

1 AN ACT relating to commercial mining of cryptocurrency.

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

3 ➔Section 1. KRS 154.27-010 is amended to read as follows:

4 As used in this subchapter:

- 5 (1) "Activation date" means the date on which an approved company begins incurring  
6 recoverable costs or engaging in recoverable activity pursuant to the tax incentive  
7 agreement. The activation date shall be set forth in the tax incentive agreement and  
8 shall be a date within five (5) years of the date of final approval of the tax incentive  
9 agreement. The authority may extend the five (5) year period to no more than seven  
10 (7) years upon written application for an extension by the approved company. To  
11 implement the activation date, the approved company shall notify the authority of  
12 its intent to activate the tax incentives authorized in the tax incentive agreement.  
13 The activation date shall apply to all incentives included in the tax incentive  
14 agreement regardless of whether the approved company has met the requirements to  
15 receive all incentives at that time. If the approved company does not implement the  
16 activation date before the date established in the tax incentive agreement, the  
17 activation date shall be the date established in the tax incentive agreement;
- 18 (2) "Affiliate" has the same meaning as in KRS 154.22-010;
- 19 (3) (a) "Alternative fuel facility" means a facility located in Kentucky that is newly  
20 constructed on or after August 30, 2007, or an existing facility located in  
21 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,  
22 after the new construction, retrofit, or upgrade, primarily produces for sale  
23 alternative transportation fuels. For a retrofit of an existing facility, the new  
24 modification or addition within the facility shall primarily produce alternative  
25 transportation fuel for sale.
- 26 (b) The alternative fuel facility may produce electricity as a by-product if the  
27 primary purpose for which the facility is constructed, retrofitted, or upgraded,

1 and the primary function of the facility remains the production and sale of  
2 alternative transportation fuels;

3 (4) "Alternative transportation fuels" has the same meaning as in KRS 152.715;

4 (5) "Approved company" means a corporation, limited liability company, partnership,  
5 registered limited liability partnership, sole proprietorship, business trust, or any  
6 other entity approved for incentives for an eligible project;

7 (6) "Authority" means the Kentucky Economic Development Finance Authority  
8 established by KRS 154.20-010;

9 (7) "Base amount" means the tons of coal, thousand (1000) cubic foot units (Mcf) of  
10 natural gas, or gallons of natural gas liquids purchased and used or severed and used  
11 by the approved company as feedstock for an eligible project during the twelve (12)  
12 months prior to the month in which the approved company first begins receiving  
13 incentives under KRS 143.024 or 143A.025, and 154.27-060, that were subject to  
14 the tax imposed by KRS 143.020 or 143A.020;

15 **(8) "Blockchain technology" or "blockchain" means shared or distributed data**  
16 **structures or digital ledgers governed by consensus protocols and maintained by**  
17 **peer-to-peer networks that:**

18 **(a) Store digital transactions; and**

19 **(b) Verify and secure transactions cryptographically;**

20 ~~(9)~~ "Biomass resources" has the same meaning as in KRS 152.715;

21 ~~(10)~~ (9) (a) "Capital investment" means:

22 1. Obligations incurred for labor and to contractors, subcontractors,  
23 builders, and materialmen in connection with the acquisition,  
24 construction, installation, equipping, upgrading, or retrofitting of an  
25 eligible project;

26 2. The cost of acquiring land or rights in land and any cost incident thereto,  
27 including recording fees;

- 1           3. The cost of contract bonds and of insurance of all kinds that may be  
2           required or necessary during the course of acquisition, construction,  
3           installation, equipping, upgrading, or retrofitting of an eligible project  
4           which is not paid by the contractor or otherwise provided;
- 5           4. All costs of architectural and engineering services, including test  
6           borings, surveys, estimates, plans, specifications, preliminary  
7           investigations, supervision of construction, and the performance of all  
8           the duties required by or consequent upon the acquisition, construction,  
9           installation, equipping, upgrading, or retrofitting of an eligible project;
- 10          5. All costs required to be paid under the terms of any contract for the  
11          acquisition, construction, installation, equipping, upgrading, or  
12          retrofitting of an eligible project; and
- 13          6. All other costs of a nature comparable to those described in this  
14          subsection.
- 15          (b) "Capital investment" does not include costs described in paragraph (a) of this  
16          subsection that are paid for with funds received from the federal government  
17          or that are reimbursed by the federal government;
- 18          ~~(11)~~~~(10)~~ "Carbon capture ready" means planning for or anticipating capture of carbon  
19          dioxide in a manner to facilitate continued operation of the facility in compliance  
20          with applicable federal requirements;
- 21          ~~(12)~~~~(11)~~ "Carbon dioxide transmission pipeline" means the in-state portion of a  
22          pipeline, including appurtenant facilities, property rights, and easements, that is  
23          used exclusively for the purpose of transporting carbon dioxide to a point of sale,  
24          storage, or other carbon management applications;
- 25          ~~(13)~~~~(12)~~ "Center for Applied Energy Research" means the University of Kentucky  
26          Center for Applied Energy Research;
- 27          **(14) "Commercial mining of cryptocurrency" means the process through which**

1 *blockchain technology is used to mine cryptocurrency at a cryptocurrency*  
2 *facility, and includes the process through which blockchain transactions are*  
3 *verified and accepted by adding the transactions to a blockchain ledger, which*  
4 *involves solving complex mathematical cryptographic problems associated with a*  
5 *block containing transaction data;*

6 ~~(15)~~~~(13)~~ "Commonwealth" means the Commonwealth of Kentucky;

7 ~~(16)~~~~(14)~~ "Construction period" means the period beginning with the activation date of  
8 the eligible project and ending on a date set forth in the tax incentive agreement,  
9 which shall be no later than five (5) years from the activation date;

10 ~~(17)~~ *"Consensus protocol" means a set of rules and procedures that control how and*  
11 *when blockchain transactions are verified, validated, recorded, and recognized;*

12 ~~(18)~~ *"Cryptocurrency" means a type of virtual currency that utilizes blockchain*  
13 *technology and that:*

14 *(a) Can be digitally traded between users; or*

15 *(b) Can be converted or exchanged for legal tender;*

16 ~~(19)~~ *"Cryptocurrency facility" means a facility located in the Commonwealth that is*  
17 *utilized in the commercial mining of cryptocurrency or in hosting persons*  
18 *engaged in the commercial mining of cryptocurrency through utilization of the*  
19 *facility's infrastructure, including servers and network hardware powered by*  
20 *Internet bandwidth, electricity, and other services generally required for such*  
21 *mining operations;*

22 ~~(20)~~~~(15)~~ "Department" means the Department of Revenue;

23 ~~(21)~~~~(16)~~ "Eligible project" means:

24 (a) An alternative fuel facility or a gasification facility meeting the investment  
25 requirements of KRS 154.27-020;

26 (b) An energy-efficient alternative fuel facility meeting the investment  
27 requirements of KRS 154.27-020;

1 (c) A renewable energy facility meeting the investment requirements of KRS  
2 154.27-020;~~{or}~~

3 (d) A carbon dioxide transmission pipeline meeting the investment requirements  
4 of KRS 154.27-020;or

5 (e) A cryptocurrency facility meeting the investment requirements of Section 2  
6 of this Act;

7 (22)~~{(17)}~~ "Energy-efficient alternative fuel facility" means a facility located in Kentucky  
8 that is newly constructed on or after August 30, 2010, or an existing facility located  
9 in Kentucky that is retrofitted or upgraded on or after August 30, 2010, and that,  
10 after the new construction, retrofit, or upgrade, will produce for sale energy-  
11 efficient alternative fuels. For a retrofit of an existing facility, the new modification  
12 or addition within the facility shall produce for sale energy-efficient alternative  
13 fuels;

14 (23)~~{(18)}~~ "Energy-efficient alternative fuels" means homogeneous fuels that:

15 (a) Are produced from processes designed to densify feedstock coal, waste coal,  
16 or biomass resources; and

17 (b) Have an energy content that is greater than the feedstock coal, waste coal, or  
18 biomass resource;

19 (24)~~{(19)}~~ "Estimated labor component" means the projected percentage of the total  
20 capital investment attributable to labor;

21 (25)~~{(20)}~~ (a) "Facility" means a single location within the Commonwealth at which  
22 machinery and equipment are used;

23 1. In a manufacturing process that transforms raw materials into a product  
24 with commercial value;or

25 2. In the commercial mining of cryptocurrency or in hosting persons  
26 engaged in the commercial mining of cryptocurrency.

27 (b)~~{1-}~~ The facility shall include the physical plant structure where the

1 manufacturing process occurs or where the commercial mining of  
2 cryptocurrency occurs and machinery and equipment within the physical  
3 plant structure.

4 ~~(c)(2)~~ The facility may include:

5 ~~1.(a)~~ On-site machinery and equipment used exclusively for processing coal  
6 or other raw materials for use in the manufacturing process at the  
7 facility;

8 ~~2.(b)~~ For an alternative fuel facility or gasification facility, on-site power  
9 station operations, if those operations are primarily used to produce  
10 electricity for the facility;

11 ~~3.(c)~~ On-site refining operations, if those operations are used exclusively to  
12 refine and blend fuels produced by the facility; and

13 ~~4.(d)~~ The in-state portion of a pipeline, including appurtenant facilities,  
14 property rights, and easements, if the exclusive purpose of the pipeline is  
15 to transport carbon dioxide from the facility to a point of sale, storage, or  
16 other carbon management applications.

17 ~~(d)(b)~~ "Facility" shall not include any mining operations, or drilling and  
18 production operations for natural gas, unless such coal, natural resource, or  
19 natural gas operations are being used for purposes of, or are hosting, the  
20 commercial mining of cryptocurrency, in which case such operations shall  
21 be a facility;

22 ~~(26)(21)~~ "Gasification process" means a process that converts any carbon-containing  
23 material into a synthesis gas composed primarily of carbon monoxide and hydrogen;

24 ~~(27)(22)~~ (a) "Gasification facility" means a facility located in Kentucky that is newly  
25 constructed on or after August 30, 2007, or an existing facility located in  
26 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,  
27 after the new construction, retrofit, or upgrade, primarily produces for sale:

- 1           1.    Alternative transportation fuels;
- 2           2.    Synthetic natural gas;
- 3           3.    Chemicals;
- 4           4.    Chemical feedstocks; or
- 5           5.    Liquid fuels;

6           from coal, waste coal, coal-processing waste, or biomass resources, through a  
7           gasification process. For a retrofit of an existing facility, the new modification  
8           or addition within the facility shall primarily produce one (1) or more of the  
9           products set forth in this paragraph.

- 10          (b) The gasification facility may produce electricity as a by-product if the primary  
11           purpose for which the facility is constructed, retrofitted, or upgraded, and the  
12           primary function of the facility remains the production and sale of alternative  
13           transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or  
14           liquid fuels;

15          ~~(28)~~~~(23)~~ "Kentucky gross profits" has the same meaning as in KRS 141.0401;

16          ~~(29)~~~~(24)~~ "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

17          ~~(30)~~~~(25)~~ "Post-construction incentives" means the incentives available under KRS  
18           154.27-060 and 154.27-080;

19          ~~(31)~~~~(26)~~ "Renewable energy facility" means a facility located in Kentucky that is newly  
20           constructed on or after August 30, 2007, or an existing facility located in Kentucky  
21           that is retrofitted or upgraded after August 30, 2007, and that, after the new  
22           construction, retrofit, or upgrade, utilizes:

- 23          (a) Wind power, biomass resources, landfill methane gas, hydropower, or other  
24           similar renewable resources to generate electricity in excess of one (1)  
25           megawatt for sale to unrelated entities; or

- 26          (b) Solar power to generate electricity in excess of fifty (50) kilowatts for sale to  
27           unrelated entities.

1 For a retrofit of an existing facility, the modification or addition shall primarily  
2 result in the production of electricity as described in paragraph (a) or (b) of this  
3 subsection;

4 ~~(32)~~~~(27)~~ "Resident" has the same meaning as in KRS 141.010;

5 ~~(33)~~ ~~(a)~~~~(28)~~ "Retrofit" means a modification or addition to an existing facility that  
6 results in the production of a new and different product or services or uses a new or  
7 different process to produce the same product or services at the facility.

8 ~~(b)~~ Modifications or additions to a facility that maintain, restore, mend, or repair a  
9 facility shall not be considered a retrofit of the facility, and shall not be  
10 considered part of the capital investment if undertaken at the same time as a  
11 retrofit;

12 ~~(34)~~~~(29)~~ "Synthetic natural gas" has the same meaning as in KRS 152.715;

13 ~~(35)~~~~(30)~~ "Tax incentive agreement" means an agreement entered into in accordance  
14 with KRS 154.27-040;

15 ~~(36)~~~~(31)~~ "Termination date" means a date established by the tax incentive agreement  
16 that is no more than twenty-five (25) years from the activation date; and

17 ~~(37)~~~~(32)~~ "Upgrade" means an investment in an existing facility that results in an  
18 increase in the productivity of the facility. Increased productivity shall be measured  
19 in relation to the type of products or services that are required to be produced or  
20 performed by that facility to be an eligible project.

21 ➔Section 2. KRS 154.27-020 is amended to read as follows:

22 (1) This subchapter shall be known as the "Incentives for  
23 Energy-related Business~~[Energy Independence]~~ Act."

24 (2) The General Assembly hereby finds and declares that it is in the best interest of the  
25 Commonwealth to induce the location of innovative energy-related businesses in  
26 the Commonwealth in order to advance the public purposes of achieving energy  
27 independence, creating new and advanced technologies, creating new jobs and



1 new investment, and creating new sources of tax revenues that but for the  
2 inducements to be offered by the authority to approved companies would not exist.

3 (3) The purpose of this subchapter is to assist the Commonwealth in moving to the  
4 forefront of national efforts to achieve energy independence by reducing the  
5 Commonwealth's reliance on imported energy resources, **and to become a national**  
6 **leader in emerging industries which use substantial amounts of energy.** The  
7 provisions of this subchapter seek to accomplish this purpose by providing  
8 incentives for companies that, in a carbon capture ready manner, construct, retrofit,  
9 or upgrade facilities for the purpose of:

10 (a) Increasing the production and sale of alternative transportation fuels;

11 (b) Increasing the production and sale of synthetic natural gas, chemicals,  
12 chemical feedstocks, or liquid fuels, from coal, biomass resources, or waste  
13 coal through a gasification process;

14 (c) Increasing the production and sale of energy-efficient alternative fuels;~~or~~

15 (d) Generating electricity for sale through alternative methods such as solar  
16 power, wind power, biomass resources, landfill methane gas, hydropower, or  
17 other similar renewable resources; **or**

18 **(e) Increasing the usage of electricity in areas which have an abundant supply**  
19 **due to the loss of manufacturing businesses across the state.**

20 (4) To qualify for the incentives provided in this subchapter, the following  
21 requirements shall be met:

22 (a) For an alternative fuel facility or gasification facility that uses oil shale, tar  
23 sands, or coal as the primary feedstock, the minimum capital investment shall  
24 be one hundred million dollars (\$100,000,000);

25 (b) For an alternative fuel facility or gasification facility that uses biomass  
26 resources as the primary feedstock, the minimum capital investment shall be  
27 twenty-five million dollars (\$25,000,000);

- 1 (c) For an energy-efficient alternative fuel facility, the minimum capital  
 2 investment shall be twenty-five million dollars (\$25,000,000);
- 3 (d) For an alternative fuel facility located in Kentucky that is newly constructed  
 4 on or after August 1, 2010, or an existing facility located in Kentucky that is  
 5 retrofitted or upgraded on or after August 1, 2010, and that, after the new  
 6 construction, retrofit, or upgrade, primarily produces for sale alternative  
 7 transportation fuels using natural gas or natural gas liquids as the primary  
 8 feedstock, the minimum capital investment shall be one million dollars  
 9 (\$1,000,000); provided that the authority may approve a maximum of five (5)  
 10 projects that meet the requirements of this paragraph;
- 11 (e) For a renewable energy facility, the minimum capital investment shall be one  
 12 million dollars (\$1,000,000);~~and~~
- 13 (f) For a carbon dioxide transmission pipeline, the minimum capital investment  
 14 shall be fifty million dollars (\$50,000,000); **and**
- 15 **(g) For a cryptocurrency facility, the minimum capital investment shall be one**  
 16 **million dollars (\$1,000,000).**
- 17 (5) The incentives under the Incentives for **Energy-related Business**~~Energy~~  
 18 ~~Independence~~ Act are as follows:
- 19 (a) An advance disbursement of post-construction incentives for which an  
 20 approved company has been approved, the maximum amount of which is  
 21 based upon the estimated labor component of the total capital investment of  
 22 the eligible project, and the utilization of Kentucky residents during the  
 23 construction period as set forth in KRS 154.27-090;
- 24 (b) Sales and use tax incentives of up to one hundred percent (100%) of the taxes  
 25 paid on purchases of tangible personal property made to construct, retrofit, or  
 26 upgrade an eligible project, **including commercial cryptocurrency mining**  
 27 **equipment at a facility**, as set forth in KRS 139.517 and 154.27-070;

- 1 (c) Up to eighty percent (80%) of the severance taxes paid on the purchase or  
2 severance of:
- 3 1. Coal that is subject to the tax imposed under KRS 143.020 and that is  
4 specifically used by an alternative fuel facility, energy-efficient  
5 alternative fuel facility, or a gasification facility as feedstock for an  
6 eligible project, as set forth in KRS 143.024 and 154.27-060; or
- 7 2. Natural gas or natural gas liquids that are subject to the tax imposed  
8 under KRS 143A.020 and that are specifically used in an alternative fuel  
9 facility described in subsection (4)(d) of this section as feedstock for an  
10 eligible project, as set forth in KRS 143A.025 and 154.27-060;
- 11 (d) Up to one hundred percent (100%) of the Kentucky income tax imposed under  
12 KRS 141.040 or 141.020, and the limited liability entity tax imposed under  
13 KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross  
14 receipts of the approved company generated by or arising from the eligible  
15 project, as set forth in KRS 141.421 and 154.27-080; and
- 16 (e) Authorization for the approved company to impose a wage assessment of up  
17 to four percent (4%) of the gross wages of each employee subject to the  
18 Kentucky income tax:
- 19 1. Whose job was created as a result of the eligible project;  
20 2. Who is employed by the approved company to work at the facility; and  
21 3. Who is on the payroll of the approved company or an affiliate of the  
22 approved company;  
23 as set forth in KRS 154.27-080.
- 24 (6) The maximum recovery from all incentives approved under this subchapter for an  
25 eligible project shall not exceed fifty percent (50%) of the capital investment in the  
26 eligible project.
- 27 (7) The incentives available to an approved company shall be negotiated with and

1 approved by the authority.

2 (8) If a newly constructed facility that qualifies for incentives under this subchapter is  
3 later upgraded or retrofitted in a manner that would qualify for incentives under this  
4 subchapter, the retrofit or upgrade shall be a separate eligible project, and the  
5 minimum investment requirements and carbon capture readiness requirements, if  
6 required, shall be met for the retrofit or upgrade to qualify for incentives under this  
7 subchapter.

8 (9) The General Assembly finds that the authorities granted by this subchapter are  
9 proper governmental and public purposes for which public moneys may be  
10 expended.

11 ➔Section 3. KRS 154.27-030 is amended to read as follows:

12 (1) A company with an eligible project may submit an application for incentives to the  
13 authority prior to making any capital investment it will seek to recover.

14 (2) The application shall include:

15 (a) The name of the applicant and identification of any affiliates of the applicant;

16 (b) The type of eligible project;

17 (c) A description of the location;

18 (d) A full description of the eligible project scope, including but not limited to:

19 1. A list and the status of permits, certificates, or approvals required by the  
20 federal government, the Commonwealth, or any jurisdiction within the  
21 Commonwealth;

22 2. A description of the carbon capture readiness of the facility, if the  
23 proposed eligible project is an alternative fuel facility or a gasification  
24 facility;

25 3. Any feasibility studies, including supporting documents;

26 4. Anticipated sources of eligible project funding;

27 5. The total anticipated capital investment and the time period over which

- 1 the capital investment will occur;
- 2 6. The proposed feedstock and the estimated volume of feedstock use per
- 3 year;
- 4 7. A description of the proposed products or services to be produced by the
- 5 facility and the process that will be used to produce the products;
- 6 8. The planned capacity of the facility after construction, retrofit, or
- 7 upgrade;
- 8 9. The estimated output of the facility upon completion; and
- 9 10. A plan for and description of how the company will employ Kentucky
- 10 residents at the facility and how the company will ensure, to the extent
- 11 possible, that workers employed during construction, retrofit, or upgrade
- 12 of the facility are Kentucky residents. The plan shall include projected
- 13 numbers;
- 14 (e) Identification of the specific incentives sought;
- 15 (f) Payment of any applicable application fees required by the authority to offset
- 16 reasonable costs of reviewing and processing the application; and
- 17 (g) Other information as required by the authority.
- 18 (3) The authority shall forward the application to the Department of Revenue and the
- 19 Office of Energy Policy, if applicable, for review and comment with a date by
- 20 which comments shall be provided back to the authority. The authority may forward
- 21 the application to the Center for Applied Energy Research for review and comment
- 22 as well.
- 23 (4) (a) The authority shall review the application and shall verify that:
- 24 1. The applicant has met all of the statutory and regulatory requirements
- 25 established by this subchapter and regulations promulgated thereunder;
- 26 2. The applicant has secured or is in the process of securing all necessary
- 27 permits, certificates, or approvals required by the federal government,

- 1 the Commonwealth, or any jurisdiction within the Commonwealth;
- 2 3. The proposed facility is carbon capture ready, if the proposed facility is
- 3 an alternative fuel facility or gasification facility;
- 4 4. The company has a plan that includes a projected number of Kentucky
- 5 residents that will be employed during the construction, retrofit, or
- 6 upgrade of the facility and at the facility upon completion; and
- 7 5. Any other requirements established by the authority.
- 8 (b) The Department of Revenue and the Office of Energy Policy, *if applicable,*
- 9 shall review the application and shall verify that the company seeking
- 10 approval and all affiliate companies are in good standing with the department.
- 11 (c) The authority may engage the services of outside consultants to assist in the
- 12 review of the application. Costs associated with the engagement of outside
- 13 consultants shall be borne by the applicant.
- 14 (5) (a) Upon the earlier of:
- 15 1. The receipt of comments and recommendations from the Office of
- 16 Energy Policy, the Department of Revenue, and the Center for Applied
- 17 Energy Research, if applicable; or
- 18 2. The expiration of the time period established by the authority for
- 19 receiving comments pursuant to subsection (3) of this section;
- 20 the authority may, through the adoption of a resolution, preliminarily approve
- 21 an applicant for incentives under this subchapter.
- 22 (b) Preliminary approval shall be based upon representations of the applicant in
- 23 the application and attachments as well as other information submitted with
- 24 the application. The authority shall make a finding that, based upon the
- 25 applicant's representations, the project appears to be eligible for incentives
- 26 pursuant to this subchapter.
- 27 (c) Prior to final approval:

- 1           1.    The applicant shall:
  - 2                   a.    Provide all supportive data requested by the authority;
  - 3                   b.    Secure all required permits or take appropriate steps to do so; and
  - 4                   c.    Cooperate with the authority to obtain opinions or
  - 5                                recommendations from any outside consultants; and
- 6           2.    The authority shall, in consultation with the Office of Energy Policy or
- 7                   any other entity, verify the representations of the applicant.
- 8           (d)  1.    A preliminarily approved company seeking an advance disbursement
- 9                   employment incentive under KRS 154.27-090 shall, prior to receiving
- 10                   final approval from the authority, provide to the authority a labor market
- 11                   analysis prepared by a public postsecondary education institution in the
- 12                   Commonwealth with knowledge of the labor market in the region in
- 13                   which the eligible project will be located.
- 14           2.    The labor market analysis shall evaluate the construction market in the
- 15                   region where the proposed project is to be located and the estimated
- 16                   labor component of the proposed project. The public postsecondary
- 17                   education institution may consult with the Center for Applied Energy
- 18                   Research or the Office of Energy Policy in determining the types of
- 19                   laborers required for the construction, retrofit, or upgrade of the eligible
- 20                   facility.
- 21           3.    The labor market analysis shall include an estimate of the percentage of
- 22                   the estimated labor component that constitutes wages to be paid to
- 23                   Kentucky residents.
- 24           (e)  Based upon all of the information available, the authority may, through
- 25                   adoption of a resolution, give its final approval and authorize the execution of
- 26                   a tax incentive agreement to be negotiated pursuant to KRS 154.27-040.
- 27           (6)  The authority may request any materials and make any inquiries concerning an

- 1 application that the authority deems necessary.
- 2 (7) The actual capital investment that may be recovered and percentages of each  
3 incentive that an approved company may receive shall be negotiated between the  
4 approved company and the authority and shall not exceed the limitations established  
5 by KRS 154.27-020.
- 6 (8) The General Assembly recognizes that the incentives offered under this subchapter  
7 include the possibility of the release of incentives to approved companies prior to  
8 construction completion, and that the release of these incentives may present more  
9 risk for the Commonwealth. The authority is directed to consider the possible  
10 increased risk to the Commonwealth when negotiating tax incentive agreements that  
11 include incentives prior to construction completion, and to incorporate repayment or  
12 similar remedy provisions in the tax incentive agreement to the extent the authority  
13 determines such provisions are necessary to protect the investment made by the  
14 Commonwealth if the approved company fails to comply with the terms of the tax  
15 incentive agreement.
- 16 (9) The authority and the approved company shall enter into a tax incentive agreement  
17 in accordance with KRS 154.27-040.
- 18 (10) The authority, with input from the Office of Energy Policy, if applicable, and the  
19 Department of Revenue, shall establish additional standards and requirements for  
20 the application process through the promulgation of administrative regulations in  
21 accordance with KRS Chapter 13A. The standards shall include but not be limited  
22 to the creditworthiness of eligible companies and the likelihood of economic  
23 success of the economic development project.
- 24 (11) Notwithstanding any other provision of this subchapter, the authority may approve a  
25 maximum of five (5) projects under this subchapter that involve an alternative fuel  
26 facility located in Kentucky that:
- 27 (a) Is newly constructed on or after August 1, 2010, or an existing facility located



- 1 in Kentucky that is retrofitted or upgraded on or after August 1, 2010;
- 2 (b) After the new construction, retrofit, or upgrade, primarily produces for sale
- 3 alternative transportation fuels using natural gas or natural gas liquids as the
- 4 primary feedstock; and
- 5 (c) Has a minimum capital investment of one million dollars (\$1,000,000).

6 ➔Section 4. KRS 154.27-095 is amended to read as follows:

7 No application for incentives found in KRS 154.27-010 to 154.27-100 shall be accepted

8 by the authority for alternative fuel facilities, gasification facility, energy-efficient

9 facility, renewable energy facility, or a carbon dioxide transmission pipeline after

10 August 1, 2018. All outstanding projects with preliminary or final approval shall continue

11 to be governed by the provisions of this subchapter.

12 ➔Section 5. KRS 154.12-2035 is amended to read as follows:

13 (1) The cabinet shall maintain a searchable electronic database on its Web site

14 containing information on the cost and status of the programs listed in subsection

15 (3)(a) of this section. The database shall include all projects approved at any time in

16 the last five (5) years and shall include for each, where applicable, the following

17 information:

- 18 (a) The name of the program, the recipient or participant, the type of project, and
- 19 its location by county;
- 20 (b) Total and approved costs of the project or investment, and the amount of
- 21 incentives or other benefits authorized;
- 22 (c) For the Kentucky Business Investment Program and the Kentucky Enterprise
- 23 Initiative Act, the amount of incentives or other benefits actually recovered as
- 24 self-reported by the recipient;
- 25 (d) The number of new jobs estimated and, for the Kentucky Business Investment
- 26 Program, actually created, along with wage information for those jobs;
- 27 (e) Project status and the date and nature of the most recent activity; and

- 1 (f) Any other comparable data or information necessary to achieve transparency  
2 and accountability for the specified programs.
- 3 (2) In addition to the electronic database required in subsection (1) of this section, the  
4 cabinet shall prepare an annual report on the programs listed in subsection (3) of  
5 this section and make it available on the Cabinet for Economic Development Web  
6 site by November 1 of each year. The report shall include all projects approved in  
7 the preceding fiscal year and shall provide for these projects the information  
8 specified in subsection (1) of this section plus aggregate data for each program,  
9 summary evaluations of program activity and effectiveness, and anything required  
10 by statute to be reported for any particular program. The report shall also list all  
11 projects that were approved in prior years but active at any time in the preceding  
12 fiscal year, although for these projects the report need not provide further data.
- 13 (3) The following programs shall be subject to the reporting requirements of this  
14 section:
- 15 (a) The electronic database required in subsection (1) of this section shall include  
16 the Bluegrass State Skills Corporation, grants-in-aid and skills training  
17 investment credit; Kentucky Business Investment Program; Kentucky  
18 Enterprise Initiative Act; Office of Entrepreneurship programs; Incentives for  
19 *Energy-related Business*~~[Energy Independence]~~ Act; Kentucky Economic  
20 Development Finance Authority small business and direct loan programs;  
21 Kentucky Industrial Revitalization Act; Kentucky Reinvestment Act;  
22 Kentucky Small Business Tax Credit; economic development bonds;  
23 Kentucky Industrial Development Act; Kentucky Jobs Development Act;  
24 Kentucky Jobs Retention Act; the Kentucky Rural Economic Development  
25 Act; and
- 26 (b) The annual report required by subsection (2) of this section shall include all  
27 programs listed in paragraph (a) of this subsection plus the Kentucky

1 Investment Fund Act, and tax increment financing, state participation projects.

2 (4) The cabinet shall coordinate with any other agency necessary to supply the  
3 information required by this section.

4 ➔Section 6. KRS 353.804 is amended to read as follows:

5 (1) The division is authorized to seek primary jurisdiction and authority over matters  
6 relating to the geologic storage of carbon dioxide in the Commonwealth once these  
7 programs have been developed at the federal level.

8 (2) The cabinet shall seek one (1) to five (5) demonstration projects for location in the  
9 Commonwealth. Projects shall be approved by the secretary or a designee. To be  
10 approved, a project shall inject carbon dioxide into pore space that contains no  
11 economically recoverable minerals at the time of the injection and shall:

12 (a) Incorporate carbon storage or integrate carbon capture and storage technology;  
13 or

14 (b) Be a carbon capture and storage project that is associated with a project that  
15 has otherwise qualified and been approved for incentives under KRS 154.27-  
16 010 to 154.27-090, the Incentives for Energy-related Business~~Energy~~  
17 ~~Independence~~ Act.

18 (3) Within eighteen (18) months of obtaining approval of a demonstration project from  
19 the cabinet, the applicant shall file the necessary application for a Class V well with  
20 Region 4, United States Environmental Protection Agency (USEPA), The applicant  
21 must begin work on the demonstration project within eighteen (18) months of the  
22 date the Class V well permit is granted by the USEPA. The applicant may request  
23 an extension of time from the cabinet. If the requirements of this subsection have  
24 not been met within the time allowed and the cabinet has not granted an extension  
25 of time, the cabinet may revoke its approval of the demonstration project.

26 (4) The cabinet shall provide testimony on the program's development annually,  
27 beginning in 2012, at meetings of the Interim Joint Committee on Natural

1 Resources and Environment and the Special Subcommittee on Energy unless the  
2 chairs of the committees direct otherwise. The testimony shall include specific  
3 recommendations for legislative action, including necessary appropriations.

4 ➔Section 7. This Act takes effect July 1, 2021.