

## CHAPTER 91

## (HB 536)

AN ACT relating to economic development, making an appropriation therefor and declaring an emergency.

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

SECTION 1. SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*As used in this subchapter, unless the context clearly indicates otherwise:*

- (1) *"Activation date" means a date selected by an approved company and set forth in the jobs retention agreement at any time within a three (3) year period after the date of final approval of the agreement by the authority upon which the required investment shall be made and the jobs retention project completed;*
- (2) *"Agreement" means a jobs retention agreement entered into, pursuant to Section 3 of this Act, on behalf of the authority and an approved company with respect to a jobs retention project;*
- (3) *"Approved company" means any eligible company approved by the authority pursuant to Section 3 of this Act for a jobs retention project;*
- (4) *"Approved costs" means that portion of the eligible costs approved by the authority that an approved company may recover through the inducements authorized by Section 3 of this Act, being a percentage of eligible costs as approved by the authority;*
- (5) *"Assessment" means the wage assessment fee authorized by Section 4 of this Act;*
- (6) *"Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;*
- (7) *"Commonwealth" means the Commonwealth of Kentucky;*
- (8) *"Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity designated by the United States Department of Commerce, United States Census Bureau North American Industry Classification System code of 336211, 336111, 336112, or 336120 that is within the jurisdiction of a consolidated local government containing a city of the first class, employs a minimum of one thousand (1,000) full-time persons engaged in manufacturing, has been operating within the Commonwealth on a continuous basis for at least five (5) years preceding the request for approval by the authority of the project which meets the standards set forth in Section 2 of this Act, and that has been previously approved for economic development incentives from the Commonwealth related to one or more of its facilities;*
- (9) *"Eligible costs" means:*
  - (a) *Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;*
  - (b) *The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of a jobs retention project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;*
  - (c) *All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;*
  - (d) *All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of a jobs retention project;*
  - (e) *All costs required for the installation of utilities including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and*
  - (f) *All other costs comparable with those described above;*
- (10) *"Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;*

- (11) *"Inducements" means the Kentucky tax credit and the wage assessment fee as prescribed in Sections 3 and 4 of this Act;*
- (12) *"Jobs retention project" or "project" means the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the acquisition, construction, and installation of new equipment, including surveys; installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located; and shall contain eligible costs of not less than one hundred million dollars (\$100,000,000), all of which are utilized to improve the economic and operational situation of an approved company to allow the approved company to reinvest in its operations and retain a significant number of existing jobs within the Commonwealth;*
- (13) *"Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401;*
- (14) *"Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401;*
- (15) *"Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;*
- (16) *"Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;*
- (17) *"Supplemental project" means a second jobs retention project proposed by the approved company or its affiliate during the term of a jobs retention project which may be included in the jobs retention agreement by way of amendment and which may result in increased inducements and an extension of the original project term; and*
- (18) *"Transferred credits" means unused approved costs as determined by the Department of Revenue from a previously approved, independent, active project under a different incentive program governed by the Cabinet for Economic Development that may be transferred to a jobs retention project and used by the approved company pursuant to a jobs retention agreement.*

SECTION 2. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The criteria for approval of eligible companies and jobs retention projects shall include but not be limited to:*
- (a) *The need for the project as indicated by the impact of the existing facility upon the local community and the economic and employment impact that the loss of the facility would have;*
  - (b) *The new capital investment in its facilities and the likelihood that the capital investment will increase potential for sustainability of its workforce and facilities in the future; and*
  - (c) *The retention or creation of employment at the facility where the jobs retention project will occur as well as any other facilities owned by the approved company in the Commonwealth.*
- (2) *With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the jobs retention project. The authority and the preliminarily approved company shall enter into a memorandum of agreement that sets forth the conditions necessary for the company to obtain final approval of the project. Upon satisfaction of the conditions set forth in the memorandum of agreement, the authority may, by resolution, designate the preliminarily approved company to be an approved company and authorize the execution of a jobs retention agreement.*

SECTION 3. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to the jobs retention project. The terms and provisions of each agreement, including*

*the amount of approved costs, the amount of the inducement, the job maintenance requirement and any limitations the authority may deem necessary, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:*

- (a) *The amount the approved company may recover through inducements under this subchapter for the initial project, which shall be a negotiated percentage not to exceed fifty percent (50%) of approved costs. However, the authority may negotiate an increase in the percentage such that both the initial project and the supplemental project are eligible for seventy-five percent (75%) of approved costs upon approval of a supplemental project. The adjustment to the initial project shall be made on the total approved costs and any credits taken prior to the supplemental project shall then be subtracted from that increased amount of approved costs. Neither the initial project or the supplemental project shall ever be eligible for inducements greater than seventy-five percent (75%) of the approved costs. The authority shall negotiate a maximum allowable inducement for each year of the agreement and the approved company may not recover inducements above that maximum in any year during the term of the agreement, except that the annual maximum allowable inducement may be exceeded if a carry-forward of unused inducements from previous years exists. Any carry-forward of unused inducements will lapse upon maturity or termination of the agreement;*
- (b) *A provision that sets the activation date for the initial project within three (3) years of the final approval. Prior to the activation date, the authority may extend the time for the completion of the jobs retention project and compliance with the required investment upon request of the approved company for good cause; however, the ten (10) year period for the term of the agreement shall begin from the activation date. No inducements from the jobs retention project shall be available, other than the transferred credits provided for under Section (3) of this Act, until activation. Upon activation, the balance of transferred credits shall expire;*
- (c) *A provision that states that within three (3) months of the completion of the jobs retention project, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant;*
- (d) *A provision that establishes a minimum required number of full-time jobs that must be maintained at the site of the jobs retention project and filled with residents of the Commonwealth subject to Kentucky income tax and states that the authorized inducements may be suspended at the discretion of the authority from the date of noncompliance until the date compliance is reestablished if the approved company's employment falls below the established minimum employment requirement. If the company does not increase the number of full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax sufficiently to meet the minimum employment requirement within one (1) year from the date of the initial suspension, the remaining unused inducements may be terminated at the discretion of the authority;*
- (e) *A provision that gives the authority discretion to suspend or terminate the authorized inducements for any failure to comply with the terms of the agreement; and*
- (f) *A provision that provides the term shall not be longer than the earlier of:*
  - 1. *The date on which the approved company has received inducements or withheld assessments equal to the amount that the company may recover under paragraph (a) of this subsection; or*
  - 2. *Ten (10) years from the activation date.*

*However, the term may be extended to a period longer than ten (10) years upon the addition of a supplemental project as negotiated and approved by the authority.*

- (2) *In consideration of the execution of the agreement, during the time the agreement is in effect, which time shall commence on the date of the agreement, the approved company may be permitted the following inducements:*

- (a) *Beginning on the effective date of the jobs retention agreement, which shall also be the date of final approval, if the approved company has a balance of unused approved costs on a previously existing and active incentive agreement approved by the authority pursuant to Subchapter 24 or 28 of KRS Chapter 154, the approved company may impose wage assessments on employees whose jobs are at the facility where the project defined in the previously existing incentive agreement was located. The*

*wage assessments may be imposed as provided in Section 4 of this Act, and shall be available in an amount up to the balance of transferred credits from the previously existing project.*

1. *The transferred credits shall only be available to the approved company until the activation date, the term from the original incentive agreement expires, or the balance of transferred credits is exhausted, whichever occurs first; and*
2. *Should the approved company exercise this option, the incentive agreement from which the credits were transferred shall be terminated upon transfer and all parties shall be released from their obligations thereunder.*

*(b) After the activation date:*

1. *A one hundred percent (100%) credit against the taxes imposed by KRS 141.020, 141.040, and 141.0401 that would otherwise be owed by the approved company, in the approved company's taxable year, as determined under Section 6 of this Act, on the taxable income, Kentucky gross receipts, or Kentucky gross profits of the approved company generated by or arising from the jobs retention project. The ordering of credits shall be as provided in KRS 141.0205;*
2. *The aggregate assessment withheld by the approved company as provided in Section 4 of this Act in each year after the activation date.*

*(c) The tax credits allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or the amount that the company may recover under subsection (1)(a) of this section that has not yet been recovered, reduced by any recovery through the collection of assessments subject to the annual maximum inducements authorized pursuant to subsection (1)(a) of this section. The credit shall be allowed for each taxable year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the amount that the company may recover under subsection(1)(a) of this section has been received through a combination of credits and assessments, if the company elects to impose assessments. The approved company shall not be required to pay estimated tax payments as prescribed under KRS 141.044 or 141.305 on income, Kentucky gross profits, or Kentucky gross receipts from the jobs retention project. One hundred eighty (180) days after the filing of the tax return of the approved company, the Department of Revenue shall certify to the authority the state tax liability for the preceding taxable year of the approved company and the amount of any tax credits taken pursuant to this section.*

*(d) Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees a resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees on wages subject to the agreement paid by the approved company on behalf of its employees to the local government entities.*

*(e) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.*

*(f) If in any taxable year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, or exceeds the annual maximum negotiated by the authority, the assessment collected from the wages of the employees shall cease for the remainder of that taxable year of the approved company. The approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that taxable year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.*

*(3) The jobs retention agreement and inducements available pursuant thereto shall not be transferable or assignable by the approved company without the expressed written consent of the authority.*

SECTION 4. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed five percent (5%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 unless:*
  - (a) *The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee;*
  - (b) *The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forego a portion of their local occupational license fee, in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four times the percentage the local government or governments agree to forego;*
  - (c) *The local government or governments in which the project is located have a local occupational license fee equal to or greater than one percent (1%) and the local government or governments agree to forego an amount less than one percent (1%) in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four times the percentage the local government or governments agree to forego; or*
  - (d) *The local government or governments in which the project is located have no local occupational license fee, in which case the assessment shall equal four percent (4%).*
- (2) *Each assessed employee shall be entitled to a credit against the Kentucky income tax required to be withheld under KRS 141.310 in the form of a simultaneous adjustment equal to four-fifths (4/5) of the assessment, unless:*
  - (a) *The assessment is calculated under subsection (1)(a) of this section, in which case the credit shall be equal to the total assessment less the occupational license fee; or*
  - (b) *The assessment is calculated under subsection (1)(d) of this section, in which case the credit shall be equal to one hundred percent (100%) of the assessment.*
- (3) *Each employee assessed under subsection (1) of this section also shall be entitled to a credit against the local occupational license fee in the form of a simultaneous adjustment of the local occupational license fee withholding equal to one-fifth (1/5) of the assessment, unless the wage assessment is calculated under subsection (1)(a), in which case the credit shall equal the same amount as the local occupational license fee.*
- (4) *If an approved company elects to impose the assessment as a condition of employment or the retention of employment, the approved company shall deduct the assessment from each paycheck of each employee subject to the provisions of subsections (2) and (3) of this section.*
- (5) *Any approved company collecting an assessment shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority the documentation respecting the assessment the authority may require.*
- (6) *Any assessment of the wages of the employees of an approved company shall permanently lapse upon expiration or termination of the agreement unless the agreement has been amended to extend the termination as a result of a supplemental project.*
- (7) *By October 1 of each year, the Department of Revenue shall certify to the authority, in the form of an annual report, aggregate tax credits claimed on tax returns filed during the taxable year ending June 30 of that year and wage assessment fees taken during the prior calendar year by approved companies with respect to their jobs retention projects under this subchapter, and shall certify to the authority, within one hundred eighty (180) days from the date an approved company has filed its state tax return, when an approved company has taken tax credits equal to its total inducements.*

SECTION 5. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *If an approved company makes an additional investment in the form of a second jobs retention project within the jurisdiction of the same consolidated local government containing a city of the first class during the term of the initial jobs retention project, the approved company may apply for, and the authority may approve, a supplemental project.*
- (2) *The authority, upon adoption of its final approval of a supplemental project, may enter into, with any approved company, an amended agreement with respect to both the initial jobs retention project and the supplemental project which shall jointly make up its project. The terms and provisions of each amended agreement, including the amount of approved costs, the amount of the tax credit pursuant to Section 3 of this Act, the job maintenance requirement established by the agreement, and any limitations the authority may deem necessary, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:*
  - (a) *Upon approval of a supplemental project, the amount the approved company may recover through inducements for both projects shall be a negotiated percentage not to exceed seventy-five percent (75%) of the balance of approved costs from the initial project and all newly incurred approved costs from the supplemental project, subject to the annual maximum negotiated and approved by the authority. At the time the supplemental project is approved, the recoverable amount and the annual maximum inducement on the initial jobs retention project may also be increased at the discretion of the authority pursuant to Section 3 of this Act.*
  - (b) *The activation date for the supplemental project shall be no more than three (3) years from final approval of the supplemental project. Prior to the activation date the authority may extend the time for the completion of the jobs retention project and compliance with the required investment upon request of the approved company for good cause; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Within three (3) months of the completion date for the supplemental project, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant to verify the cost of the supplemental project subject to reimbursement for the cost of same from the approved company.*
  - (c) *In consideration of the execution of the amended agreement, on the date stated in the agreement, the approved company may be permitted during the term of the amended agreement to take the inducements set forth in Sections 3(2)(b) and 3(2)(c) of this Act, subject to the remaining terms of that section.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context requires otherwise:*
  - (a) *"Approved company" shall have the same meaning as set forth in Section 1 of this Act;*
  - (b) *"Jobs retention project" shall have the same meaning as set forth in Section 1 of this Act;*
  - (c) *"Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401;*
  - (d) *"Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and*
  - (e) *"Tax credit" means the tax credit allowed in Section 3 of this Act.*
- (2) *An approved company shall determine the income tax credit as provided in this section.*
- (3) *An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040(1) shall:*
  - (a)
    1. *Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from the jobs retention project;*
    2. *Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and*
    3. *Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.*

- (b) 1. *Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to the jobs retention project;*
- 2. *Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the jobs retention project; and*
- 3. *Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.*
- (c) *The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in Section 3 of this Act.*
- (4) (a) *Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to a jobs retention project at the rates provided in KRS 141.020(2).*
- (b) *The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.*
- (c) *The tax credit or estimated payment shall not exceed the limits set forth in Section 3 of this Act.*
- (d) *If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.*
- (e) *Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.*
- (5) *Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.*
- (6) (a) *Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and*
- (b) *Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.*
- (7) *If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the jobs retention project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the jobs retention project using an alternative method approved by the Department of Revenue.*
- (8) *The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this Act and the allowable income tax credit which an approved company may retain under this Act.*

Section 7. 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, 141.400, 141.401, 141.403, 141.407, 141.415, *Section 6 of this Act*, and 154.12-2088;
  - (c) The certified rehabilitation credit permitted by KRS 171.397;
  - (d) The health insurance credit permitted by KRS 141.062;
  - (e) The tax paid to other states credit permitted by KRS 141.070;
  - (f) The credit for hiring the unemployed permitted by KRS 141.065;
  - (g) The recycling or composting equipment credit permitted by KRS 141.390;
  - (h) 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;
  - (i) The coal incentive credit permitted under KRS 141.0405;
  - (j) The research facilities credit permitted under KRS 141.395;
  - (k) The employer GED incentive credit permitted under KRS 151B.127;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel credit permitted by KRS 141.423;
  - (n) The environmental stewardship credit permitted by KRS 154.48-025; and
  - (o) The clean coal incentive credit permitted by KRS 141.428.
- (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.
- (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; and
  - (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).
- (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, 141.400, 141.401, 141.403, 141.407, 141.415, *Section 6 of this Act*, and 154.12-2088;
  - (b) The certified rehabilitation credit permitted by KRS 171.397;
  - (c) The health insurance credit permitted by KRS 141.062;



- (d) The unemployment credit permitted by KRS 141.065;
  - (e) The recycling or composting equipment credit permitted by KRS 141.390;
  - (f) The coal conversion credit permitted by KRS 141.041;
  - (g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
  - (h) 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;
  - (i) The coal incentive credit permitted under KRS 141.0405;
  - (j) The research facilities credit permitted under KRS 141.395;
  - (k) The employer GED incentive credit permitted under KRS 151B.127;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel credit permitted by KRS 141.423;
  - (n) The environmental stewardship credit permitted by KRS 154.48-025; and
  - (o) The clean coal incentive credit permitted by KRS 141.428.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

Section 8. There is hereby appropriated from the General Fund in fiscal year 2007- 2008 to the Cabinet for Economic Development, Financial Incentives, for use by the Bluegrass State Skills Corporation, the amount of \$10,000,000.

Section 9. An amount not to exceed \$8,000,000 during the 2006-2008 biennium shall be deemed a necessary government expense and transferred from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) to adequately fund needs for training grants of the Bluegrass State Skills Corporation. These funds are in addition to the grant funds appropriated in the 2006-2008 biennium. These funds shall be transferred only upon certification of extraordinary need by the Secretary of the Cabinet for Economic Development to the Secretary of the Finance and Administration Cabinet.

Section 10. Whereas the Commonwealth is at risk of losing large motor vehicle manufacturing facilities, their supplier facilities, and a significant number of jobs related thereto due to the current state of the automotive industry, and as it is essential for the Cabinet for Economic Development to have a mechanism in place to offer appropriate assistance to retain those facilities and the jobs associated with them immediately, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

**Approved March 23, 2007.**