

1 AN ACT relating to a new 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) "Approved company" means a qualified company that has received approval for*  
7 *incentives under Section 2 of this Act;*

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

9 *(3) "Corporation" means the Bluegrass State Skills Corporation established by KRS*  
10 *154.12-205;*

11 *(4) "Department" means the Department of Revenue;*

12 *(5) "Educational institution" means a regionally accredited college, university,*  
13 *registered apprenticeship program, or technical school located:*

14 *(a) In the Commonwealth; or*

15 *(b) Outside the Commonwealth, if the accredited college, university, registered*  
16 *apprenticeship program, or technical school is a party to a reciprocal tuition*  
17 *agreement with the Commonwealth;*

18 *(6) "Employee" means a resident employed by a qualified company in either a full-*  
19 *time or a part-time position;*

20 *(7) "NAICS code" means the North American Industry Classification System used*  
21 *by federal statistical agencies in classifying business establishments for the*  
22 *purposes of collecting, analyzing, and publishing statistical data related to the*  
23 *United States business economy;*

24 *(8) (a) "Other educational expenses" means fees or expenses required for*  
25 *enrollment or attendance at an educational institution, including but not*  
26 *limited to course fees and books;*

27 *(b) "Other educational expenses" does not include:*

- 1           1. Student activity fees;  
 2           2. Athletic fees;  
 3           3. Insurance expense;  
 4           4. Room and board; or  
 5           5. Any other expenses unrelated to an individual's academic course of  
 6                   instruction;

7 (9) "Qualified company" means any business entity located within the  
 8 Commonwealth and having a NAICS code identified by the Kentucky Workforce  
 9 Innovation Board as a high skill, high demand industry sector as of January 1 of  
 10 the year for which approval for a tax credit may occur;

11 (10) "Qualified employee" means an employee who:

- 12           (a) 1. Is currently participating in; or  
 13                   2. Within the calendar year preceding the beginning of attendance at the  
 14                   educational institution, has completed;

15           Treatment as defined in KRS 222.005 for alcohol or other drug abuse; or

- 16           (b) Within the past five (5) years, has successfully completed a sentence for  
 17           conviction of a misdemeanor or felony that was not a sex offense, an  
 18           offense against a child, or an offense that resulted in serious bodily injury  
 19           or death;

20 (11) "Registered apprenticeship program" means an apprenticeship program  
 21 registered by the United States Department of Labor or the Commonwealth; and

22 (12) "Resident" has the same meaning as in KRS 141.010.

23           ➔SECTION 2. A NEW SECTION OF SUBCHAPTER 13 OF KRS CHAPTER  
 24 154 IS CREATED TO READ AS FOLLOWS:

25 (1) (a) The corporation shall develop a tax credit program that shall be known as  
 26 the earn, learn, and recover tax credit.

27 (b) The corporation may establish standards or requirements for the

1 administration of this section.

2 (2) The purposes of the tax credit shall be to:

3 (a) Provide incentives for a qualified company providing tuition assistance or  
4 training to a qualified employee;

5 (b) Encourage a qualified employee to attend educational courses or training  
6 provided by an educational institution; and

7 (c) Assist the qualified employee with tuition and other educational expenses.

8 (3) (a) To qualify for incentives provided by this section, a qualified company shall  
9 incur tuition and other educational expenses on behalf of a qualified  
10 employee attending an educational institution.

11 (b) A qualified company shall submit an application to the corporation before  
12 paying any tuition or other educational expenses on behalf of a qualified  
13 employee and prior to the qualified employee commencing any coursework  
14 at the educational institution.

15 (c) Each application shall contain all the information the corporation requires,  
16 including but not limited to the following information:

17 1. The name of each qualified employee, including the Social Security  
18 number or other equivalent identifying number of the employee;

19 2. Verification that the qualified employee is currently participating in  
20 or, within the calendar year preceding the beginning of attendance at  
21 the educational institution, has completed treatment as defined in KRS  
22 222.005;

23 3. Information related to the educational institution which the qualified  
24 employee will be attending;

25 4. A description of each component of the educational program in which  
26 the qualified employee will be participating; and

27 5. A statement of the costs for tuition and detailed breakdown of the

- 1                   other educational or training expenses for the qualified employee.
- 2           (d) The qualified company shall maintain records and submit information as  
3           required by the corporation and the department.
- 4   (4) (a) After a review of applications, the corporation may designate the qualified  
5           company as an approved company and approve the maximum amount of  
6           tax credit that the approved company may be eligible to receive.
- 7           (b) The corporation shall share information provided by the approved company  
8           with the department for compliance purposes.
- 9   (5) (a) The maximum amount of tax credit approved by the corporation for all  
10           approved companies during a fiscal year shall not exceed two million five  
11           hundred thousand dollars (\$2,500,000).
- 12           (b) Any tax credit that remains unallocated by the corporation at the end of  
13           each fiscal year shall lapse and shall not be carried forward to another  
14           fiscal year.
- 15           (c) The tax credit awarded by the corporation to an approved company shall be  
16           in an amount up to fifty percent (50%) of the actual costs incurred by the  
17           approved company for tuition or other educational expenses paid on behalf  
18           of a qualified employee attending an educational institution, not to exceed  
19           two thousand dollars (\$2,000) for each qualified employee annually.
- 20   (6) (a) The approved company shall:
- 21           1. Incur all tuition and other educational or training expenses within  
22           one (1) year from the date of approval by the corporation; and
- 23           2. Provide the required documentation to verify the expenses paid by the  
24           approved company for each qualified employee attending an  
25           educational institution to the corporation.
- 26           (b) Upon receipt of all documentation, the corporation shall review the  
27           documentation and notify the approved company and the department of the

1           final authorized tax credit.

2           (c) The final authorized tax credit shall be the maximum amount of tax credit  
3           that may be claimed by the approved company.

4           (7) Beginning October 1, 2021, and each October 1 thereafter, as long as the tax  
5           credit is claimed on a tax return, the department shall certify to the corporation  
6           the amount of tax credit taken under this subchapter on each tax return filed  
7           during the fiscal year ending June 30 of that year.

8           (8) The authority shall maintain a publicly available Web site on which it shall  
9           report:

10          (a) At any point in time, the amount of credit awarded during a fiscal year and  
11          the remaining amount of credit that may be awarded based on the limit  
12          established by subsection (5)(a) of this section;

13          (b) The number of applications that were received for a fiscal year, including  
14          the number of applications approved and the number of applications  
15          denied;

16          (c) A list of each approved company awarded a tax credit for each fiscal year,  
17          including information on the location of the approved company and the  
18          number of employees of the approved company that qualified the approved  
19          company for the tax credit;

20          (d) The date each approved company was awarded the tax credit;

21          (e) The amount of tax credit awarded and the amount of tax credit claimed for  
22          each approved company; and

23          (f) A total amount of credit awarded and claimed for each fiscal year the credit  
24          is available.

25          (9) The corporation shall work jointly with the department to share information  
26          related to each approved company awarded a tax credit, including all the  
27          information that is reported on the Web site of the authority, and sufficient

1 information, including Social Security numbers of the qualified employee, to  
2 ensure compliance on the tax returns filed by the approved company.

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

5 In order for the General Assembly to evaluate the fulfillment of the purposes stated in  
6 Section 2 of this Act, the Cabinet for Economic Development and the Department of  
7 Revenue shall work together in data collection. The Cabinet for Economic  
8 Development shall submit the following information, related to actions taken by the  
9 corporation during the immediately preceding calendar year, to the Interim Joint  
10 Committee on Appropriations and Revenue beginning no later than May 1, 2021, and  
11 no later than each May 1 thereafter, as long as the tax credit is awarded by the  
12 corporation:

13 (1) The number of applications received during the calendar year, including the  
14 number of applications approved and the number of applications denied;

15 (2) A list of each approved company awarded a tax credit, including:

16 (a) Information on the location of the approved company;

17 (b) The total number of employees of the approved company and the number of  
18 employees that were qualified employees;

19 (c) A list of the educational institutions which the employees attended; and

20 (d) A description of the educational programs attended by the employees;

21 (3) The date each approved company was awarded the tax credit;

22 (4) The amount of tax credit awarded for each approved company; and

23 (5) The amount of costs for tuition and detailed breakdown of the other educational  
24 expenses paid by the approved company.

25 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO  
26 READ AS FOLLOWS:

27 (1) As used in this section:

- 1        (a) "Approved company" has the same meaning as in Section 1 of this Act;
- 2        (b) "Educational institution" has the same meaning as in Section 1 of this Act;
- 3        (c) "Other educational expenses" has the same meaning as in Section 1 of this
- 4                Act; and
- 5        (d) "Qualified employee" has the same meaning as in Section 1 of this Act.
- 6        (2) For taxable years beginning on or after January 1, 2020, but before January 1,
- 7                2024, a nonrefundable, nontransferable tax credit shall be allowed against the
- 8                tax imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of
- 9                credits as provided by Section 5 of this Act, as awarded under Section 2 of this
- 10                Act.
- 11        (3) (a) The maximum amount of tax credit that may awarded in each fiscal year
- 12                shall not exceed two million five hundred thousand dollars (\$2,500,000).
- 13                (b) Any tax credit that remains unallocated at the end of each fiscal year shall
- 14                lapse and shall not be carried forward to another fiscal year.
- 15                (c) The tax credit awarded under Section 2 of this Act to an approved company
- 16                shall be in an amount up to fifty percent (50%) of the actual costs incurred
- 17                by the approved company for tuition or other educational expenses paid on
- 18                behalf of a qualified employee attending an educational institution, not to
- 19                exceed two thousand dollars (\$2,000) for each qualified employee annually.
- 20        (4) (a) The tax credit shall be claimed on the income tax return filed for the
- 21                taxable year during which the approved company receives notification of
- 22                the final authorized tax credit under subsection (6) of Section 2 of this Act.
- 23                (b) Any amount of credit that the approved company is unable to utilize during
- 24                the taxable year may be carried forward for use in a succeeding taxable
- 25                year for a period not to exceed three (3) taxable years.
- 26        (5) (a) In order for the General Assembly to evaluate the fulfillment of the
- 27                purposes stated in Section 2 of this Act, the department shall provide the

1 following information on a cumulative basis for each taxable year to  
2 provide a historical impact of the tax credit to the Commonwealth:

3 1. The name and address for each taxpayer claiming the tax credit;

4 2. The entity type of that taxpayer;

5 3. Each location, by county, of the approved company where a qualified  
6 employee is employed;

7 4. The number of all employees at each location at the end of the taxable  
8 year;

9 5. The total amount of the actual costs incurred by the approved  
10 company for tuition or other educational expenses paid on behalf of a  
11 qualified employee while attending an educational institution;

12 6. The amount of tax credit claimed by that taxpayer;

13 7. The amount of credit that the taxpayer has available for carry forward  
14 to a future year;

15 8. In the case of all taxpayers other than corporations, based on ranges  
16 of adjusted gross income of no larger than five thousand dollars  
17 (\$5,000) for the taxable year, the total amount of tax credits claimed  
18 and the number of returns claiming a tax credit for each adjusted  
19 gross income range; and

20 9. In the case of all corporations, based on ranges of net income no  
21 larger than fifty thousand dollars (\$50,000) for the taxable year, the  
22 total amount of tax credit claimed and the number of returns claiming  
23 a tax credit for each net income range.

24 (b) The report required by paragraph (a) of this subsection shall be submitted  
25 to the Interim Joint Committee on Appropriations and Revenue beginning  
26 no later than November 1, 2021, and no later than each November 1  
27 thereafter, as long as the credit is claimed on any return processed by the



1                    department.

2                    ➔Section 5. KRS 141.0205 is amended to read as follows:

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

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

- 8                    (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 9                    (b) The economic development credits computed under KRS 141.347, 141.381,  
10                    141.384, 141.400, 141.401, 141.403, 141.407, 141.415, Section 4 of this Act,  
11                    154.12-207, and 154.12-2088;
- 12                    (c) The qualified farming operation credit permitted by KRS 141.412;
- 13                    (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 14                    (e) The health insurance credit permitted by KRS 141.062;
- 15                    (f) The tax paid to other states credit permitted by KRS 141.070;
- 16                    (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 17                    (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 18                    (i) The tax credit for cash contributions in investment funds permitted by KRS  
19                    154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS  
20                    154.20-258;
- 21                    (j) The research facilities credit permitted by KRS 141.395;
- 22                    (k) The employer High School Equivalency Diploma program incentive credit  
23                    permitted under KRS 151B.402;
- 24                    (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 25                    (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 26                    (n) The clean coal incentive credit permitted by KRS 141.428;
- 27                    (o) The ethanol credit permitted by KRS 141.4242;

- 1 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 2 (q) The energy efficiency credits permitted by KRS 141.436;
- 3 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 4 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 5 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 6 (u) The distilled spirits credit permitted by KRS 141.389;
- 7 (v) The angel investor credit permitted by KRS 141.396;
- 8 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 9 on or after April 27, 2018; and
- 10 (x) The inventory credit permitted by KRS 141.408.
- 11 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 12 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 13 shall be taken in the following order:
- 14 (a) The individual credits permitted by KRS 141.020(3);
- 15 (b) The credit permitted by KRS 141.066;
- 16 (c) The tuition credit permitted by KRS 141.069;
- 17 (d) The household and dependent care credit permitted by KRS 141.067; and
- 18 (e) The income gap credit permitted by KRS 141.066.
- 19 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 20 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 21 taken in the following order:
- 22 (a) The individual withholding tax credit permitted by KRS 141.350;
- 23 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 24 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
- 25 171.397(1)(b); and
- 26 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 27 approved prior to April 27, 2018.

- 1 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the  
2 tax imposed by KRS 141.040.
- 3 (5) The following nonrefundable credits shall be applied against the sum of the tax  
4 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)  
5 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 6 (a) The economic development credits computed under KRS 141.347, 141.381,  
7 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, Section 4 of this Act,  
8 154.12-207, and 154.12-2088;
- 9 (b) The qualified farming operation credit permitted by KRS 141.412;
- 10 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 11 (d) The health insurance credit permitted by KRS 141.062;
- 12 (e) The unemployment credit permitted by KRS 141.065;
- 13 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 14 (g) The coal conversion credit permitted by KRS 141.041;
- 15 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods  
16 ending prior to January 1, 2008;
- 17 (i) The tax credit for cash contributions to investment funds permitted by KRS  
18 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS  
19 154.20-258;
- 20 (j) The research facilities credit permitted by KRS 141.395;
- 21 (k) The employer High School Equivalency Diploma program incentive credit  
22 permitted by KRS 151B.402;
- 23 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 24 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 25 (n) The clean coal incentive credit permitted by KRS 141.428;
- 26 (o) The ethanol credit permitted by KRS 141.4242;
- 27 (p) The cellulosic ethanol credit permitted by KRS 141.4244;

- 1 (q) The energy efficiency credits permitted by KRS 141.436;
- 2 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit  
3 permitted by KRS 141.437;
- 4 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 5 (t) The railroad expansion credit permitted by KRS 141.386;
- 6 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 7 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 8 (w) The distilled spirits credit permitted by KRS 141.389;
- 9 (x) The film industry credit permitted by KRS 141.383 for applications approved  
10 on or after April 27, 2018; and
- 11 (y) The inventory credit permitted by KRS 141.408.
- 12 (6) After the application of the nonrefundable credits in subsection (5) of this section,  
13 the refundable credits shall be taken in the following order:
- 14 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 15 (b) The certified rehabilitation credit permitted by KRS 171.3961 and  
16 171.397(1)(b); and
- 17 (c) The film industry tax credit permitted by KRS 141.383 for applications  
18 approved prior to April 27, 2018.
- 19 ➔Section 6. KRS 131.190 is amended to read as follows:
- 20 (1) No present or former commissioner or employee of the department, present or  
21 former member of a county board of assessment appeals, present or former property  
22 valuation administrator or employee, present or former secretary or employee of the  
23 Finance and Administration Cabinet, former secretary or employee of the Revenue  
24 Cabinet, or any other person, shall intentionally and without authorization inspect or  
25 divulge any information acquired by him of the affairs of any person, or information  
26 regarding the tax schedules, returns, or reports required to be filed with the  
27 department or other proper officer, or any information produced by a hearing or

1 investigation, insofar as the information may have to do with the affairs of the  
2 person's business.

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

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

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

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

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

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

23 (f) Providing to a third-party purchaser pursuant to an order entered in a  
24 foreclosure action filed in a court of competent jurisdiction, factual  
25 information related to the owner or lessee of coal, oil, gas reserves, or any  
26 other mineral resources assessed under KRS 132.820. The department may  
27 promulgate an administrative regulation establishing a fee schedule for the

- 1 provision of the information described in this paragraph. Any fee imposed  
2 shall not exceed the greater of the actual cost of providing the information or  
3 ten dollars (\$10);
- 4 (g) Providing information to a licensing agency, the Transportation Cabinet, or  
5 the Kentucky Supreme Court under KRS 131.1817;
- 6 (h) Statistics of gasoline and special fuels gallonage reported to the department  
7 under KRS 138.210 to 138.448;
- 8 (i) Providing any utility gross receipts license tax return information that is  
9 necessary to administer the provisions of KRS 160.613 to 160.617 to  
10 applicable school districts on a confidential basis;
- 11 (j) Providing documents, data, or other information to a third party pursuant to an  
12 order issued by a court of competent jurisdiction;~~[-or]~~
- 13 (k) Providing information to the Legislative Research Commission under:
- 14 1. KRS 139.519 for purposes of the sales and use tax refund on building  
15 materials used for disaster recovery;
- 16 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 17 3. KRS 141.437 for purposes of the ENERGY STAR home and the  
18 ENERGY STAR manufactured home credits;
- 19 4. KRS 148.544 for purposes of the film industry incentives;
- 20 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization  
21 tax credits and the job assessment fees;
- 22 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 23 7. KRS 141.396 for purposes of the angel investor tax credit;
- 24 8. KRS 141.389 for purposes of the distilled spirits credit;
- 25 9. KRS 141.408 for purposes of the inventory credit;~~[-and]~~
- 26 10. KRS 141.390 for purposes of the recycling and composting credit;
- 27 **11. Section 4 of this Act for purposes of the earn, learn, and recover**

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credit; or

(l) Providing information to the Bluegrass State Skills Corporation under subsection (7) of Section 2 of this Act.

- (3) 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.
- (4) Access to and inspection of information received from the Internal Revenue Service is for department use only, and is restricted to tax administration purposes. 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, 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

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