhanced incentive county; and*
6. *The total amount of the tax credit claimed on a return by tax type, any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future* ~~The Tourism Development Finance Authority may accept applications, authorize the execution of tax incentive agreements, and enter into tax incentive agreements beginning on June 26, 2009; however, no credit amount shall be claimed by the taxpayer as a refund or paid by the Department of Revenue prior to July 1, 2010.~~

***** TEXT OMITTED, DOES NOT PERTAIN TO FILM *****

Section 85. KRS 141.383 is amended to read as follows:

(1) As used in this section:

- (a) "Above-the-line production crew" means the same as defined in KRS 148.542;
- (b) "Approved company" means the same as defined in KRS 148.542;
- (c) "Below-the-line production crew" means the same as defined in KRS 148.542;
- (d) "Cabinet" means the same as defined in KRS 148.542;
- (e) "Office" means the same as defined in KRS 148.542;
- (f) "Qualifying expenditure" means the same as defined in KRS 148.542;
- (g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;
- (h) "Secretary" means the same as defined in KRS 148.542; and
- (i) "Tax incentive agreement" means the same as defined in KRS 148.542.

(2) (a) There is hereby created a ~~refundable~~ tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.

(b) The incentive available under paragraph (a) of this section is:

- 1. A refundable credit for applications approved prior to the effective date of this Act; and*
- 2. A nonrefundable and nontransferable credit for applications approved on or after the effective date of this Act.*

(c) 1. Beginning on the effective date of this Act, the total tax incentive approved under Section 62 of this Act shall be limited to one hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year thereafter.

2. On the effective date of this Act, if applications have been approved during the 2018 calendar year which exceed the amount in paragraph (a) of this subsection, the Kentucky Film Office shall immediately cease in approving any further applications for tax incentives.

(3) An approved company may receive a refundable tax credit on and after July 1, 2010, *but only for applications approved prior to the effective date of this Act*, if:

- (a) The cabinet has received notification from the office that the approved company has satisfied all requirements of KRS 148.542 to 148.546; and
- (b) The approved company has provided a detailed cost report and sufficient documentation to the office, which has been forwarded by the office to the cabinet, that:
 - 1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and
 - 2. The approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures.
- (4) ~~The refundable tax credit shall not apply until the taxable year in which the secretary notifies the approved company of the amount of refundable credit that is available. If the notification of approval is provided prior to July 1, 2010, the company shall not claim the credit and the department shall not issue any refunds until on or after July 1, 2010.~~
- (5) Interest shall not be allowed or paid on any refundable credits provided under this section.
- (5) ~~(6)~~ The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.
- (6) ~~(7)~~ On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the cabinet shall report to the office the names of the approved companies and the amounts of refundable income tax credit claimed.

***** TEXT OMITTED, DOES NOT PERTAIN TO FILM *****

Section 102. KRS 131.190 is amended to read as follows:

- (1) ~~(a)~~ No present or former commissioner or employee of the department ~~of Revenue~~, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.
- (2) ~~(b)~~ The prohibition established by **subsection (1)** ~~paragraph (a)~~ of this **section shall subsection does** not extend to:
 - (a)** ~~1-~~ Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
 - (b)** ~~2-~~ Any matter properly entered upon any assessment record, or in any way made a matter of public record;
 - (c)** ~~3-~~ Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
 - (d)** ~~4-~~ Testimony provided by the commissioner or any employee of the department ~~of Revenue~~ in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;

(e) ~~5-~~ Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820 ~~-(1)-~~ , or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820 ~~-(2)-~~ , that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990 ~~(2)~~ ~~-(21)-~~ .The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;

(f) ~~6-~~ Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820 ~~-(1)-~~ .The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this ~~paragraph subparagraph~~ . Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10); ~~or~~

(g) ~~7-~~ Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817 ;

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

(i) *Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis; or (j) Providing information to the Legislative Research Commission under:*

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

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

3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;

4. Section 62 of this Act for purposes of the film industry incentives;

5. Section 95 of this Act for purposes of the Kentucky industrial revitalization tax credits and the job assessment fees;

6. Section 96 of this Act for purposes of the Kentucky investment fund;

7. Section 97 of this Act for purposes of the angel investor tax credit;

8. Section 103 of this Act for purposes of the distilled spirits credit; and

9. Section 115 of this Act for purposes of the inventory credit.

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

~~(3) — Statistics of tax-paid gasoline gallonage reported monthly to the department of Revenue under the gasoline excise tax law may be made public by the department.~~

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

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

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

~~(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.~~

***** TEXT OMITTED, DOES NOT PERTAIN TO FILM *****

Section 105. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits 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 against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) ~~1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);~~
~~2. For taxable years beginning after December 31, 2006,~~ 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, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (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 coal incentive credit permitted under KRS 141.0405;~~
 - (k) The research facilities credit permitted ~~by~~ ~~under~~ KRS 141.395;
 - (k) ~~(l)~~ The employer High School Equivalency Diploma program incentive credit permitted ~~by~~ ~~under~~ KRS 164.0062;
 - (l) ~~(m)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) ~~(n)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) ~~(o)~~ ~~The environmental stewardship credit permitted by KRS 154.48-025;~~
 - ~~(p)~~ The clean coal incentive credit permitted by KRS 141.428;
 - (o) ~~(q)~~ The ethanol credit permitted by KRS 141.4242;
 - (p) ~~(r)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) ~~(s)~~ The energy efficiency credits permitted by KRS 141.436;
 - (r) ~~(t)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (s) ~~(u)~~ The Endow Kentucky credit permitted by KRS 141.438;
 - (t) ~~(v)~~ The New Markets Development Program credit permitted by KRS 141.434;
 - (u) ~~(w)~~ ~~The food donation credit permitted by KRS 141.392;~~
 - ~~(x)~~ The distilled spirits credit permitted by KRS 141.389; ~~and~~
 - (v) ~~(y)~~ The angel investor credit permitted by KRS 141.396 ;
 - (w) *The film industry credit permitted by Section 85 of this Act for applications approved on or after the effective date of this Act; and*
 - (x) *The inventory credit permitted by Section 115 of this Act .*
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020 ~~(3)~~ ;
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069; *and*
 - (d) The household and dependent care credit permitted by KRS 141.067 ~~;~~ ~~and~~ ~~(e)~~ ~~The new home credit permitted by KRS 141.388 .~~
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) ~~For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);~~
 - (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (d) ~~(e)~~ The film industry tax credit **permitted** ~~allowed~~ by KRS 141.383 **for applications approved prior to the effective date of this Act** .
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to 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 coal incentive credit permitted under KRS 141.0405;~~
 - (k) The research facilities credit permitted **by** ~~under~~ KRS 141.395;
 - (k) ~~(t)~~ The employer High School Equivalency Diploma program incentive credit permitted **by** ~~under~~ KRS 164.0062;
 - (l) ~~(m)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) ~~(n)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) ~~(o)~~ ~~The environmental stewardship credit permitted by KRS 154.48-025;~~
 - ~~(p)~~ The clean coal incentive credit permitted by KRS 141.428;
 - (o) ~~(q)~~ The ethanol credit permitted by KRS 141.4242;

- (p) ~~(r)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- (q) ~~(s)~~ The energy efficiency credits permitted by KRS 141.436;
- (r) ~~(t)~~ The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
- (s) ~~(u)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
- (t) ~~(v)~~ The railroad expansion credit permitted by KRS 141.386;
- (u) ~~(w)~~ The Endow Kentucky credit permitted by KRS 141.438;
- (v) ~~(x)~~ The New Markets Development Program credit permitted by KRS 141.434;
- (w) ~~(y)~~ **The food donation credit permitted by KRS 141.392; and**
~~(z)~~ The distilled spirits credit permitted by KRS 141.389 ;
- (x) The film industry credit permitted by Section 85 of this Act for applications approved on or after the effective date of this Act; and**
- (y) The inventory credit permitted by Section 115 of this Act .**

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
- (c) The film industry tax credit **permitted by** ~~allowed in~~ KRS 141.383 **for applications approved prior to the effective date of this Act .**

***** TEXT OMITTED, DOES NOT PERTAIN TO FILM *****

Section 162. Whereas this Act applies to the balancing of the Executive Branch Budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.