

1 AN ACT relating to the highly skilled employee tax credit.

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

3 ➔SECTION 1. SUBCHAPTER 13 OF KRS CHAPTER 154 IS ESTABLISHED,  
4 AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this subchapter:*

6 *(1) "Authority" has the same meaning as in KRS 154.1-010;*

7 *(2) (a) "Average hourly wage" means the per-hour wage earned by a full-time*  
8 *employee as reflected on the employee's wage and tax statement for federal*  
9 *income tax purposes and includes wages, tips, overtime, bonuses, and*  
10 *commissions; and*

11 *(b) "Average hourly wage" does not include employee benefits as defined in*  
12 *KRS 154.32-010;*

13 *(3) "Business" means any entity organized for profit, subject to tax under KRS*  
14 *141.020 or 141.040 and 141.0401, and includes:*

15 *(a) A sole proprietor;*

16 *(b) A corporation as defined in KRS 141.010;*

17 *(c) An S corporation as defined in KRS 141.010;*

18 *(d) A limited liability pass through entity as defined in KRS 141.010; or*

19 *(e) A pass-through entity as defined in KRS 141.010;*

20 *required to make a report with the Department of Revenue;*

21 *(4) "Corporation" means the Bluegrass State Skills Corporation established by KRS*  
22 *154.12-205;*

23 *(5) "Eligible business" means a business operating in a high-demand industry*  
24 *sector;*

25 *(6) "Eligible position" means each position that:*

26 *(a) Is filled by a full-time employee;*

27 *(b) Is considered a highly skilled job in a high-demand industry sector; and*

- 1        (c) Carries an average hourly wage of no less than twenty-two dollars (\$22);  
 2        (7) "Full-time employee" means an individual employed by an eligible business for  
 3        at least an average of thirty-five (35) hours per week and subject to the state tax  
 4        imposed by KRS 141.020;  
 5        (8) "High-demand industry sector" means a specific industry sector determined by  
 6        the Kentucky Workforce Innovation Board or successor organization as having a  
 7        high demand of eligible positions that are vacant; and  
 8        (9) "Highly skilled employee" means an individual with certain skills determined by  
 9        the Kentucky Workforce Innovation Board or successor organization required to  
 10       fulfill the duty of an eligible position in a high-demand industry sector.

11       ➔ SECTION 2. A NEW SECTION OF SUBCHAPTER 13 OF KRS CHAPTER  
 12       154 IS CREATED TO READ AS FOLLOWS:

- 13       (1) (a) The corporation shall develop a tax credit program to assist a new or an  
 14       existing business in the recruitment and maintenance of highly skilled  
 15       employees in eligible positions.  
 16       (b) The tax credit program shall be available from January 1, 2020, until  
 17       January 1, 2024.  
 18       (2) The purpose of the tax credit program is to provide an incentive for:  
 19       (a) Existing Kentucky residents to stay within Kentucky and fill an eligible  
 20       position; or  
 21       (b) New employees to relocate to Kentucky and fill an eligible position.  
 22       (3) The corporation shall determine the terms, conditions, and requirements for  
 23       application for the credit, as provided by this section and KRS Chapter 13A.  
 24       (4) To be eligible to receive approval for a tax credit, an individual shall, at a  
 25       minimum:  
 26       (a) 1. Begin working in an eligible position; or  
 27       2. Continue to work in an eligible position; and

- 1       **(b) Relocate to or maintain residency within the Commonwealth.**
- 2       **(5) The full-time employee shall submit with the application all information**
- 3       **necessary for the corporation to determine eligibility for the tax credit.**
- 4       **(6) An application for the tax credit program shall contain, at a minimum:**
- 5       **(a) Identification information about the:**
- 6               **1. Eligible business;**
- 7               **2. Eligible position; and**
- 8               **3. Full-time employee, including verification of Kentucky residency; and**
- 9       **(b) Any other information the corporation may require to determine eligibility**
- 10       **for the credit.**
- 11       **(7) (a) The amount of tax credits that may be awarded in each fiscal year by the**
- 12       **corporation shall not exceed three million dollars (\$3,000,000) and shall be**
- 13       **awarded on a first-come, first-served basis determined by the date an**
- 14       **application is received by the authority.**
- 15       **(b) The maximum amount of credit approved for an individual in each fiscal**
- 16       **year shall not exceed one thousand five hundred dollars (\$1,500) and shall**
- 17       **be prorated based on a factor, the numerator of which is the number of**
- 18       **weeks the full-time employee held the eligible position during the year and**
- 19       **the denominator of which is fifty-two (52).**
- 20       **(c) The maximum amount of credit for an individual over the lifetime of**
- 21       **employment shall not exceed six thousand dollars (\$6,000) during the four**
- 22       **(4) taxable years of the tax credit program.**
- 23       **(8) The authority shall maintain a publicly available Web site on which it shall**
- 24       **report:**
- 25       **(a) At any point in time, the amount of credit awarded during a fiscal year and**
- 26       **the remaining amount of credit that may be awarded based on the limit**
- 27       **established by subsection (7)(a) of this section;**

- 1       **(b) The number of applications that were received for a fiscal year, including**  
2       **the number of applications approved and the number of applications**  
3       **denied;**
- 4       **(c) A list of each full-time employee awarded the tax credit for each year,**  
5       **including information regarding the location where the employee reports**  
6       **for work, the skill employed in the eligible position, and the high-demand**  
7       **industry sector for the eligible position;**
- 8       **(d) The date each full-time employee was awarded the tax credit;**
- 9       **(e) The amount of tax credit awarded for each full-time position for each fiscal**  
10       **year; and**
- 11       **(f) A total amount of credit awarded for each fiscal year the credit is available.**
- 12       **(9) The authority shall work jointly with the Department of Revenue to share**  
13       **information related to each individual awarded a tax credit and sufficient**  
14       **information, including Social Security numbers, to ensure compliance on the**  
15       **individual income tax return filed by the taxpayer and to provide the report**  
16       **required by Section 3 of this Act.**

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

- 19       **(1) As used in this section:**
- 20       **(a) "Average hourly wage" has the same meaning as in Section 1 of this Act;**  
21       **(b) "Eligible position" has the same meaning as in Section 1 of this Act;**  
22       **(c) "High-demand industry sector" has the same meaning as in Section 1 of**  
23       **this Act; and**
- 24       **(d) "Highly skilled employee" has the same meaning as in Section 1 of this**  
25       **Act.**
- 26       **(2) For taxable years beginning on or after January 1, 2020, but before January 1,**  
27       **2024, a nonrefundable, nontransferable tax credit shall be allowed against the**

1 tax imposed by KRS 141.020, with the ordering of credits as provided by Section 4  
2 of this Act, as awarded under Section 2 of this Act.

3 (3) (a) The maximum amount of tax credit that may be awarded in each fiscal year  
4 shall not exceed three million dollars (\$3,000,000).

5 (b) The maximum amount of tax credit that may be claimed by an individual in  
6 a taxable year shall not exceed one thousand five hundred dollars (\$1,500).

7 (c) The lifetime maximum tax credit that may be claimed by an individual shall  
8 not exceed six thousand dollars (\$6,000) during the four (4) taxable years of  
9 the tax credit program.

10 (4) (a) The tax credit shall be claimed on the individual income tax return filed for  
11 the taxable year during which the credit was awarded under Section 2 of  
12 this Act.

13 (b) Any amount of credit that the individual is unable to utilize during the  
14 taxable year may be carried forward for use in a succeeding taxable year for  
15 a period not to exceed five (5) years.

16 (5) (a) In order for the General Assembly to evaluate the fulfillment of the  
17 purposes stated in Section 2 of this Act, the department shall provide the  
18 following information on a cumulative basis for each taxable year to  
19 provide a historical impact of the tax credit to the Commonwealth:

20 1. The name and address for each highly skilled employee claiming the  
21 tax credit;

22 2. The high-demand industry sector within which the highly skilled  
23 employee is employed;

24 3. A description of the job performed by the highly skilled employee;

25 4. The number of hours worked each week by the highly skilled  
26 employee;

27 5. The date that the highly skilled employee was first employed in the

- 1                   eligible position;
- 2                   6. If the taxpayer is no longer employed in the high-demand industry
- 3                   sector, the date that the taxpayer vacated the eligible position;
- 4                   7. The average hourly wage paid to the taxpayer;
- 5                   8. The amount of tax liability offset by the tax credit for the taxpayer;
- 6                   9. The amount of credit that remains as a carry forward to future taxable
- 7                   years for the taxpayer; and
- 8                   10. In the case of all taxpayers, based on ranges of adjusted gross income
- 9                   of no larger than five thousand dollars (\$5,000) for the taxable year,
- 10                  the total amount of tax credits claimed and the number of returns
- 11                  claiming a tax credit for each adjusted gross income range.
- 12                  (b) The report required by paragraph (a) of this subsection shall be submitted
- 13                  to the Interim Joint Committee on Appropriations and Revenue beginning
- 14                  no later than November 1, 2020, and no later than each November 1
- 15                  thereafter, as long as the credit is claimed on any return processed by the
- 16                  department.

17                  ➔Section 4. KRS 141.0205 is amended to read as follows:

18                  If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax

19                  imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of

20                  the credits shall be determined as follows:

- 21                  (1) The nonrefundable business incentive credits against the tax imposed by KRS
- 22                  141.020 shall be taken in the following order:
- 23                   (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 24                   (b) The economic development credits computed under KRS 141.347, 141.381,
- 25                   141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
- 26                   154.12-2088;
- 27                   (c) The qualified farming operation credit permitted by KRS 141.412;

- 1 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 2 (e) The health insurance credit permitted by KRS 141.062;
- 3 (f) The tax paid to other states credit permitted by KRS 141.070;
- 4 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 5 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 6 (i) The tax credit for cash contributions in investment funds permitted by KRS
- 7 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 8 154.20-258;
- 9 (j) The research facilities credit permitted by KRS 141.395;
- 10 (k) The employer High School Equivalency Diploma program incentive credit
- 11 permitted under KRS 164.0062;
- 12 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 13 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 14 (n) The clean coal incentive credit permitted by KRS 141.428;
- 15 (o) The ethanol credit permitted by KRS 141.4242;
- 16 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 17 (q) The energy efficiency credits permitted by KRS 141.436;
- 18 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 19 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 20 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 21 (u) The distilled spirits credit permitted by KRS 141.389;
- 22 (v) The angel investor credit permitted by KRS 141.396;
- 23 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 24 on or after April 27, 2018; and
- 25 (x) The inventory credit permitted by KRS 141.408.
- 26 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 27 the nonrefundable personal tax credits against the tax imposed by KRS 141.020

1 shall be taken in the following order:

- 2 (a) The individual credits permitted by KRS 141.020(3);  
3 (b) The credit permitted by KRS 141.066;  
4 (c) The tuition credit permitted by KRS 141.069;~~and~~  
5 (d) The household and dependent care credit permitted by KRS 141.067; **and**  
6 **(e) The highly skilled employee credit permitted by Section 3 of this Act.**

7 (3) After the application of the nonrefundable credits provided for in subsection (2) of  
8 this section, the refundable credits against the tax imposed by KRS 141.020 shall be  
9 taken in the following order:

- 10 (a) The individual withholding tax credit permitted by KRS 141.350;  
11 (b) The individual estimated tax payment credit permitted by KRS 141.305;  
12 (c) The certified rehabilitation credit permitted by KRS 171.3961 and  
13 171.397(1)(b); and  
14 (d) The film industry tax credit permitted by KRS 141.383 for applications  
15 approved prior to April 27, 2018.

16 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the  
17 tax imposed by KRS 141.040.

18 (5) The following nonrefundable credits shall be applied against the sum of the tax  
19 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)  
20 of this section, and the tax imposed by KRS 141.0401 in the following order:

- 21 (a) The economic development credits computed under KRS 141.347, 141.381,  
22 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and  
23 154.12-2088;  
24 (b) The qualified farming operation credit permitted by KRS 141.412;  
25 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);  
26 (d) The health insurance credit permitted by KRS 141.062;  
27 (e) The unemployment credit permitted by KRS 141.065;



- 1 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 2 (g) The coal conversion credit permitted by KRS 141.041;
- 3 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods  
4 ending prior to January 1, 2008;
- 5 (i) The tax credit for cash contributions to investment funds permitted by KRS  
6 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS  
7 154.20-258;
- 8 (j) The research facilities credit permitted by KRS 141.395;
- 9 (k) The employer High School Equivalency Diploma program incentive credit  
10 permitted by KRS 164.0062;
- 11 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 12 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 13 (n) The clean coal incentive credit permitted by KRS 141.428;
- 14 (o) The ethanol credit permitted by KRS 141.4242;
- 15 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 16 (q) The energy efficiency credits permitted by KRS 141.436;
- 17 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit  
18 permitted by KRS 141.437;
- 19 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 20 (t) The railroad expansion credit permitted by KRS 141.386;
- 21 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 22 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 23 (w) The distilled spirits credit permitted by KRS 141.389;
- 24 (x) The film industry credit permitted by KRS 141.383 for applications approved  
25 on or after April 27, 2018; and
- 26 (y) The inventory credit permitted by KRS 141.408.
- 27 (6) After the application of the nonrefundable credits in subsection (5) of this section,

1 the refundable credits shall be taken in the following order:

- 2 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 3 (b) The certified rehabilitation credit permitted by KRS 171.3961 and  
4 171.397(1)(b); and
- 5 (c) The film industry tax credit permitted by KRS 141.383 for applications  
6 approved prior to April 27, 2018.

7 ➔Section 5. KRS 131.190 is amended to read as follows:

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

- 1 action challenging state or federal tax laws;
- 2 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or  
3 energy resources assessed under KRS 132.820, or owners of surface land  
4 under which the unmined minerals lie, factual information about the owner's  
5 property derived from third-party returns filed for that owner's property, under  
6 the provisions of KRS 132.820, that is used to determine the owner's  
7 assessment. This information shall be provided to the owner on a confidential  
8 basis, and the owner shall be subject to the penalties provided in KRS  
9 131.990(2). The third-party filer shall be given prior notice of any disclosure  
10 of information to the owner that was provided by the third-party filer;
- 11 (f) Providing to a third-party purchaser pursuant to an order entered in a  
12 foreclosure action filed in a court of competent jurisdiction, factual  
13 information related to the owner or lessee of coal, oil, gas reserves, or any  
14 other mineral resources assessed under KRS 132.820. The department may  
15 promulgate an administrative regulation establishing a fee schedule for the  
16 provision of the information described in this paragraph. Any fee imposed  
17 shall not exceed the greater of the actual cost of providing the information or  
18 ten dollars (\$10);
- 19 (g) Providing information to a licensing agency, the Transportation Cabinet, or  
20 the Kentucky Supreme Court under KRS 131.1817;
- 21 (h) Statistics of gasoline and special fuels gallonage reported to the department  
22 under KRS 138.210 to 138.448;
- 23 (i) Providing any utility gross receipts license tax return information that is  
24 necessary to administer the provisions of KRS 160.613 to 160.617 to  
25 applicable school districts on a confidential basis; or
- 26 (j) Providing information to the Legislative Research Commission under:
- 27 1. KRS 139.519 for purposes of the sales and use tax refund on building

- 1 materials used for disaster recovery;
- 2 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 3 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 4 ENERGY STAR manufactured home credits;
- 5 4. KRS 148.544 for purposes of the film industry incentives;
- 6 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 7 tax credits and the job assessment fees;
- 8 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 9 7. KRS 141.396 for purposes of the angel investor tax credit;
- 10 8. KRS 141.389 for purposes of the distilled spirits credit;~~and~~
- 11 9. KRS 141.408 for purposes of the inventory credit; **and**

12 **10. Section 3 of this Act for purposes of the highly skilled employee credit.**

- 13 (3) The commissioner shall make available any information for official use only and on
- 14 a confidential basis to the proper officer, agency, board or commission of this state,
- 15 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 16 under reciprocal agreements whereby the department shall receive similar or useful
- 17 information in return.
- 18 (4) Access to and inspection of information received from the Internal Revenue Service
- 19 is for department use only, and is restricted to tax administration purposes.
- 20 Information received from the Internal Revenue Service shall not be made available
- 21 to any other agency of state government, or any county, city, or other state, and shall
- 22 not be inspected intentionally and without authorization by any present secretary or
- 23 employee of the Finance and Administration Cabinet, commissioner or employee of
- 24 the department, or any other person.
- 25 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
- 26 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
- 27 as reported to the Department of Revenue under the natural resources severance tax

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