

1 AN ACT relating to tax credits for sustainable aviation fuel, making an
2 appropriation 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) "Sustainable aviation fuel" means liquid fuel that:*

8 *1. Meets the criteria set forth in Section 40B of the Internal Revenue Code; or*

9 *2. a. Consists of synthesized hydrocarbons and meets the*
10 *requirements of:*

11 *i. The American Society for Testing and Materials*
12 *International Standard D7566; or*

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

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

19 *c. Is not derived from palm fatty acid distillates; and*

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

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

1 Civil Aviation Organization with the agreement of the
2 United States; or

3 ii. The fuel production pathway achieves at least a fifty
4 percent (50%) reduction of the aggregate attributional core
5 lifecycle greenhouse gas emissions values utilizing the most
6 recent version of Argonne National Laboratory's GREET
7 model, inclusive of agricultural practices and carbon
8 capture and sequestration; and

9 (b) "Sustainable aviation fuel consumer" means a taxpayer in this state that
10 acquires sustainable aviation fuel for storage and use in its aircrafts.

11 (2) (a) For taxable years beginning on or after January 1, 2025, but before
12 January 1, 2035, there shall be a nonrefundable, nontransferable tax credit
13 allowed against the taxes imposed in KRS 141.020 or KRS 141.040 and
14 141.0401 for sustainable aviation fuel consumers in the Commonwealth in
15 an amount certified by the department under this section, with the ordering
16 of the credits as provided in Section 3 of this Act.

17 (b) The credit rate shall be two dollars and fifty cents (\$2.50) per gallon of
18 sustainable aviation fuel consumed by a taxpayer in this state.

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

21 (b) The aggregate total of all credits claimed per taxable year shall not exceed
22 ten million dollars (\$10 million).

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 second 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 (a) of this subsection shall be submitted**

1 to the Interim Joint Committee on Appropriations and Revenue on or before
 2 November 1, 2025, and each November 1 thereafter as long as the tax credit
 3 is claimed on any tax return filed.

4 (c) The information required to be reported under this subsection shall not be
 5 considered confidential tax payer information and shall not be subject to
 6 KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes
 7 prohibiting disclosure or reporting of information.

8 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
 9 READ AS FOLLOWS:

10 (1) As used in this section:

11 (a) "Eligible feedstock-producing facility" means a facility or operation of a
 12 company in this state whose output or product qualifies as a feedstock for a
 13 sustainable aviation fuel technology or pathway to create sustainable
 14 aviation fuel;

15 (b) "Feedstock":

16 1. Means the component used in the production of an approved
 17 sustainable aviation fuel technology for use in the creation of
 18 sustainable aviation fuel; and

19 2. Includes these materials:

20 a. Wastes, coal, gas, or sawdust;

21 b. Vegetable oils including but not limited to palm, camelina, or
 22 jatropha as used in cooking oil;

23 c. Oils produced from botryococcus braunii or algae;

24 d. Sugarcane, sugar beet, or lignocellulosic residues; or

25 e. Waste oils or energy oils;

26 (c) "Sustainable aviation fuel technology":

27 1. Means the technology pathway approved by the American Society for

1 Testing and Materials as meeting the requirements to produce drop-in
2 sustainable aviation fuels; and

3 2. Includes:

4 a. Fischer-Tropsch synthesized isoparaffinic kerosene;

5 b. Synthesized isoparaffins;

6 c. Hydroprocessed hydrocarbons-synthesized isoparaffinic
7 kerosene;

8 d. Hydroprocessed fatty acid esters and fatty acids;

9 e. Alcohol-to-jet; and

10 f. Catalytic hydrothermolysis jet fuel; and

11 (d) "Usable feedstock" means the amount of feedstock produced in this state
12 and actually used or contributed to the production of sustainable aviation
13 fuel technology.

14 (2) For taxable years beginning on or after January 1, 2025, but before January 1,
15 2035, there shall be a nonrefundable, nontransferable feedstock production tax
16 credit allowed against the taxes imposed in KRS 141.020 or 141.040 and 141.0401
17 with the ordering of the tax credit as provided in Section 3 of this Act;

18 (3) (a) The credit shall not exceed one million (\$1,000,000) per taxpayer in each
19 taxable year and shall be based on the percentage of the usable feedstock
20 that is produced and used in creating sustainable aviation fuel technology.

21 (b) The credit shall be computed by:

22 1. Dividing the total usable feedstock by the total feedstock produced in
23 the eligible feedstock-producing facility per taxable year to determine
24 a percentage; and

25 2. Multiplying the amount in subparagraph 1. of this paragraph by the
26 credit cap established in paragraph (a) of this subsection.

27 (c) The total of all credits claimed by all taxpayers in each taxable year shall

1 not exceed five million dollars (\$5,000,000).

2 (4) (a) Any eligible feedstock-producing facility seeking approval for the credit
3 under this section shall:

4 1. Submit an application to the department, on a form as prescribed by
5 the department, by January 15, 2026, following the close of the
6 calendar year, and each January 15 thereafter as long as the credit is
7 available; and

8 2. Provide the:

9 a. Taxpayer's identification number;

10 b. Description and amount or volume of usable feedstock produced
11 in this state, including anticipated production amounts, in the
12 eligible feedstock producing facility for the taxable year; and

13 c. Description and amount or volume of feedstock produced in this
14 state, including anticipated production amounts, in the eligible
15 feedstock-producing facility for the taxable year.

16 (b) The department shall:

17 1. Review all submitted applications no later than February 15, 2026,
18 and each February 15 thereafter as long as the credit is available;

19 2. Determine the percentage of usable feedstock produced by the
20 company for the taxable year and apply this to the credit cap
21 established in subsection (3) of this section; and

22 3. By March 1 following the end of the calendar year, provide a letter to
23 the taxpayer indicating the amount of the tax credit to be awarded.

24 (5) A taxpayer who is awarded a tax credit under subsection (4) of this section shall
25 submit with their return:

26 (a) Verification of the usable feedstock produced;

27 (b) Confirmation that the usable feedstock was utilized or provided for the

1 utilization in the production of sustainable aviation fuel technology; and
2 (c) Verification of the total feedstock produced in the facility for the taxable
3 year.

4 (6) If the total amount of credits awarded under this section exceeds five million
5 dollars (\$5,000,000), the department shall determine the amount of credit each
6 eligible feedstock-producing facility receives by multiplying the tax credit cap by a
7 fraction, the numerator of which is the amount of awarded credit for the eligible
8 feedstock-producing facility and the denominator of which is the total approved
9 credits for all eligible feedstock-producing facilities.

10 (7) (a) In order for the General Assembly to evaluate the effectiveness of the
11 feedstock production tax credit, the department shall submit the following
12 information to the Legislative Research Commission and the Interim Joint
13 Committee on Appropriations and Revenue on or before November 1, 2026,
14 and on or before each November 1 thereafter as long as the credit may be
15 claimed on a return:

16 1. The location of the taxpayer, by county, as reflected on the return filed
17 for the taxable year;

18 2. The amount of feedstock production tax credit claimed by the taxpayer
19 for the taxable year;

20 3. The total cumulative amount of all feedstock production tax credits
21 claimed for the taxable year;

22 4. a. In the case of all taxpayers other than corporations, based on
23 ranges of adjusted gross income of no larger than five thousand
24 dollars (\$5,000) for the taxable year, the total amount of
25 feedstock production tax credit claimed and the total number of
26 returns claiming this tax credit for each income range; and

27 b. In the case of all corporations, based on ranges of net income no

1 larger than fifty thousand dollars (\$50,000) for the taxable year,
2 the total amount of tax credit claimed and the number of returns
3 claiming a tax credit for each net income range; and

4 5. Any other taxpayer information necessary for the General Assembly to
5 evaluate this credit.

6 (b) The information required to be reported under this subsection shall not be
7 considered confidential taxpayer information and shall not be subject to
8 KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes
9 prohibiting disclosure or reporting of information.

10 ➔Section 3. KRS 141.0205 is amended to read as follows:

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

14 (1) The nonrefundable business incentive credits against the tax imposed by KRS
15 141.020 shall be taken in the following order:

- 16 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 17 (b) The economic development credits computed under KRS 141.347, 141.381,
18 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
19 154.12-2088;
- 20 (c) The qualified farming operation credit permitted by KRS 141.412;
- 21 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 22 (e) The health insurance credit permitted by KRS 141.062;
- 23 (f) The tax paid to other states credit permitted by KRS 141.070;
- 24 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 25 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 26 (i) The tax credit for cash contributions in investment funds permitted by KRS
27 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS

- 1 154.20-258;
- 2 (j) The research facilities credit permitted by KRS 141.395;
- 3 (k) The employer High School Equivalency Diploma program incentive credit
- 4 permitted under KRS 151B.402;
- 5 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 6 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 7 (n) The clean coal incentive credit permitted by KRS 141.428;
- 8 (o) The ethanol credit permitted by KRS 141.4242;
- 9 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 10 (q) The energy efficiency credits permitted by KRS 141.436;
- 11 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 12 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 13 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 14 (u) The distilled spirits credit permitted by KRS 141.389;
- 15 (v) The angel investor credit permitted by KRS 141.396;
- 16 (w) 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 (x) The inventory credit permitted by KRS 141.408;~~and~~
- 19 (y) The renewable chemical production credit permitted by KRS 141.4231;
- 20 ~~(z) **The sustainable aviation fuel tax credit permitted by Section 1 of this Act;**~~
- 21 **and**
- 22 ~~(aa) **The feedstock production tax credit permitted by Section 2 of this Act;**~~
- 23 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 24 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 25 shall be taken in the following order:
- 26 (a) The individual credits permitted by KRS 141.020(3);
- 27 (b) The credit permitted by KRS 141.066;

- 1 (c) The tuition credit permitted by KRS 141.069;
- 2 (d) The household and dependent care credit permitted by KRS 141.067;
- 3 (e) The income gap credit permitted by KRS 141.066; and
- 4 (f) The Education Opportunity Account Program tax credit permitted by KRS
- 5 141.522;
- 6 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 7 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 8 taken in the following order:
- 9 (a) The individual withholding tax credit permitted by KRS 141.350;
- 10 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 11 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
- 12 171.397(1)(b);
- 13 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 14 approved prior to April 27, 2018, or on or after January 1, 2022;
- 15 (e) The development area tax credit permitted by KRS 141.398;
- 16 (f) The decontamination tax credit permitted by KRS 141.419; and
- 17 (g) The pass-through entity tax credit permitted by KRS 141.209;
- 18 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
- 19 tax imposed by KRS 141.040;
- 20 (5) The following nonrefundable credits shall be applied against the sum of the tax
- 21 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
- 22 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 23 (a) The economic development credits computed under KRS 141.347, 141.381,
- 24 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
- 25 154.12-2088;
- 26 (b) The qualified farming operation credit permitted by KRS 141.412;
- 27 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

- 1 (d) The health insurance credit permitted by KRS 141.062;
- 2 (e) The unemployment credit permitted by KRS 141.065;
- 3 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 4 (g) The coal conversion credit permitted by KRS 141.041;
- 5 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 6 ending prior to January 1, 2008;
- 7 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 8 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 9 154.20-258;
- 10 (j) The research facilities credit permitted by KRS 141.395;
- 11 (k) The employer High School Equivalency Diploma program incentive credit
- 12 permitted by KRS 151B.402;
- 13 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 14 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 15 (n) The clean coal incentive credit permitted by KRS 141.428;
- 16 (o) The ethanol credit permitted by KRS 141.4242;
- 17 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 18 (q) The energy efficiency credits permitted by KRS 141.436;
- 19 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 20 permitted by KRS 141.437;
- 21 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 22 (t) The railroad expansion credit permitted by KRS 141.386;
- 23 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 24 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 25 (w) The distilled spirits credit permitted by KRS 141.389;
- 26 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 27 on or after April 27, 2018, but before January 1, 2022;

- 1 (y) The inventory credit permitted by KRS 141.408;
 2 (z) The renewable chemical production tax credit permitted by KRS 141.4231;~~f~~
 3 ~~and~~
 4 (aa) The Education Opportunity Account Program tax credit permitted by KRS
 5 141.522;~~fand~~

6 **(ab) The sustainable aviation fuel tax credit permitted by Section 1 of this Act;**

7 **and**

8 **(ac) The feedstock production tax credit permitted by Section 2 of this Act; and**

9 (6) After the application of the nonrefundable credits in subsection (5) of this section,
 10 the refundable credits shall be taken in the following order:

- 11 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 12 (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
 13 171.397(1)(b);
 14 (c) The film industry tax credit permitted by KRS 141.383 for applications
 15 approved prior to April 27, 2018, or on or after January 1, 2022;
 16 (d) The decontamination tax credit permitted by KRS 141.419; and
 17 (e) The pass-through entity tax credit permitted by KRS 141.209.

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

- 19 (1) No present or former commissioner or employee of the department, present or
 20 former member of a county board of assessment appeals, present or former property
 21 valuation administrator or employee, present or former secretary or employee of the
 22 Finance and Administration Cabinet, former secretary or employee of the Revenue
 23 Cabinet, or any other person, shall intentionally and without authorization inspect
 24 or divulge any information acquired by him or her of the affairs of any person, or
 25 information regarding the tax schedules, returns, or reports required to be filed with
 26 the department or other proper officer, or any information produced by a hearing or
 27 investigation, insofar as the information may have to do with the affairs of the

1 person's business.

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

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

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

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

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

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

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

- 1 shall not exceed the greater of the actual cost of providing the information or
2 ten dollars (\$10);
- 3 (g) Providing information to a licensing agency, the Transportation Cabinet, or
4 the Kentucky Supreme Court under KRS 131.1817;
- 5 (h) Statistics of gasoline and special fuels gallonage reported to the department
6 under KRS 138.210 to 138.448;
- 7 (i) Providing any utility gross receipts license tax return information that is
8 necessary to administer the provisions of KRS 160.613 to 160.617 to
9 applicable school districts on a confidential basis;
- 10 (j) Providing documents, data, or other information to a third party pursuant to an
11 order issued by a court of competent jurisdiction; or
- 12 (k) Providing information to the Legislative Research Commission under:
- 13 1. KRS 139.519 for purposes of the sales and use tax refund on building
14 materials used for disaster recovery;
- 15 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 16 3. KRS 141.437 for purposes of the ENERGY STAR home and the
17 ENERGY STAR manufactured home credits;
- 18 4. KRS 141.383 for purposes of the film industry incentives;
- 19 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
20 tax credits and the job assessment fees;
- 21 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 22 7. KRS 141.396 for purposes of the angel investor tax credit;
- 23 8. KRS 141.389 for purposes of the distilled spirits credit;
- 24 9. KRS 141.408 for purposes of the inventory credit;
- 25 10. KRS 141.390 for purposes of the recycling and composting credit;
- 26 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 27 12. KRS 141.4231 for purposes of the renewable chemical production tax

- 1 credit;
- 2 13. KRS 141.524 for purposes of the Education Opportunity Account
- 3 Program tax credit;
- 4 14. KRS 141.398 for purposes of the development area tax credit;
- 5 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 6 commercial mining of cryptocurrency;~~and~~
- 7 16. KRS 141.419 for purposes of the decontamination tax credit;
- 8 **17. Section 1 of this Act for purposes of the sustainable aviation fuel tax**
- 9 **credit; and**
- 10 **18. Section 2 of this Act for purposes of the feedstock production tax**
- 11 **credit.**
- 12 (3) The commissioner shall make available any information for official use only and on
- 13 a confidential basis to the proper officer, agency, board or commission of this state,
- 14 any Kentucky county, any Kentucky city, any other state, or the federal
- 15 government, under reciprocal agreements whereby the department shall receive
- 16 similar or useful information in return.
- 17 (4) Access to and inspection of information received from the Internal Revenue Service
- 18 is for department use only, and is restricted to tax administration purposes.
- 19 Information received from the Internal Revenue Service shall not be made available
- 20 to any other agency of state government, or any county, city, or other state, and
- 21 shall not be inspected intentionally and without authorization by any present
- 22 secretary or employee of the Finance and Administration Cabinet, commissioner or
- 23 employee of the department, or any other person.
- 24 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
- 25 requirements of KRS Chapter 137 and statistics of natural gas production as
- 26 reported to the department under the natural resources severance tax requirements
- 27 of KRS Chapter 143A may be made public by the department by release to the

1 Energy and Environment Cabinet, Department for Natural Resources.

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

11 ➔Section 5. KRS 154.27-010 is amended to read as follows:

12 As used in this subchapter:

13 (1) "Activation date" means the date on which an approved company begins incurring
14 recoverable costs or engaging in recoverable activity pursuant to the tax incentive
15 agreement. The activation date shall be set forth in the tax incentive agreement and
16 shall be a date within five (5) years of the date of final approval of the tax incentive
17 agreement. The authority may extend the five (5) year period to no more than seven
18 (7) years upon written application for an extension by the approved company. To
19 implement the activation date, the approved company shall notify the authority of
20 its intent to activate the tax incentives authorized in the tax incentive agreement.
21 The activation date shall apply to all incentives included in the tax incentive
22 agreement regardless of whether the approved company has met the requirements to
23 receive all incentives at that time. If the approved company does not implement the
24 activation date before the date established in the tax incentive agreement, the
25 activation date shall be the date established in the tax incentive agreement;

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

27 (3) (a) "Alternative fuel facility" means a facility located in Kentucky that is newly

1 constructed on or after August 30, 2007, or an existing facility located in
2 Kentucky that is retrofitted or upgraded on or after August 30, 2007, and that,
3 after the new construction, retrofit, or upgrade, primarily produces for sale
4 alternative transportation fuels. For a retrofit of an existing facility, the new
5 modification or addition within the facility shall primarily produce alternative
6 transportation fuel for sale.

7 (b) The alternative fuel facility may produce electricity as a by-product if the
8 primary purpose for which the facility is constructed, retrofitted, or upgraded,
9 and the primary function of the facility remains the production and sale of
10 alternative transportation fuels;

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

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

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

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

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

26 (a) Store digital transactions; and

27 (b) Verify and secure transactions cryptographically;

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

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

3 1. Obligations incurred for labor and to contractors, subcontractors,
4 builders, and materialmen in connection with the acquisition,
5 construction, installation, equipping, upgrading, or retrofitting of an
6 eligible project;

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

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

13 4. All costs of architectural and engineering services, including test
14 borings, surveys, estimates, plans, specifications, preliminary
15 investigations, supervision of construction, and the performance of all
16 the duties required by or consequent upon the acquisition, construction,
17 installation, equipping, upgrading, or retrofitting of an eligible project;

18 5. All costs required to be paid under the terms of any contract for the
19 acquisition, construction, installation, equipping, upgrading, or
20 retrofitting of an eligible project; and

21 6. All other costs of a nature comparable to those described in this
22 subsection.

23 (b) "Capital investment" does not include costs described in paragraph (a) of this
24 subsection that are paid for with funds received from the federal government
25 or that are reimbursed by the federal government;

26 (11) "Carbon capture ready" means planning for or anticipating capture of carbon
27 dioxide in a manner to facilitate continued operation of the facility in compliance

- 1 with applicable federal requirements;
- 2 (12) "Carbon dioxide transmission pipeline" means the in-state portion of a pipeline,
3 including appurtenant facilities, property rights, and easements, that is used
4 exclusively for the purpose of transporting carbon dioxide to a point of sale,
5 storage, or other carbon management applications;
- 6 (13) "Center for Applied Energy Research" means the University of Kentucky Center
7 for Applied Energy Research;
- 8 (14) "Commercial mining of cryptocurrency" means the process through which
9 blockchain technology is used to mine cryptocurrency at a cryptocurrency facility,
10 and includes the process through which blockchain transactions are verified and
11 accepted by adding the transactions to a blockchain ledger, which involves solving
12 complex mathematical cryptographic problems associated with a block containing
13 transaction data;
- 14 (15) "Commonwealth" means the Commonwealth of Kentucky;
- 15 (16) "Construction period" means the period beginning with the activation date of the
16 eligible project and ending on a date set forth in the tax incentive agreement, which
17 shall be no later than five (5) years from the activation date;
- 18 (17) "Consensus protocol" means a set of rules and procedures that control how and
19 when blockchain transactions are verified, validated, recorded, and recognized;
- 20 (18) "Cryptocurrency" means a type of virtual currency that utilizes blockchain
21 technology and that:
- 22 (a) Can be digitally traded between users; or
23 (b) Can be converted or exchanged for legal tender;
- 24 (19) "Cryptocurrency facility" means a facility located in the Commonwealth that is
25 utilized in the commercial mining of cryptocurrency or in hosting persons engaged
26 in the commercial mining of cryptocurrency through utilization of the facility's
27 infrastructure, including servers and network hardware powered by Internet

1 bandwidth, electricity, and other services generally required for such mining
2 operations;

3 (20) "Department" means the Department of Revenue;

4 (21) "Eligible project" means:

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

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

9 (c) A renewable energy facility meeting the investment requirements of KRS
10 154.27-020;

11 (d) A carbon dioxide transmission pipeline meeting the investment requirements
12 of KRS 154.27-020;~~or~~

13 (e) A cryptocurrency facility meeting the investment requirements of KRS
14 154.27-20; or

15 (f) A sustainable aviation fuel facility meeting the investment requirements of
16 Section 6 of this Act;

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

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

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

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

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

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

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

7 2. In the commercial mining of cryptocurrency or in hosting persons
8 engaged in the commercial mining of cryptocurrency.

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

12 (c) The facility may include:

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

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

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

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

25 (d) "Facility" shall not include any mining operations, or drilling and production
26 operations for natural gas, unless such coal, natural resource, or natural gas
27 operations are being used for purposes of, or are hosting, the commercial

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

2 (26) "Gasification process" means a process that converts any carbon-containing
3 material into a synthesis gas composed primarily of carbon monoxide and
4 hydrogen;

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

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

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

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

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

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

25 (30) "Post-construction incentives" means the incentives available under KRS 154.27-
26 060 and 154.27-080;

27 (31) "Renewable energy facility" means a facility located in Kentucky that is newly

1 constructed on or after August 30, 2007, or an existing facility located in Kentucky
2 that is retrofitted or upgraded after August 30, 2007, and that, after the new
3 construction, retrofit, or upgrade, utilizes:

- 4 (a) Wind power, biomass resources, landfill methane gas, hydropower, or other
5 similar renewable resources to generate electricity in excess of one (1)
6 megawatt for sale to unrelated entities; or
7 (b) Solar power to generate electricity in excess of fifty (50) kilowatts for sale to
8 unrelated entities.

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

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

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

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

20 (34) **"Sustainable aviation fuel" means**

21 **(a) Liquid fuel that meets the criteria set forth in Section 40B of the Internal**
22 **Revenue Code; or**

23 **(b). 1. Consists of synthesized hydrocarbons and meets the requirements of:**

24 **a. The American Society for Testing and Materials International**
25 **Standard D7566; or**

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

- 1 2. Is derived from biomass resources as defined in KRS 152.715, waste
2 streams, renewable energy sources, or gaseous carbon oxides;
3 3. Is not derived from palm fatty acid distillates; and
4 4. Achieves at least a fifty percent (50%) lifecycle greenhouse gas
5 emissions reduction in comparison with petroleum-based jet fuel, as
6 determined by a test that shows:
7 a. The fuel production pathway achieves at least a fifty percent
8 (50%) reduction of the aggregate attributional core lifecycle
9 emissions and the positive induced land use change values under
10 the lifecycle methodology for sustainable aviation fuels adopted
11 by the International Civil Aviation Organization with the
12 agreement of the United States; or
13 b. The fuel production pathway achieves at least a fifty percent
14 (50%) reduction of the aggregate attributional core lifecycle
15 greenhouse gas emissions values utilizing the most recent
16 version of Argonne National Laboratory's GREET model,
17 inclusive of agricultural practices and carbon capture and
18 sequestration;

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

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

22 (37)~~(35)~~ "Tax incentive agreement" means an agreement entered into in accordance
23 with KRS 154.27-040;

24 (38)~~(36)~~ "Termination date" means a date established by the tax incentive agreement
25 that is no more than twenty-five (25) years from the activation date; and

26 (39)~~(37)~~ "Upgrade" means an investment in an existing facility that results in an
27 increase in the productivity of the facility. Increased productivity shall be measured

1 in relation to the type of products or services that are required to be produced or
2 performed by that facility to be an eligible project.

3 ➔Section 6. KRS 154.27-020 is amended to read as follows:

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

1 to the loss of manufacturing businesses across the state.

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

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

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

10 (c) For an energy-efficient alternative fuel facility, the minimum capital
11 investment shall be twenty-five million dollars (\$25,000,000);

12 (d) For an alternative fuel facility located in Kentucky that is newly constructed
13 on or after August 1, 2010, or an existing facility located in Kentucky that is
14 retrofitted or upgraded on or after August 1, 2010, and that, after the new
15 construction, retrofit, or upgrade, primarily produces for sale alternative
16 transportation fuels using natural gas or natural gas liquids as the primary
17 feedstock, the minimum capital investment shall be one million dollars
18 (\$1,000,000); provided that the authority may approve a maximum of five (5)
19 projects that meet the requirements of this paragraph;

20 (e) For a renewable energy facility, the minimum capital investment shall be one
21 million dollars (\$1,000,000);

22 (f) For a carbon dioxide transmission pipeline, the minimum capital investment
23 shall be fifty million dollars (\$50,000,000); ~~and~~

24 (g) For a cryptocurrency facility, the minimum capital investment shall be one
25 million dollars (\$1,000,000); *and*

26 **(h) For a sustainable aviation fuel facility, the minimum capital investment**
27 **shall be one hundred million dollars (\$100,000,000).**

- 1 (5) The incentives under the Incentives for Energy-related Business Act are as follows:
- 2 (a) An advance disbursement of post-construction incentives for which an
- 3 approved company has been approved, the maximum amount of which is
- 4 based upon the estimated labor component of the total capital investment of
- 5 the eligible project, and the utilization of Kentucky residents during the
- 6 construction period as set forth in KRS 154.27-090;
- 7 (b) Sales and use tax incentives of up to one hundred percent (100%) of the taxes
- 8 paid on purchases of tangible personal property made to construct, retrofit, or
- 9 upgrade an eligible project, including commercial cryptocurrency mining
- 10 equipment at a facility, as set forth in KRS 139.517 and 154.27-070;
- 11 (c) Up to eighty percent (80%) of the severance taxes paid on the purchase or
- 12 severance of:
- 13 1. Coal that is subject to the tax imposed under KRS 143.020 and that is
- 14 specifically used by an alternative fuel facility, energy-efficient
- 15 alternative fuel facility, or a gasification facility as feedstock for an
- 16 eligible project, as set forth in KRS 143.024 and 154.27-060; or
- 17 2. Natural gas or natural gas liquids that are subject to the tax imposed
- 18 under KRS 143A.020 and that are specifically used in an alternative fuel
- 19 facility described in subsection (4)(d) of this section as feedstock for an
- 20 eligible project, as set forth in KRS 143A.025 and 154.27-060;
- 21 (d) Up to one hundred percent (100%) of the Kentucky income tax imposed under
- 22 KRS 141.040 or 141.020, and the limited liability entity tax imposed under
- 23 KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross
- 24 receipts of the approved company generated by or arising from the eligible
- 25 project, as set forth in KRS 141.421 and 154.27-080; and
- 26 (e) Authorization for the approved company to impose a wage assessment of up
- 27 to four percent (4%) of the gross wages of each employee subject to the

1 Kentucky income tax:

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

6 as set forth in KRS 154.27-080.

7 (6) The maximum recovery from all incentives approved under this subchapter for an

8 eligible project shall not exceed fifty percent (50%) of the capital investment in the

9 eligible project.

10 (7) The incentives available to an approved company shall be negotiated with and

11 approved by the authority.

12 (8) If a newly constructed facility that qualifies for incentives under this subchapter is

13 later upgraded or retrofitted in a manner that would qualify for incentives under this

14 subchapter, the retrofit or upgrade shall be a separate eligible project, and the

15 minimum investment requirements and carbon capture readiness requirements, if

16 required, shall be met for the retrofit or upgrade to qualify for incentives under this

17 subchapter.

18 (9) The General Assembly finds that the authorities granted by this subchapter are

19 proper governmental and public purposes for which public moneys may be

20 expended.

21 ➔Section 7. There is hereby appropriated General Fund moneys in the amount of

22 \$25,000,000 in fiscal year 2024-2025 to the Economic Development budget unit for the

23 purpose of providing Kentucky Economic Development Finance Authority forgivable

24 loans ("KEDFA loans") for economic development projects for sustainable aviation fuel

25 facilities with a minimum investment of \$100,000,000. Such forgivable loans may be

26 offered as the net present value of and as a substitute for the Kentucky Enterprise

27 Initiative Act (KRS 154.31) and the Economic Development Fund program (KRS

1 154.12-100). The Cabinet for Economic Development shall determine the terms and
2 conditions of the KEDFA loans, monitor the performance of the economic development
3 projects, and secure reasonable collateral. Annual status of any KEDFA loans awarded
4 shall be reported to the General Assembly by November 1 of each year so long as the
5 KEDFA loans are in effect.

6 ➔Section 8. Whereas economic development and job creation are vital to the
7 health, well-being, and economic prosperity of the citizens of the Commonwealth,
8 declared an emergency is to exist and this Act takes effect upon its passage and approval
9 by the Governor or upon its otherwise becoming a law.