

1 AN ACT relating to taxation of sustainable aviation fuel, making an appropriation
2 therefor, and declaring an emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) As used in this section:*

7 *(a) "Annual Kentucky sustainable aviation fuel tax credit cap" means for*
8 *calendar years beginning on or after January 1, 2023, but before January 1,*
9 *2027, an annual amount of five million dollars (\$5,000,000); and*

10 *(b) "Sustainable aviation fuel" means liquid fuel that:*

11 *1. Consists of synthesized hydrocarbons and meets the requirements of:*

12 *a. The American Society for Testing and Materials International*
13 *Standard D7566; or*

14 *b. The Fischer-Tropsch provisions of American Society for Testing*
15 *and Materials International Standard D1655, Annex A1;*

16 *2. Is derived from biomass resources as defined in KRS 152.715, waste*
17 *streams, renewable energy sources, or gaseous carbon oxides;*

18 *3. Is not derived from palm fatty acid distillates; and*

19 *4. Achieves at least a fifty percent (50%) lifecycle greenhouse gas*
20 *emissions reduction in comparison with petroleum-based jet fuel, as*
21 *determined by a test that shows:*

22 *a. The fuel production pathway achieves at least a fifty percent*
23 *(50%) reduction of the aggregate attributional core lifecycle*
24 *emissions and the positive induced land use change values under*
25 *the lifecycle methodology for sustainable aviation fuels adopted*
26 *by the International Civil Aviation Organization with the*
27 *agreement of the United States; or*

1 **b. The fuel production pathway achieves at least a fifty percent**
2 **(50%) reduction of the aggregate attributional core lifecycle**
3 **greenhouse gas emissions values and the positive induced land**
4 **use change values under another methodology that the United**
5 **States Secretary of Energy, in consultation with the**
6 **Administrator of the United States Environmental Protection**
7 **Agency, determines is reflective of the latest scientific**
8 **understanding of lifecycle greenhouse gas emissions.**

9 **(2) (a) For taxable years beginning on or after January 1, 2023, but before**
10 **January 1, 2027, there shall be allowed a nonrefundable, nontransferable**
11 **tax credit claimed against the taxes imposed by KRS 141.020 or KRS**
12 **141.040 and 141.0401 for sustainable aviation fuel consumers in the**
13 **Commonwealth in an amount certified by the department under this**
14 **section, with the ordering of the credits as provided in Section 2 of this Act.**

15 **(b) The credit rate shall be:**

- 16 **1. Two dollars (\$2) per gallon of sustainable aviation fuel produced**
17 **outside of the Commonwealth and consumed by the taxpayer; and**
18 **2. Two dollars and fifty cents (\$2.50) per gallon of certified sustainable**
19 **aviation fuel produced in the Commonwealth and consumed by the**
20 **taxpayer.**

21 **(3) The credit allowed in subsection (2) of this section shall not be carried forward to**
22 **a return for any other period.**

23 **(4) (a) Sustainable aviation fuel consumers eligible for the credit provided under**
24 **subsection (2) of this section shall file a tax credit claim for sustainable**
25 **aviation fuel used in this state on forms prescribed by the department by the**
26 **fifteenth day of the first month following the close of the preceding calendar**
27 **year.**

1 **(b) The department shall determine the amount of the approved credit based on**
2 **the amount of sustainable aviation fuel consumed in this state during the**
3 **preceding calendar year and issue a credit certificate to the taxpayer by the**
4 **fifteenth day of the fourth month following the close of the calendar year.**

5 **(c) The taxpayer may claim the amount issued in the credit certificate under**
6 **paragraph (b) of this subsection.**

7 **(5) (a) In order for the General Assembly to evaluate the sustainable aviation fuel**
8 **tax credit, the department shall provide the following information on a**
9 **cumulative basis for each taxable year to provide a historical impact of the**
10 **tax credit to the Commonwealth:**

11 **1. The number of tax returns, by the tax type of return filed, claiming the**
12 **credit for each taxable year;**

13 **2. The total amount of credit claimed on returns filed for each taxable**
14 **year;**

15 **3. The cumulative number of credits claimed by county, as identified by**
16 **the mailing address on the return filed for each taxable year;**

17 **4. a. In the case of taxpayers other than corporations, based on**
18 **ranges of adjusted gross income of no larger than five thousand**
19 **dollars (\$5,000), the total amount of credits claimed for each**
20 **adjusted gross income range for each taxable year; and**

21 **b. In the case of corporations, based on ranges of net income of no**
22 **larger than fifty thousand dollars (\$50,000), the total amount of**
23 **credit claimed for each net income range for each taxable year;**
24 **and**

25 **5. Any other taxpayer information necessary for the General Assembly to**
26 **evaluate this credit.**

27 **(b) The report required by paragraph (b) of this subsection shall be submitted**

1 *to the Interim Joint Committee on Appropriations and Revenue no later*
2 *than November 1, 2024, and annually thereafter as long as the tax credit is*
3 *claimed on any tax return filed.*

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

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

- 8 (1) The nonrefundable business incentive credits against the tax imposed by KRS
9 141.020 shall be taken in the following order:
- 10 (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - 11 (b) The economic development credits computed under KRS 141.347, 141.381,
12 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
13 207, and 154.12-2088;
 - 14 (c) The qualified farming operation credit permitted by KRS 141.412;
 - 15 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - 16 (e) The health insurance credit permitted by KRS 141.062;
 - 17 (f) The tax paid to other states credit permitted by KRS 141.070;
 - 18 (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - 19 (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - 20 (i) The tax credit for cash contributions in investment funds permitted by KRS
21 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
22 154.20-258;
 - 23 (j) The research facilities credit permitted by KRS 141.395;
 - 24 (k) The employer High School Equivalency Diploma program incentive credit
25 permitted under KRS 151B.402;
 - 26 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - 27 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

- 1 (n) The clean coal incentive credit permitted by KRS 141.428;
- 2 (o) The ethanol credit permitted by KRS 141.4242;
- 3 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 4 (q) The energy efficiency credits permitted by KRS 141.436;
- 5 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 6 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 7 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 8 (u) The distilled spirits credit permitted by KRS 141.389;
- 9 (v) The angel investor credit permitted by KRS 141.396;
- 10 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 11 on or after April 27, 2018, but before January 1, 2022;
- 12 (x) The inventory credit permitted by KRS 141.408; ~~and~~
- 13 (y) The renewable chemical production credit permitted by KRS 141.4231; ***and***
- 14 ***(z) The sustainable aviation fuel tax credit permitted by Section 1 of this Act.***
- 15 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 16 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 17 shall be taken in the following order:
- 18 (a) The individual credits permitted by KRS 141.020(3);
- 19 (b) The credit permitted by KRS 141.066;
- 20 (c) The tuition credit permitted by KRS 141.069;
- 21 (d) The household and dependent care credit permitted by KRS 141.067;
- 22 (e) The income gap credit permitted by KRS 141.066; and
- 23 (f) The Education Opportunity Account Program tax credit permitted by KRS
- 24 141.522.
- 25 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 26 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 27 taken in the following order:

- 1 (a) The individual withholding tax credit permitted by KRS 141.350;
- 2 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 3 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
4 171.397(1)(b);
- 5 (d) The film industry tax credit permitted by KRS 141.383 for applications
6 approved prior to April 27, 2018, or on or after January 1, 2022; and
- 7 (e) The development area tax credit permitted by KRS 141.398.
- 8 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
9 tax imposed by KRS 141.040.
- 10 (5) The following nonrefundable credits shall be applied against the sum of the tax
11 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
12 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 13 (a) The economic development credits computed under KRS 141.347, 141.381,
14 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
15 207, and 154.12-2088;
- 16 (b) The qualified farming operation credit permitted by KRS 141.412;
- 17 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 18 (d) The health insurance credit permitted by KRS 141.062;
- 19 (e) The unemployment credit permitted by KRS 141.065;
- 20 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 21 (g) The coal conversion credit permitted by KRS 141.041;
- 22 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
23 ending prior to January 1, 2008;
- 24 (i) The tax credit for cash contributions to investment funds permitted by KRS
25 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
26 154.20-258;
- 27 (j) The research facilities credit permitted by KRS 141.395;

- 1 (k) The employer High School Equivalency Diploma program incentive credit
2 permitted by KRS 151B.402;
- 3 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 4 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 5 (n) The clean coal incentive credit permitted by KRS 141.428;
- 6 (o) The ethanol credit permitted by KRS 141.4242;
- 7 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 8 (q) The energy efficiency credits permitted by KRS 141.436;
- 9 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
10 permitted by KRS 141.437;
- 11 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 12 (t) The railroad expansion credit permitted by KRS 141.386;
- 13 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 14 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 15 (w) The distilled spirits credit permitted by KRS 141.389;
- 16 (x) The film industry credit permitted by KRS 141.383 for applications approved
17 on or after April 27, 2018, but before January 1, 2022;
- 18 (y) The inventory credit permitted by KRS 141.408;
- 19 (z) The renewable chemical production tax credit permitted by KRS 141.4231~~;~~
20 ~~and~~;
- 21 (aa) The Education Opportunity Account Program tax credit permitted by KRS
22 141.522; *and*
- 23 **(ab) The sustainable aviation fuel tax credit permitted by Section 1 of this Act.**
- 24 (6) After the application of the nonrefundable credits in subsection (5) of this section,
25 the refundable credits shall be taken in the following order:
- 26 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 27 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and

1 171.397(1)(b); and

2 (c) The film industry tax credit permitted by KRS 141.383 for applications
3 approved prior to April 27, 2018, or on or after January 1, 2022.

4 ➔Section 3. KRS 131.190 is amended to read as follows:

5 (1) No present or former commissioner or employee of the department, present or
6 former member of a county board of assessment appeals, present or former property
7 valuation administrator or employee, present or former secretary or employee of the
8 Finance and Administration Cabinet, former secretary or employee of the Revenue
9 Cabinet, or any other person, shall intentionally and without authorization inspect or
10 divulge any information acquired by him or her of the affairs of any person, or
11 information regarding the tax schedules, returns, or reports required to be filed with
12 the department or other proper officer, or any information produced by a hearing or
13 investigation, insofar as the information may have to do with the affairs of the
14 person's business.

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

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

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

20 (c) Furnishing any taxpayer or his or her properly authorized agent with
21 information respecting his or her own return;

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

26 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
27 energy resources assessed under KRS 132.820, or owners of surface land

1 under which the unmined minerals lie, factual information about the owner's
2 property derived from third-party returns filed for that owner's property, under
3 the provisions of KRS 132.820, that is used to determine the owner's
4 assessment. This information shall be provided to the owner on a confidential
5 basis, and the owner shall be subject to the penalties provided in KRS
6 131.990(2). The third-party filer shall be given prior notice of any disclosure
7 of information to the owner that was provided by the third-party filer;

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

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

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

20 (i) Providing any utility gross receipts license tax return information that is
21 necessary to administer the provisions of KRS 160.613 to 160.617 to
22 applicable school districts on a confidential basis;

23 (j) Providing documents, data, or other information to a third party pursuant to an
24 order issued by a court of competent jurisdiction; or

25 (k) Providing information to the Legislative Research Commission under:

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

- 1 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 2 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 3 ENERGY STAR manufactured home credits;
- 4 4. KRS 141.383 for purposes of the film industry incentives;
- 5 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 6 tax credits and the job assessment fees;
- 7 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 8 7. KRS 141.396 for purposes of the angel investor tax credit;
- 9 8. KRS 141.389 for purposes of the distilled spirits credit;
- 10 9. KRS 141.408 for purposes of the inventory credit;
- 11 10. KRS 141.390 for purposes of the recycling and composting credit;
- 12 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 13 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 14 credit;
- 15 13. KRS 141.524 for purposes of the Education Opportunity Account
- 16 Program tax credit;
- 17 14. KRS 141.398 for purposes of the development area tax credit;~~[-and]~~
- 18 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 19 commercial mining of cryptocurrency; ***and***

20 **16. Section 1 of this Act for the purposes of the sustainable aviation fuel**
 21 **tax credit.**

- 22 (3) The commissioner shall make available any information for official use only and on
- 23 a confidential basis to the proper officer, agency, board or commission of this state,
- 24 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 25 under reciprocal agreements whereby the department shall receive similar or useful
- 26 information in return.
- 27 (4) Access to and inspection of information received from the Internal Revenue Service

1 is for department use only, and is restricted to tax administration purposes.
2 Information received from the Internal Revenue Service shall not be made available
3 to any other agency of state government, or any county, city, or other state, and shall
4 not be inspected intentionally and without authorization by any present secretary or
5 employee of the Finance and Administration Cabinet, commissioner or employee of
6 the department, or any other person.

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

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

21 ➔Section 4. KRS 154.27-010 is amended to read as follows:

22 As used in this subchapter:

23 (1) "Activation date" means the date on which an approved company begins incurring
24 recoverable costs or engaging in recoverable activity pursuant to the tax incentive
25 agreement. The activation date shall be set forth in the tax incentive agreement and
26 shall be a date within five (5) years of the date of final approval of the tax incentive
27 agreement. The authority may extend the five (5) year period to no more than seven

- 1 (7) years upon written application for an extension by the approved company. To
2 implement the activation date, the approved company shall notify the authority of
3 its intent to activate the tax incentives authorized in the tax incentive agreement.
4 The activation date shall apply to all incentives included in the tax incentive
5 agreement regardless of whether the approved company has met the requirements to
6 receive all incentives at that time. If the approved company does not implement the
7 activation date before the date established in the tax incentive agreement, the
8 activation date shall be the date established in the tax incentive agreement;
- 9 (2) "Affiliate" has the same meaning as in KRS 154.22-010;
- 10 (3) (a) "Alternative fuel facility" means a facility located in Kentucky that is newly
11 constructed on or after August 30, 2007, or an existing facility located in
12 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,
13 after the new construction, retrofit, or upgrade, primarily produces for sale
14 alternative transportation fuels. For a retrofit of an existing facility, the new
15 modification or addition within the facility shall primarily produce alternative
16 transportation fuel for sale.
- 17 (b) The alternative fuel facility may produce electricity as a by-product if the
18 primary purpose for which the facility is constructed, retrofitted, or upgraded,
19 and the primary function of the facility remains the production and sale of
20 alternative transportation fuels;
- 21 (4) "Alternative transportation fuels" has the same meaning as in KRS 152.715;
- 22 (5) "Approved company" means a corporation, limited liability company, partnership,
23 registered limited liability partnership, sole proprietorship, business trust, or any
24 other entity approved for incentives for an eligible project;
- 25 (6) "Authority" means the Kentucky Economic Development Finance Authority
26 established by KRS 154.20-010;
- 27 (7) "Base amount" means the tons of coal, thousand (1000) cubic foot units (Mcf) of

1 natural gas, or gallons of natural gas liquids purchased and used or severed and used
2 by the approved company as feedstock for an eligible project during the twelve (12)
3 months prior to the month in which the approved company first begins receiving
4 incentives under KRS 143.024 or 143A.025, and 154.27-060, that were subject to
5 the tax imposed by KRS 143.020 or 143A.020;

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

9 (a) Store digital transactions; and

10 (b) Verify and secure transactions cryptographically;

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

12 (10) (a) "Capital investment" means:

13 1. Obligations incurred for labor and to contractors, subcontractors,
14 builders, and materialmen in connection with the acquisition,
15 construction, installation, equipping, upgrading, or retrofitting of an
16 eligible project;

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

19 3. The cost of contract bonds and of insurance of all kinds that may be
20 required or necessary during the course of acquisition, construction,
21 installation, equipping, upgrading, or retrofitting of an eligible project
22 which is not paid by the contractor or otherwise provided;

23 4. All costs of architectural and engineering services, including test
24 borings, surveys, estimates, plans, specifications, preliminary
25 investigations, supervision of construction, and the performance of all
26 the duties required by or consequent upon the acquisition, construction,
27 installation, equipping, upgrading, or retrofitting of an eligible project;

- 1 5. All costs required to be paid under the terms of any contract for the
2 acquisition, construction, installation, equipping, upgrading, or
3 retrofitting of an eligible project; and
- 4 6. All other costs of a nature comparable to those described in this
5 subsection.
- 6 (b) "Capital investment" does not include costs described in paragraph (a) of this
7 subsection that are paid for with funds received from the federal government
8 or that are reimbursed by the federal government;
- 9 (11) "Carbon capture ready" means planning for or anticipating capture of carbon
10 dioxide in a manner to facilitate continued operation of the facility in compliance
11 with applicable federal requirements;
- 12 (12) "Carbon dioxide transmission pipeline" means the in-state portion of a pipeline,
13 including appurtenant facilities, property rights, and easements, that is used
14 exclusively for the purpose of transporting carbon dioxide to a point of sale, storage,
15 or other carbon management applications;
- 16 (13) "Center for Applied Energy Research" means the University of Kentucky Center for
17 Applied Energy Research;
- 18 (14) "Commercial mining of cryptocurrency" means the process through which
19 blockchain technology is used to mine cryptocurrency at a cryptocurrency facility,
20 and includes the process through which blockchain transactions are verified and
21 accepted by adding the transactions to a blockchain ledger, which involves solving
22 complex mathematical cryptographic problems associated with a block containing
23 transaction data;
- 24 (15) "Commonwealth" means the Commonwealth of Kentucky;
- 25 (16) "Construction period" means the period beginning with the activation date of the
26 eligible project and ending on a date set forth in the tax incentive agreement, which
27 shall be no later than five (5) years from the activation date;

- 1 (17) "Consensus protocol" means a set of rules and procedures that control how and
2 when blockchain transactions are verified, validated, recorded, and recognized;
- 3 (18) "Cryptocurrency" means a type of virtual currency that utilizes blockchain
4 technology and that:
- 5 (a) Can be digitally traded between users; or
6 (b) Can be converted or exchanged for legal tender;
- 7 (19) "Cryptocurrency facility" means a facility located in the Commonwealth that is
8 utilized in the commercial mining of cryptocurrency or in hosting persons engaged
9 in the commercial mining of cryptocurrency through utilization of the facility's
10 infrastructure, including servers and network hardware powered by Internet
11 bandwidth, electricity, and other services generally required for such mining
12 operations;
- 13 (20) "Department" means the Department of Revenue;
- 14 (21) "Eligible project" means:
- 15 (a) An alternative fuel facility or a gasification facility meeting the investment
16 requirements of KRS 154.27-020;
- 17 (b) An energy-efficient alternative fuel facility meeting the investment
18 requirements of KRS 154.27-020;
- 19 (c) A renewable energy facility meeting the investment requirements of KRS
20 154.27-020;
- 21 (d) A carbon dioxide transmission pipeline meeting the investment requirements
22 of KRS 154.27-020;~~[-or]~~
- 23 (e) A cryptocurrency facility meeting the investment requirements of KRS
24 154.27-20; or
- 25 (f) A sustainable aviation fuel facility meeting the investment requirements of
26 Section 5 of this Act;
- 27 (22) "Energy-efficient alternative fuel facility" means a facility located in Kentucky that

1 is newly constructed on or after August 30, 2010, or an existing facility located in
2 Kentucky that is retrofitted or upgraded on or after August 30, 2010, and that, after
3 the new construction, retrofit, or upgrade, will produce for sale energy-efficient
4 alternative fuels. For a retrofit of an existing facility, the new modification or
5 addition within the facility shall produce for sale energy-efficient alternative fuels;

6 (23) "Energy-efficient alternative fuels" means homogeneous fuels that:

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

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

11 (24) "Estimated labor component" means the projected percentage of the total capital
12 investment attributable to labor;

13 (25) (a) "Facility" means a single location within the Commonwealth at which
14 machinery and equipment are used:

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

17 2. In the commercial mining of cryptocurrency or in hosting persons
18 engaged in the commercial mining of cryptocurrency.

19 (b) The facility shall include the physical plant structure where the manufacturing
20 process occurs or where the commercial mining of cryptocurrency occurs and
21 machinery and equipment within the physical plant structure.

22 (c) The facility may include:

23 1. On-site machinery and equipment used exclusively for processing coal
24 or other raw materials for use in the manufacturing process at the
25 facility;

26 2. For an alternative fuel facility or gasification facility, on-site power
27 station operations, if those operations are primarily used to produce

- 1 electricity for the facility;
- 2 3. On-site refining operations, if those operations are used exclusively to
- 3 refine and blend fuels produced by the facility; and
- 4 4. The in-state portion of a pipeline, including appurtenant facilities,
- 5 property rights, and easements, if the exclusive purpose of the pipeline is
- 6 to transport carbon dioxide from the facility to a point of sale, storage, or
- 7 other carbon management applications.

8 (d) "Facility" shall not include any mining operations, or drilling and production

9 operations for natural gas, unless such coal, natural resource, or natural gas

10 operations are being used for purposes of, or are hosting, the commercial

11 mining of cryptocurrency, in which case such operations shall be a facility;

12 (26) "Gasification process" means a process that converts any carbon-containing material

13 into a synthesis gas composed primarily of carbon monoxide and hydrogen;

14 (27) (a) "Gasification facility" means a facility located in Kentucky that is newly

15 constructed on or after August 30, 2007, or an existing facility located in

16 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,

17 after the new construction, retrofit, or upgrade, primarily produces for sale:

- 18 1. Alternative transportation fuels;
- 19 2. Synthetic natural gas;
- 20 3. Chemicals;
- 21 4. Chemical feedstocks; or
- 22 5. Liquid fuels;

23 from coal, waste coal, coal-processing waste, or biomass resources, through a

24 gasification process. For a retrofit of an existing facility, the new modification

25 or addition within the facility shall primarily produce one (1) or more of the

26 products set forth in this paragraph.

27 (b) The gasification facility may produce electricity as a by-product if the primary

1 purpose for which the facility is constructed, retrofitted, or upgraded, and the
2 primary function of the facility remains the production and sale of alternative
3 transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or
4 liquid fuels;

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

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

7 (30) "Post-construction incentives" means the incentives available under KRS 154.27-
8 060 and 154.27-080;

9 (31) "Renewable energy facility" means a facility located in Kentucky that is newly
10 constructed on or after August 30, 2007, or an existing facility located in Kentucky
11 that is retrofitted or upgraded after August 30, 2007, and that, after the new
12 construction, retrofit, or upgrade, utilizes:

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

16 (b) Solar power to generate electricity in excess of fifty (50) kilowatts for sale to
17 unrelated entities.

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

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

22 (33) (a) "Retrofit" means a modification or addition to an existing facility that results
23 in the production of a new and different product or services or uses a new or
24 different process to produce the same product or services at the facility.

25 (b) Modifications or additions to a facility that maintain, restore, mend, or repair a
26 facility shall not be considered a retrofit of the facility, and shall not be
27 considered part of the capital investment if undertaken at the same time as a

1 retrofit;

2 (34) "Sustainable aviation fuel" means liquid fuel certified as produced in the
3 Commonwealth that:

4 (a) Consists of synthesized hydrocarbons and meets the requirements of:

5 1. The American Society for Testing and Materials International
6 Standard D7566; or

7 2. The Fischer-Tropsch provisions of American Society for Testing and
8 Materials International Standard D1655, Annex AI;

9 (b) Is derived from biomass resources as defined in KRS 152.715, waste
10 streams, renewable energy sources, or gaseous carbon oxides;

11 (c) Is not derived from palm fatty acid distillates; and

12 (d) Achieves at least a fifty percent (50%) lifecycle greenhouse gas emissions
13 reduction in comparison with petroleum-based jet fuel, as determined by a
14 test that shows:

15 1. The fuel production pathway achieves at least a fifty percent (50%)
16 reduction of the aggregate attributional core lifecycle emissions and
17 the positive induced land use change values under the lifecycle
18 methodology for sustainable aviation fuels adopted by the
19 International Civil Aviation Organization with the agreement of the
20 United States; or

21 2. The fuel production pathway achieves at least a fifty percent (50%)
22 reduction of the aggregate attributional core lifecycle greenhouse gas
23 emissions values and the positive induced land use change values
24 under another methodology that the United States Secretary of
25 Energy, in consultation with the Administrator of the Environmental
26 Protection Agency, determines is reflective of the latest scientific
27 understanding of lifecycle greenhouse gas emissions;

1 (35) "Sustainable aviation fuel facility" means a facility located in the
2 Commonwealth engaged in the production of sustainable aviation fuels;

3 (36) "Synthetic natural gas" has the same meaning as in KRS 152.715;

4 (37)~~(35)~~ "Tax incentive agreement" means an agreement entered into in accordance
5 with KRS 154.27-040;

6 (38)~~(36)~~ "Termination date" means a date established by the tax incentive agreement
7 that is no more than twenty-five (25) years from the activation date; and

8 (39)~~(37)~~ "Upgrade" means an investment in an existing facility that results in an
9 increase in the productivity of the facility. Increased productivity shall be measured
10 in relation to the type of products or services that are required to be produced or
11 performed by that facility to be an eligible project.

12 ➔Section 5. KRS 154.27-020 is amended to read as follows:

13 (1) This subchapter shall be known as the "Incentives for Energy-related Business Act."

14 (2) The General Assembly hereby finds and declares that it is in the best interest of the
15 Commonwealth to induce the location of innovative energy-related businesses in
16 the Commonwealth in order to advance the public purposes of achieving energy
17 independence, creating new and advanced technologies, creating new jobs and new
18 investment, and creating new sources of tax revenues that but for the inducements
19 to be offered by the authority to approved companies would not exist.

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

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

- 1 (b) Increasing the production and sale of synthetic natural gas, chemicals,
2 chemical feedstocks, or liquid fuels, from coal, biomass resources, or waste
3 coal through a gasification process;
- 4 (c) Increasing the production and sale of energy-efficient alternative fuels;
- 5 (d) Generating electricity for sale through alternative methods such as solar
6 power, wind power, biomass resources, landfill methane gas, hydropower, or
7 other similar renewable resources; or
- 8 (e) Increasing the usage of electricity in areas which have an abundant supply due
9 to the loss of manufacturing businesses across the state.
- 10 (4) To qualify for the incentives provided in this subchapter, the following
11 requirements shall be met:
- 12 (a) For an alternative fuel facility or gasification facility that uses oil shale, tar
13 sands, or coal as the primary feedstock, the minimum capital investment shall
14 be one hundred million dollars (\$100,000,000);
- 15 (b) For an alternative fuel facility or gasification facility that uses biomass
16 resources as the primary feedstock, the minimum capital investment shall be
17 twenty-five million dollars (\$25,000,000);
- 18 (c) For an energy-efficient alternative fuel facility, the minimum capital
19 investment shall be twenty-five million dollars (\$25,000,000);
- 20 (d) For an alternative fuel facility located in Kentucky that is newly constructed
21 on or after August 1, 2010, or an existing facility located in Kentucky that is
22 retrofitted or upgraded on or after August 1, 2010, and that, after the new
23 construction, retrofit, or upgrade, primarily produces for sale alternative
24 transportation fuels using natural gas or natural gas liquids as the primary
25 feedstock, the minimum capital investment shall be one million dollars
26 (\$1,000,000); provided that the authority may approve a maximum of five (5)
27 projects that meet the requirements of this paragraph;

- 1 (e) For a renewable energy facility, the minimum capital investment shall be one
2 million dollars (\$1,000,000);
- 3 (f) For a carbon dioxide transmission pipeline, the minimum capital investment
4 shall be fifty million dollars (\$50,000,000); ~~and~~
- 5 (g) For a cryptocurrency facility, the minimum capital investment shall be one
6 million dollars (\$1,000,000); ***and***

7 ***(h) For a sustainable aviation fuel facility, the minimum capital investment***
8 ***shall be three million dollars (\$3,000,000).***

- 9 (5) The incentives under the Incentives for Energy-related Business Act are as follows:
- 10 (a) An advance disbursement of post-construction incentives for which an
11 approved company has been approved, the maximum amount of which is
12 based upon the estimated labor component of the total capital investment of
13 the eligible project, and the utilization of Kentucky residents during the
14 construction period as set forth in KRS 154.27-090;
- 15 (b) Sales and use tax incentives of up to one hundred percent (100%) of the taxes
16 paid on purchases of tangible personal property made to construct, retrofit, or
17 upgrade an eligible project, including commercial cryptocurrency mining
18 equipment at a facility, as set forth in KRS 139.517 and 154.27-070;
- 19 (c) Up to eighty percent (80%) of the severance taxes paid on the purchase or
20 severance of:
- 21 1. Coal that is subject to the tax imposed under KRS 143.020 and that is
22 specifically used by an alternative fuel facility, energy-efficient
23 alternative fuel facility, or a gasification facility as feedstock for an
24 eligible project, as set forth in KRS 143.024 and 154.27-060; or
- 25 2. Natural gas or natural gas liquids that are subject to the tax imposed
26 under KRS 143A.020 and that are specifically used in an alternative fuel
27 facility described in subsection (4)(d) of this section as feedstock for an

- 1 eligible project, as set forth in KRS 143A.025 and 154.27-060;
- 2 (d) Up to one hundred percent (100%) of the Kentucky income tax imposed under
3 KRS 141.040 or 141.020, and the limited liability entity tax imposed under
4 KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross
5 receipts of the approved company generated by or arising from the eligible
6 project, as set forth in KRS 141.421 and 154.27-080; and
- 7 (e) Authorization for the approved company to impose a wage assessment of up
8 to four percent (4%) of the gross wages of each employee subject to the
9 Kentucky income tax:
- 10 1. Whose job was created as a result of the eligible project;
- 11 2. Who is employed by the approved company to work at the facility; and
- 12 3. Who is on the payroll of the approved company or an affiliate of the
13 approved company;
- 14 as set forth in KRS 154.27-080.
- 15 (6) The maximum recovery from all incentives approved under this subchapter for an
16 eligible project shall not exceed fifty percent (50%) of the capital investment in the
17 eligible project.
- 18 (7) The incentives available to an approved company shall be negotiated with and
19 approved by the authority.
- 20 (8) If a newly constructed facility that qualifies for incentives under this subchapter is
21 later upgraded or retrofitted in a manner that would qualify for incentives under this
22 subchapter, the retrofit or upgrade shall be a separate eligible project, and the
23 minimum investment requirements and carbon capture readiness requirements, if
24 required, shall be met for the retrofit or upgrade to qualify for incentives under this
25 subchapter.
- 26 (9) The General Assembly finds that the authorities granted by this subchapter are
27 proper governmental and public purposes for which public moneys may be

1 expended.

2 ➔Section 6. There is hereby appropriated from General Fund moneys in the
3 amount of \$10,000,000 in fiscal year 2022-2023 to the Economic Development budget
4 unit for the purpose of providing Kentucky Economic Development Finance Authority
5 forgivable loans ("KEDFA loans") for economic development projects for sustainable
6 aviation fuel facilities with a minimum investment of \$100,000,000. Such forgivable
7 loans may be offered as the net present value of and as a substitute for economic
8 incentives offered under the Kentucky Business Investment program (KRS 154.32), the
9 Kentucky Enterprise Initiative Act (KRS 154.31), and the Economic Development Fund
10 program (KRS 154.12-100). The Cabinet for Economic Development shall determine the
11 terms and conditions of the KEDFA loans, monitor the performance of the economic
12 development projects, and secure reasonable collateral. Annual status of any KEDFA
13 loans awarded shall be reported to the General Assembly by November 1 of each year so
14 long as the KEDFA loans are in effect.

15 ➔Section 7. Whereas economic development and job creation are vital to the
16 health, well-being, and economic prosperity of the citizens of the Commonwealth, this
17 Act takes effect upon its passage and approval by the Governor or upon its otherwise
18 becoming law.