

1 AN ACT relating to the 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, ***except as set forth in Section 4 of this Act.*** The activation date shall be
8 set forth in the tax incentive agreement and shall be a date within five (5) years of
9 the date of final approval of the tax incentive agreement. The authority may extend
10 the five (5) year period to no more than seven (7) years upon written application for
11 an extension by the approved company. To implement the activation date, the
12 approved company shall notify the authority of its intent to activate the tax
13 incentives authorized in the tax incentive agreement. The activation date shall apply
14 to all incentives included in the tax incentive agreement regardless of whether the
15 approved company has met the requirements to receive all incentives at that time. If
16 the approved company does not implement the activation date before the date
17 established in the tax incentive agreement, the activation date shall be the date
18 established in the tax incentive agreement;

19 (2) "Affiliate" has the same meaning as in KRS 154.22-010;

20 (3) (a) "Alternative fuel facility" means a facility located in Kentucky that is newly
21 constructed on or after August 30, 2007, or an existing facility located in
22 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,
23 after the new construction, retrofit, or upgrade, primarily produces for sale
24 alternative transportation fuels. For a retrofit of an existing facility, the new
25 modification or addition within the facility shall primarily produce alternative
26 transportation fuel for sale.

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

1 primary purpose for which the facility is constructed, retrofitted, or upgraded,
2 and the primary function of the facility remains the production and sale of
3 alternative transportation fuels;

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

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

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

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

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

19 (a) Store digital transactions; and

20 (b) Verify and secure transactions cryptographically;

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

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

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

27 2. The cost of acquiring land or rights in land and any cost incident thereto,

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

1 **(14) "Colocation facility" means a facility that houses tangible personal property that**
2 **functions as a computing system node or nodes, or hosts such node or nodes, in**
3 **the commercial mining of cryptocurrency;**

4 **(15)**~~[(14)] "Commercial mining of cryptocurrency" means the process through which
5 blockchain technology is used to mine cryptocurrency at a
6 ~~[cryptocurrency]~~**colocation** facility, and includes the process through which
7 blockchain transactions are verified and accepted by adding the transactions to a
8 blockchain ledger, which involves solving complex mathematical cryptographic
9 problems associated with a block containing transaction data;~~

10 **(16)**~~[(15)] "Commonwealth" means the Commonwealth of Kentucky;~~

11 **(17) "Computing system node" means equipment purchased or leased:**

12 **(a) For operational use in this state;**

13 **(b) That consists of specialized computers used in the commercial mining of**
14 **cryptocurrency; and**

15 **(c) That includes all power-related equipment required to operate the**
16 **specialized computers used in the commercial mining of cryptocurrency, to**
17 **the extent that any power produced is used to operate the equipment and is**
18 **not sold or fed back to the electric grid;**

19 **(18)**~~[(16)] "Construction period" means the period beginning with the activation date of
20 the eligible project and ending on a date set forth in the tax incentive agreement,
21 which shall be no later than five (5) years from the activation date;~~

22 **(19)**~~[(17)] "Consensus protocol" means a set of rules and procedures that control how
23 and when blockchain transactions are verified, validated, recorded, and recognized;~~

24 **(20)**~~[(18)] "Cryptocurrency" means a type of virtual currency that utilizes blockchain
25 technology and that:~~

26 (a) Can be digitally traded between users; or

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

1 ~~[(19) "Cryptocurrency facility" means a facility located in the Commonwealth that is~~
2 ~~utilized in the commercial mining of cryptocurrency or in hosting persons engaged~~
3 ~~in the commercial mining of cryptocurrency through utilization of the facility's~~
4 ~~infrastructure, including servers and network hardware powered by Internet~~
5 ~~bandwidth, electricity, and other services generally required for such mining~~
6 ~~operations;]~~

7 (21)~~[(20)]~~ "Department" means the Department of Revenue;

8 (22)~~[(21)]~~ "Eligible project" means:

- 9 (a) An alternative fuel facility or a gasification facility meeting the investment
10 requirements of KRS 154.27-020;
- 11 (b) An energy-efficient alternative fuel facility meeting the investment
12 requirements of KRS 154.27-020;
- 13 (c) A renewable energy facility meeting the investment requirements of KRS
14 154.27-020;
- 15 (d) A carbon dioxide transmission pipeline meeting the investment requirements
16 of KRS 154.27-020; or
- 17 (e) A colocation~~[cryptocurrency]~~ facility meeting the investment requirements of
18 KRS 154.27-020~~[20]~~;

19 (23)~~[(22)]~~ "Energy-efficient alternative fuel facility" means a facility located in Kentucky
20 that is newly constructed on or after August 30, 2010, or an existing facility located
21 in Kentucky that is retrofitted or upgraded on or after August 30, 2010, and that,
22 after the new construction, retrofit, or upgrade, will produce for sale energy-
23 efficient alternative fuels. For a retrofit of an existing facility, the new modification
24 or addition within the facility shall produce for sale energy-efficient alternative
25 fuels;

26 (24)~~[(23)]~~ "Energy-efficient alternative fuels" means homogeneous fuels that:

- 27 (a) Are produced from processes designed to densify feedstock coal, waste coal,

1 or biomass resources; and

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

4 ~~(25)~~~~(24)~~ "Estimated labor component" means the projected percentage of the total
5 capital investment attributable to labor;

6 ~~(26)~~~~(25)~~ (a) "Facility" means a single location within the Commonwealth at which
7 machinery and equipment are used:

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

10 2. In the commercial mining of cryptocurrency or in hosting persons
11 engaged in the commercial mining of cryptocurrency.

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

15 (c) The facility may include:

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

19 2. For an alternative fuel facility or gasification facility, on-site power
20 station operations, if those operations are primarily used to produce
21 electricity for the facility;

22 3. On-site refining operations, if those operations are used exclusively to
23 refine and blend fuels produced by the facility; and

24 4. The in-state portion of a pipeline, including appurtenant facilities,
25 property rights, and easements, if the exclusive purpose of the pipeline is
26 to transport carbon dioxide from the facility to a point of sale, storage, or
27 other carbon management applications.

1 (d) "Facility" shall not include any mining operations, or drilling and production
2 operations for natural gas, unless such coal, natural resource, or natural gas
3 operations are being used for purposes of, or are hosting, the commercial
4 mining of cryptocurrency, in which case such operations shall be a facility;

5 ~~(27)~~~~(26)~~ "Gasification process" means a process that converts any carbon-containing
6 material into a synthesis gas composed primarily of carbon monoxide and hydrogen;

7 ~~(28)~~~~(27)~~ (a) "Gasification facility" means a facility located in Kentucky that is newly
8 constructed on or after August 30, 2007, or an existing facility located in
9 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,
10 after the new construction, retrofit, or upgrade, primarily produces for sale:

- 11 1. Alternative transportation fuels;
- 12 2. Synthetic natural gas;
- 13 3. Chemicals;
- 14 4. Chemical feedstocks; or
- 15 5. Liquid fuels;

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

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

25 ~~(29)~~~~(28)~~ "Kentucky gross profits" has the same meaning as in KRS 141.0401;

26 ~~(30)~~~~(29)~~ "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

27 ~~(31)~~~~(30)~~ "Post-construction incentives" means the incentives available under KRS

1 154.27-060 and 154.27-080;

2 ~~(32)~~~~(31)~~ "Renewable energy facility" means a facility located in Kentucky that is newly
3 constructed on or after August 30, 2007, or an existing facility located in Kentucky
4 that is retrofitted or upgraded after August 30, 2007, and that, after the new
5 construction, retrofit, or upgrade, utilizes:

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

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

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

14 ~~(33)~~~~(32)~~ "Resident" has the same meaning as in KRS 141.010;

15 ~~(34)~~~~(33)~~ (a) "Retrofit" means a modification or addition to an existing facility that
16 results in the production of a new and different product or services or uses a
17 new or different process to produce the same product or services at the
18 facility.

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

23 ~~(35)~~~~(34)~~ "Synthetic natural gas" has the same meaning as in KRS 152.715;

24 ~~(36)~~~~(35)~~ "Tax incentive agreement" means an agreement entered into in accordance
25 with KRS 154.27-040;

26 ~~(37)~~~~(36)~~ "Termination date" means a date established by the tax incentive agreement
27 that is no more than twenty-five (25) years from the activation date; and

1 ~~(38)~~⁽³⁷⁾ "Upgrade" means an investment in an existing facility that results in an
2 increase in the productivity of the facility. Increased productivity shall be measured
3 in relation to the type of products or services that are required to be produced or
4 performed by that facility to be an eligible project.

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

- 6 (1) This subchapter shall be known as the "Incentives for Energy-related Business Act."
7 (2) The General Assembly hereby finds and declares that it is in the best interest of the
8 Commonwealth to induce the location of innovative energy-related businesses in
9 the Commonwealth in order to advance the public purposes of achieving energy
10 independence, creating new and advanced technologies, creating new jobs and new
11 investment, and creating new sources of tax revenues that but for the inducements
12 to be offered by the authority to approved companies would not exist.
- 13 (3) The purpose of this subchapter is to assist the Commonwealth in moving to the
14 forefront of national efforts to achieve energy independence by reducing the
15 Commonwealth's reliance on imported energy resources, and to become a national
16 leader in emerging industries which use substantial amounts of energy. The
17 provisions of this subchapter seek to accomplish this purpose by providing
18 incentives for companies that, in a carbon capture ready manner, construct, retrofit,
19 or upgrade facilities for the purpose of:
- 20 (a) Increasing the production and sale of alternative transportation fuels;
 - 21 (b) Increasing the production and sale of synthetic natural gas, chemicals,
22 chemical feedstocks, or liquid fuels, from coal, biomass resources, or waste
23 coal through a gasification process;
 - 24 (c) Increasing the production and sale of energy-efficient alternative fuels;
 - 25 (d) Generating electricity for sale through alternative methods such as solar
26 power, wind power, biomass resources, landfill methane gas, hydropower, or
27 other similar renewable resources; or

- 1 (e) Increasing the usage of electricity in areas which have an abundant supply due
2 to the loss of manufacturing businesses across the state.
- 3 (4) To qualify for the incentives provided in this subchapter, the following
4 requirements shall be met:
- 5 (a) For an alternative fuel facility or gasification facility that uses oil shale, tar
6 sands, or coal as the primary feedstock, the minimum capital investment shall
7 be one hundred million dollars (\$100,000,000);
- 8 (b) For an alternative fuel facility or gasification facility that uses biomass
9 resources as the primary feedstock, the minimum capital investment shall be
10 twenty-five million dollars (\$25,000,000);
- 11 (c) For an energy-efficient alternative fuel facility, the minimum capital
12 investment shall be twenty-five million dollars (\$25,000,000);
- 13 (d) For an alternative fuel facility located in Kentucky that is newly constructed
14 on or after August 1, 2010, or an existing facility located in Kentucky that is
15 retrofitted or upgraded on or after August 1, 2010, and that, after the new
16 construction, retrofit, or upgrade, primarily produces for sale alternative
17 transportation fuels using natural gas or natural gas liquids as the primary
18 feedstock, the minimum capital investment shall be one million dollars
19 (\$1,000,000); provided that the authority may approve a maximum of five (5)
20 projects that meet the requirements of this paragraph;
- 21 (e) For a renewable energy facility, the minimum capital investment shall be one
22 million dollars (\$1,000,000);
- 23 (f) For a carbon dioxide transmission pipeline, the minimum capital investment
24 shall be fifty million dollars (\$50,000,000); and
- 25 (g) For a colocation~~[-cryptocurrency]~~ facility, the minimum capital investment
26 shall be one million dollars (\$1,000,000).
- 27 (5) The incentives under the Incentives for Energy-related Business Act are as follows:

- 1 (a) An advance disbursement of post-construction incentives for which an
2 approved company has been approved, the maximum amount of which is
3 based upon the estimated labor component of the total capital investment of
4 the eligible project, and the utilization of Kentucky residents during the
5 construction period as set forth in KRS 154.27-090;
- 6 (b) 1. Sales and use tax incentives of up to one hundred percent (100%) of the
7 taxes paid on purchases of tangible personal property made to construct,
8 retrofit, or upgrade an eligible project~~[, including commercial~~
9 ~~cryptocurrency mining equipment at a facility,]~~ as set forth in KRS
10 139.517 and 154.27-070; and
- 11 2. Sales and use tax incentives of up to one hundred percent (100%) of
12 the taxes paid on purchase of computing system nodes used at a
13 colocation facility as set forth in KRS 139.517 and Section 4 of this
14 Act.
- 15 (c) Up to eighty percent (80%) of the severance taxes paid on the purchase or
16 severance of:
- 17 1. Coal that is subject to the tax imposed under KRS 143.020 and that is
18 specifically used by an alternative fuel facility, energy-efficient
19 alternative fuel facility, or a gasification facility as feedstock for an
20 eligible project, as set forth in KRS 143.024 and 154.27-060; or
- 21 2. Natural gas or natural gas liquids that are subject to the tax imposed
22 under KRS 143A.020 and that are specifically used in an alternative fuel
23 facility described in subsection (4)(d) of this section as feedstock for an
24 eligible project, as set forth in KRS 143A.025 and 154.27-060;
- 25 (d) Up to one hundred percent (100%) of the Kentucky income tax imposed under
26 KRS 141.040 or 141.020, and the limited liability entity tax imposed under
27 KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross

1 receipts of the approved company generated by or arising from the eligible
2 project, as set forth in KRS 141.421 and 154.27-080; and

3 (e) Authorization for the approved company to impose a wage assessment of up
4 to four percent (4%) of the gross wages of each employee subject to the
5 Kentucky income tax:

- 6 1. Whose job was created as a result of the eligible project;
- 7 2. Who is employed by the approved company to work at the facility; and
- 8 3. Who is on the payroll of the approved company or an affiliate of the
9 approved company;

10 as set forth in KRS 154.27-080.

11 (6) The maximum recovery from all incentives approved under this subchapter for an
12 eligible project shall not exceed fifty percent (50%) of the capital investment in the
13 eligible project.

14 (7) The incentives available to an approved company shall be negotiated with and
15 approved by the authority.

16 (8) If a newly constructed facility that qualifies for incentives under this subchapter is
17 later upgraded or retrofitted in a manner that would qualify for incentives under this
18 subchapter, the retrofit or upgrade shall be a separate eligible project, and the
19 minimum investment requirements and carbon capture readiness requirements, if
20 required, shall be met for the retrofit or upgrade to qualify for incentives under this
21 subchapter.

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

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

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

- 1 (2) The application shall include:
- 2 (a) The name of the applicant and identification of any affiliates of the applicant;
- 3 (b) The type of eligible project;
- 4 (c) A description of the location;
- 5 (d) A full description of the eligible project scope, ***which may include***~~[including]~~
6 but ***is*** not limited to:
- 7 1. A list and the status of permits, certificates, or approvals required by the
8 federal government, the Commonwealth, or any jurisdiction within the
9 Commonwealth;
- 10 2. A description of the carbon capture readiness of the facility, if the
11 proposed eligible project is an alternative fuel facility or a gasification
12 facility;
- 13 3. Any feasibility studies, including supporting documents;
- 14 4. Anticipated sources of eligible project funding;
- 15 5. The total anticipated capital investment and the time period over which
16 the capital investment will occur;
- 17 6. The proposed feedstock and the estimated volume of feedstock use per
18 year;
- 19 7. A description of the proposed products or services to be produced by the
20 facility and the process that will be used to produce the products;
- 21 8. The planned capacity of the facility after construction, retrofit, or
22 upgrade;
- 23 9. The estimated output of the facility upon completion; and
- 24 10. A plan for and description of how the company will employ Kentucky
25 residents at the facility and how the company will ensure, to the extent
26 possible, that workers employed during construction, retrofit, or upgrade
27 of the facility are Kentucky residents. The plan shall include projected

1 numbers;

2 (e) Identification of the specific incentives sought;

3 (f) Payment of any applicable application fees required by the authority to offset
4 reasonable costs of reviewing and processing the application; and

5 (g) Other information as required by the authority.

6 (3) (a) The authority shall forward the application to the Department of Revenue and
7 the Office of Energy Policy, if applicable, for review and comment with a date
8 by which comments shall be provided back to the authority.

9 (b) The authority may forward the application to the Center for Applied Energy
10 Research for review and comment as well.

11 (c) *The forwarding of the application to these agencies or other parties for*
12 *review or comment shall not prevent or delay the authority from:*

13 *1. Granting preliminary approval; or*

14 *2. Processing or approving an application for sales or use tax*
15 *reimbursements.*

16 (4) (a) The authority shall review the application and shall verify that:

17 1. The applicant has met all of the statutory and regulatory requirements
18 established by this subchapter and regulations promulgated thereunder;

19 2. The applicant has secured or is in the process of securing all necessary
20 permits, certificates, or approvals required by the federal government,
21 the Commonwealth, or any jurisdiction within the Commonwealth;

22 3. The proposed facility is carbon capture ready, if the proposed facility is
23 an alternative fuel facility or gasification facility;

24 4. The company has a plan that includes a projected number of Kentucky
25 residents that will be employed during the construction, retrofit, or
26 upgrade of the facility and at the facility upon completion; and

27 5. Any other requirements established by the authority.

- 1 (b) The Department of Revenue and the Office of Energy Policy, if applicable,
2 shall review the application and shall verify that the company seeking
3 approval and all affiliate companies are in good standing with the department.
- 4 (c) The authority may engage the services of outside consultants to assist in the
5 review of the application. Costs associated with the engagement of outside
6 consultants shall be borne by the applicant.
- 7 (5) (a) Upon the earlier of:
- 8 1. The receipt of comments and recommendations from the Office of
9 Energy Policy, the Department of Revenue, and the Center for Applied
10 Energy Research, if applicable; or
- 11 2. The expiration of the time period established by the authority for
12 receiving comments pursuant to subsection (3) of this section;
- 13 the authority may, through the adoption of a resolution, preliminarily approve
14 an applicant for incentives under this subchapter.
- 15 (b) Preliminary approval shall be based upon representations of the applicant in
16 the application and attachments as well as other information submitted with
17 the application. The authority shall make a finding that, based upon the
18 applicant's representations, the project appears to be eligible for incentives
19 pursuant to this subchapter.
- 20 (c) Prior to final approval:
- 21 1. The applicant shall:
- 22 a. Provide all supportive data requested by the authority;
- 23 b. Secure all required permits or take appropriate steps to do so; and
- 24 c. Cooperate with the authority to obtain opinions or
25 recommendations from any outside consultants; and
- 26 2. The authority shall, in consultation with the Office of Energy Policy or
27 any other entity, verify the representations of the applicant.

- 1 (d) 1. A preliminarily approved company seeking an advance disbursement
2 employment incentive under KRS 154.27-090 shall, prior to receiving
3 final approval from the authority, provide to the authority a labor market
4 analysis prepared by a public postsecondary education institution in the
5 Commonwealth with knowledge of the labor market in the region in
6 which the eligible project will be located.
- 7 2. The labor market analysis shall evaluate the construction market in the
8 region where the proposed project is to be located and the estimated
9 labor component of the proposed project. The public postsecondary
10 education institution may consult with the Center for Applied Energy
11 Research or the Office of Energy Policy in determining the types of
12 laborers required for the construction, retrofit, or upgrade of the eligible
13 facility.
- 14 3. The labor market analysis shall include an estimate of the percentage of
15 the estimated labor component that constitutes wages to be paid to
16 Kentucky residents.
- 17 (e) Based upon all of the information available, the authority may, through
18 adoption of a resolution, give its final approval and authorize the execution of
19 a tax incentive agreement to be negotiated pursuant to KRS 154.27-040.
- 20 **(f) The authority may issue preliminary and final approval for a project during**
21 **the same meeting in order to execute efficiently the purpose and intent of**
22 **this subchapter.**
- 23 (6) The authority may request any materials and make any inquiries concerning an
24 application that the authority deems necessary.
- 25 (7) The actual capital investment that may be recovered and percentages of each
26 incentive that an approved company may receive shall be negotiated between the
27 approved company and the authority and shall not exceed the limitations established

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

1 (c) Has a minimum capital investment of one million dollars (\$1,000,000).

2 ➔Section 4. KRS 154.27-070 is amended to read as follows:

3 (1) Notwithstanding KRS 134.580(3) and 139.770:~~;~~

4 (a) 1. ~~[On or after January 1, 2008,]~~An approved company is eligible for an
 5 incentive in an amount up to one hundred percent (100%) of the
 6 Kentucky sales and use tax paid, reduced by the vendor compensation
 7 provided under KRS 139.570, on the purchase of tangible personal
 8 property, including but not limited to materials, machinery, and
 9 equipment used to construct, retrofit, or upgrade an eligible project.

10 ~~2. (2)~~ The incentive shall not include tangible personal property
 11 purchased before the activation date or purchases of operating supplies,
 12 or repair, replacement, or spare parts as defined in KRS 139.010.

13 (b) 1. In addition, a colocation facility which has received final approval
 14 may be eligible for an incentive in an amount up to one hundred
 15 percent (100%) of the Kentucky sales and use tax paid, reduced by the
 16 vendor compensation provided under KRS 139.570, on computing
 17 system nodes used in the commercial mining of cryptocurrency as of
 18 the date of original application.

19 2. Sales and use taxes paid on or after the application date may qualify
 20 for reimbursement by the authority.

21 ~~(2) (3)~~ Upon the activation date, an approved company may be eligible for the
 22 incentive offered under this section. The approved company shall file a request for
 23 the incentive payment with the department as provided in KRS 139.517.

24 ~~(3) (4)~~ The incentive provided in this section shall expire upon the completion of the
 25 construction, retrofit, or upgrade of the eligible project, or five (5) years from the
 26 activation date, whichever is earlier.

27 ➔Section 5. This Act takes effect August 1, 2022.