

1 AN ACT relating to the distribution of coal severance receipts.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 42.450 TO 42.495 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Moneys derived from the tax imposed on the severance or processing of coal*
6 *under KRS 143.020 shall be transferred from the general fund as follows:*

7 *(a) An administrative fee equal to one-half of one percent (0.5%) of each*
8 *project administered by the Department for Local Government and funded*
9 *by the local government economic development fund is authorized to be*
10 *paid to the Department for Local Government;*

11 *(b) An administrative fee equal to one-half of one percent (0.5%) of each*
12 *project administered by the Kentucky Infrastructure Authority and funded*
13 *by the local government economic development fund is authorized to be*
14 *paid to the Kentucky Infrastructure Authority; and*

15 *(c) An annual appropriation of one hundred percent (100%) of the debt service*
16 *necessary to support bonds authorized in 2003 Ky. Acts ch. 156, 2005 Ky.*
17 *Acts ch. 173, 2006 Ky. Acts ch. 252, 2008 Ky. Acts ch. 127, and 2010 (1st*
18 *Extra. Sess.) Ky. Acts ch. 1.*

19 *(2) (a) After the distributions required by subsection (1) of this section, moneys*
20 *equal to the total amount of all remaining severance and processing taxes*
21 *collected annually shall be further allocated as follows:*

22 *1. Fifty percent (50%) shall be transferred to the local government*
23 *economic development fund established by Section 2 of this Act.*

24 *2. Fifty percent (50%) shall be transferred to the local government*
25 *economic assistance fund established by KRS 42.450.*

26 *(b) The transfers under this subsection shall be made quarterly, based upon the*
27 *revenue estimates prevailing at the time each quarterly transfer is due. Each*

1 quarterly transfer shall be adjusted to account for refunds by determining
2 the total amount of refunds paid in the prior fiscal year, dividing that
3 amount by four (4) and reducing each transfer by this amount. The last
4 quarterly transfer shall be made after the close of the fiscal year accounting
5 records, and shall be adjusted to provide the balance of the annual transfer
6 required by this subsection.

7 ➔Section 2. KRS 42.4582 is amended to read as follows:

8 ~~[(1)]~~ There is hereby established in the State Treasury a fund entitled "local government
9 economic development fund." The fund may receive state appropriations, gifts, grants,
10 and federal funds and shall be disbursed by the State Treasurer upon the warrant of the
11 secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered
12 balances in the fund shall be invested as provided for in KRS 42.500(9). Income earned
13 from the investments shall be prorated for grants to counties according to the allotment
14 schedule set out in KRS 42.4592.

15 ~~[(2) (a)]~~ Moneys shall be transferred from the general fund in an amount equal to fifty
16 percent (50%) of the severance and processing taxes on coal collected
17 annually, unless otherwise amended by the budget bill.

18 ~~(b)~~ The transfers shall be made quarterly, based upon the revenue estimates
19 prevailing at the time each quarterly transfer is due. Each quarterly transfer
20 shall be adjusted to account for refunds by determining the total amount of
21 refunds paid in the prior fiscal year, dividing that amount by four (4), and
22 reducing each transfer by this amount. The last quarterly transfer shall be
23 made after the close of the fiscal year accounting records, and shall be
24 adjusted to provide the balance of the annual transfer required by this
25 subsection.

26 ~~(c)~~ The quarterly calculation and transfer of funds pursuant to this section shall be
27 made only after distribution of the quarterly installment of the annual amount

1 ~~from the prior calendar year allowed as an incentive to an approved company~~
 2 ~~under KRS 143.024 and 154.27-060.]~~

3 ➔Section 3. KRS 42.4592 is amended to read as follows:

4 (1) Moneys~~[remaining]~~ in the local government economic development fund~~[~~
 5 ~~following the transfer of moneys to the local government economic assistance fund~~
 6 ~~provided for in KRS 42.4585]~~ shall be allocated as follows:

7 (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal
 8 producing county on the basis of the ratio of total coal severed in the current
 9 and preceding four (4) years in each respective county to the total coal severed
 10 statewide in the current and four (4) preceding years;

11 (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to
 12 each coal-producing county on the basis of the following factors, which shall
 13 be computed for the current and four (4) preceding years, and which shall be
 14 equally weighted:

15 1. Percentage of employment in mining in relation to total employment in
 16 the respective county;

17 2. Percentage of earnings from mining in relation to total earnings in the
 18 respective county; and

19 3. Surplus labor rate; and

20 (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure
 21 for industrial development projects benefiting two (2) or more coal-producing
 22 counties. For purposes of this paragraph, "coal-producing county" shall mean
 23 a county which has produced coal in the current or any one of the four (4)
 24 preceding years.

25 (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of
 26 employment in mining" and "percentage of earnings from mining" shall be
 27 provided by the Office of Employment and Training in the Education and

1 Workforce Development Cabinet, and "surplus labor rate" shall be the rate
2 published for the latest available five (5) year period by the Office of
3 Employment and Training as provided in paragraph (b) of this subsection.

4 (b) 1. Each year the Office of Employment and Training shall estimate surplus
5 labor for each county and for the Commonwealth and shall annually
6 publish an estimate of the surplus labor rate for each county and the
7 Commonwealth.

8 2. The estimate of surplus labor for each county and for the
9 Commonwealth shall be made using the best practical method available
10 at the time the estimates are made. In determining the method to be
11 adopted, the Office of Employment and Training may consult with
12 knowledgeable individuals, including but not limited to the Office of the
13 United States Bureau of Labor Statistics, state and national researchers,
14 state and local officials, and staff of the Legislative Research
15 Commission. The description of the method used to estimate surplus
16 labor shall be reported in each annual publication provided for in
17 subparagraph 1. of this paragraph.

18 3. For purposes of this section, "surplus labor" means the total number of
19 residents who can be classified as unemployed or as discouraged
20 workers, and "surplus labor rate" means the percentage of the potential
21 civilian labor force which is surplus labor.

22 (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1)
23 of this section shall retain their identity with respect to the county to which they are
24 attributable, and a separate accounting of available moneys within the fund shall be
25 maintained for the respective counties. Accounting for funds allocated under the
26 provisions of this section shall be by the Department for Local Government.

27 ➔Section 4. KRS 42.4595 is amended to read as follows:

1 The Department for Local Government may promulgate administrative regulations to
2 implement the provisions of KRS~~[42.4582, 42.4585,]~~ 42.4592~~[,]~~ and KRS 42.4588 as it
3 relates to KRS 42.4592(1)(a) and (b). The Cabinet for Economic Development or the
4 Kentucky Economic Development Finance Authority may promulgate administrative
5 regulations to implement the provisions of KRS 42.4588 as it relates to KRS
6 42.4592(1)(c).

7 ➔Section 5. KRS 42.470 is amended to read as follows:

8 Moneys in the local government economic assistance fund shall be allocated among the
9 counties as follows:

10 (1) Funds allocated under *Section 1 of this Act* ~~[KRS 42.4585]~~:

11 (a) Sixty percent (60%) shall be distributed to each coal producing county on the
12 basis of the ratio of coal severed in each respective county to the coal severed
13 statewide.

14 (b) Thirty percent (30%) shall be distributed to each coal producing county on the
15 basis of per capita income (inverse order), ton miles of resource roads and
16 population, equally weighted.

17 (c) Ten percent (10%) shall be distributed to non-coal producing counties
18 impacted by the transport of coal on the basis of geographic area, ton miles of
19 resource roads, and per capita income (inverse order), weighted on a basis of
20 30/100, 40/100, and 30/100, respectively. The expenditure of such funds shall
21 be limited to the categories of projects set out in KRS 42.455(2)(c). All
22 counties shall receive an annual payment based on the average of total ton
23 miles within the county during the most recent three (3) year period. To
24 qualify for the funds distributed under the provisions of this paragraph, a
25 county must have within its geographic boundaries in any single year twenty-
26 five hundredths of one percent (0.25%) of the total ton miles within coal
27 impact counties during the most recent three (3) year period.

- 1 (2) (a) All funds allocated under KRS 42.450(2) shall be distributed among the
2 mineral producing counties on the basis of the tax collected on minerals
3 severed in each respective county.
- 4 (b) In no event shall the amount of funds distributed to a mineral producing
5 county, and to the incorporated areas within that county under KRS 42.475, in
6 any given quarter be reduced by greater than fifty percent (50%) as a result of
7 any refund of the tax imposed on the severance and processing of minerals. If
8 a refund of tax occurs and a county's allocated share of the refund amount is
9 greater than fifty percent (50%) of the quarterly distribution due that county
10 and its incorporated areas, the remainder shall carry forward to be offset in
11 successive quarters as necessary until it is satisfied in full.

12 ➔Section 6. KRS 143.040 is amended to read as follows:

13 The Department of Revenue shall administer the provisions of this chapter and shall ~~be~~
14 ~~subject to the provisions of KRS 143.090,~~ have all the powers, rights, duties, and
15 authority with respect to promulgation of rules and regulations, assessment, collection,
16 refunding and administration of the taxes levied by this chapter conferred generally on it
17 by the Kentucky Revised Statutes including Chapters 131, 134, and 135 of such statutes.

18 ➔Section 7. KRS 154.27-010 is amended to read as follows:

19 As used in this subchapter:

- 20 (1) "Activation date" means the date on which an approved company begins incurring
21 recoverable costs or engaging in recoverable activity pursuant to the tax incentive
22 agreement. The activation date shall be set forth in the tax incentive agreement and
23 shall be a date within five (5) years of the date of final approval of the tax incentive
24 agreement. The authority may extend the five (5) year period to no more than seven
25 (7) years upon written application for an extension by the approved company. To
26 implement the activation date, the approved company shall notify the authority of
27 its intent to activate the tax incentives authorized in the tax incentive agreement.

1 The activation date shall apply to all incentives included in the tax incentive
2 agreement regardless of whether the approved company has met the requirements to
3 receive all incentives at that time. If the approved company does not implement the
4 activation date before the date established in the tax incentive agreement, the
5 activation date shall be the date established in the tax incentive agreement;

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

7 (3) (a) "Alternative fuel 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 alternative transportation fuels. For a retrofit of an existing facility, the new
12 modification or addition within the facility shall primarily produce alternative
13 transportation fuel for sale.

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

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

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

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

24 (7) "Base amount" means the tons of coal, thousand (1000) cubic foot units (Mcf) of
25 natural gas, or gallons of natural gas liquids purchased and used or severed and used
26 by the approved company as feedstock for an eligible project during the twelve (12)
27 months prior to the month in which the approved company first begins receiving

1 incentives under KRS~~[143.024 or]~~ 143A.025~~[, and 154.27-060]~~, that were subject
2 to the tax imposed by KRS 143.020 or 143A.020;

3 (8) "Biomass resources" has the same meaning as in KRS 152.715;

4 (9) (a) "Capital investment" means:

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

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

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

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

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

23 6. All other costs of a nature comparable to those described in this
24 subsection.

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

- 1 (10) "Carbon capture ready" means planning for or anticipating capture of carbon
2 dioxide in a manner to facilitate continued operation of the facility in compliance
3 with applicable federal requirements;
- 4 (11) "Carbon dioxide transmission pipeline" means the in-state portion of a pipeline,
5 including appurtenant facilities, property rights, and easements, that is used
6 exclusively for the purpose of transporting carbon dioxide to a point of sale, storage,
7 or other carbon management applications;
- 8 (12) "Center for Applied Energy Research" means the University of Kentucky Center for
9 Applied Energy Research;
- 10 (13) "Commonwealth" means the Commonwealth of Kentucky;
- 11 (14) "Construction period" means the period beginning with the activation date of the
12 eligible project and ending on a date set forth in the tax incentive agreement, which
13 shall be no later than five (5) years from the activation date;
- 14 (15) "Department" means the Department of Revenue;
- 15 (16) "Eligible project" means:
- 16 (a) An alternative fuel facility or a gasification facility meeting the investment
17 requirements of KRS 154.27-020;
- 18 (b) An energy-efficient alternative fuel facility meeting the investment
19 requirements of KRS 154.27-020;
- 20 (c) A renewable energy facility meeting the investment requirements of KRS
21 154.27-020; or
- 22 (d) A carbon dioxide transmission pipeline meeting the investment requirements
23 of KRS 154.27-020;
- 24 (17) "Energy-efficient alternative fuel facility" means a facility located in Kentucky that
25 is newly constructed on or after August 30, 2010, or an existing facility located in
26 Kentucky that is retrofitted or upgraded on or after August 30, 2010, and that, after
27 the new construction, retrofit, or upgrade, will produce for sale energy-efficient

1 alternative fuels. For a retrofit of an existing facility, the new modification or
2 addition within the facility shall produce for sale energy-efficient alternative fuels;

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

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

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

8 (19) "Estimated labor component" means the projected percentage of the total capital
9 investment attributable to labor;

10 (20) (a) "Facility" means a single location within the Commonwealth at which
11 machinery and equipment are used in a manufacturing process that transforms
12 raw materials into a product with commercial value.

13 1. The facility shall include the physical plant structure where the
14 manufacturing process occurs and machinery and equipment within the
15 physical plant structure.

16 2. The facility may include:

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

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

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

25 d. The in-state portion of a pipeline, including appurtenant facilities,
26 property rights, and easements, if the exclusive purpose of the
27 pipeline is to transport carbon dioxide from the facility to a point

1 of sale, storage, or other carbon management applications.

2 (b) "Facility" shall not include any mining operations, or drilling and production
3 operations for natural gas;

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

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

10 1. Alternative transportation fuels;

11 2. Synthetic natural gas;

12 3. Chemicals;

13 4. Chemical feedstocks; or

14 5. Liquid fuels;

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

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

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

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

26 (25) "Post-construction incentives" means the incentives available under KRS 154.27-
27 060 and 154.27-080;

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

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

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

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

13 (27) "Resident" has the same meaning as in KRS 141.010;

14 (28) "Retrofit" means a modification or addition to an existing facility that results in the
15 production of a new and different product or uses a new or different process to
16 produce the same product at the facility. Modifications or additions to a facility that
17 maintain, restore, mend, or repair a facility shall not be considered a retrofit of the
18 facility, and shall not be considered part of the capital investment if undertaken at
19 the same time as a retrofit;

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

21 (30) "Tax incentive agreement" means an agreement entered into in accordance with
22 KRS 154.27-040;

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

25 (32) "Upgrade" means an investment in an existing facility that results in an increase in
26 the productivity of the facility. Increased productivity shall be measured in relation
27 to the type of products that are required to be produced by that facility to be an

1 eligible project.

2 ➔Section 8. KRS 154.27-020 is amended to read as follows:

3 (1) This subchapter shall be known as the "Incentives for Energy Independence Act."

4 (2) The General Assembly hereby finds and declares that it is in the best interest of the
5 Commonwealth to induce the location of innovative energy-related businesses in
6 the Commonwealth in order to advance the public purposes of achieving energy
7 independence, creating new jobs and new investment, and creating new sources of
8 tax revenues that but for the inducements to be offered by the authority to approved
9 companies would not exist.

10 (3) The purpose of this subchapter is to assist the Commonwealth in moving to the
11 forefront of national efforts to achieve energy independence by reducing the
12 Commonwealth's reliance on imported energy resources. The provisions of this
13 subchapter seek to accomplish this purpose by providing incentives for companies
14 that, in a carbon capture ready manner, construct, retrofit, or upgrade facilities for
15 the purpose of:

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

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

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

21 (d) Generating electricity for sale through alternative methods such as solar
22 power, wind power, biomass resources, landfill methane gas, hydropower, or
23 other similar renewable resources.

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

26 (a) For an alternative fuel facility or gasification facility that uses oil shale, tar
27 sands, or coal as the primary feedstock, the minimum capital investment shall

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

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

1 approved by the authority.

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

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

11 ➔Section 9. KRS 154.27-040 is amended to read as follows:

12 The terms and conditions of the tax incentive agreement shall be negotiated between the
13 authority and the approved company. The tax incentive agreement may include one (1) or
14 more of the incentives available under this subchapter or any combination of the
15 incentives as negotiated between the authority and the approved company. The tax
16 incentive agreement shall include but not be limited to the following provisions:

- 17 (1) The duties and responsibilities of the parties;
- 18 (2) The specific identification of incentives included in the tax incentive agreement,
19 including the permissible percentage recovery under each included incentive;
- 20 (3) A detailed description of the eligible project, including an estimate of the capital
21 investment;
- 22 (4) If the eligible project is an alternative fuel facility or a gasification facility, a
23 requirement that the facility be carbon capture ready;
- 24 (5) The minimum capital investment required and the maximum capital investment that
25 may be recovered;
- 26 (6) The time within which the minimum capital investment shall be made;
- 27 (7) The activation date and the termination date. The agreement shall commence on the

- 1 activation date and shall terminate upon the earlier of full receipt of the maximum
2 amount of incentives by the approved company or twenty-five (25) years from the
3 activation date;
- 4 (8) A target percentage of the workforce that is Kentucky residents during the
5 construction, retrofit, or upgrade of the facility, and at the facility upon completion
6 of construction;
- 7 (9) If the wage assessment permitted by KRS 154.27-080 is included, the percentage
8 rate at which the assessment shall be imposed;
- 9 (10) If the advance disbursement employment incentive permitted by KRS 154.27-090 is
10 included:
- 11 (a) The estimated labor component and the estimated Kentucky resident factor as
12 determined under KRS 154.27-090;
- 13 (b) A schedule for the disbursement of funds during the construction period;
- 14 (c) A provision that requires a reduction or adjustment in the receipt of post-
15 construction incentives for which the approved company is eligible under the
16 tax incentive agreement until the advance disbursement has been repaid by the
17 approved company;
- 18 (d) A provision addressing an alternate payment method if the incentives are not
19 sufficient to repay the advance disbursement; and
- 20 (e) A repayment schedule that includes the amount of reduction, the incentives
21 the reduction shall apply to, the amount of interest due, the time period over
22 which the advance disbursement amount shall be recouped, and the amount
23 that shall be recouped in each year. To the extent possible, the repayment
24 schedule shall include uniform incremental payments;
- 25 (11) That the approval of the company is not a guarantee of incentives and that actual
26 receipt of the incentives shall be contingent on the approved company filing the
27 required requests for incentives and meeting the requirements established by the tax

1 incentive agreement and by KRS 139.517, 141.421~~], 143.024, 154.27-060],~~ 154.27-
2 070, 154.27-080, and 154.27-090 that apply to the incentives included;

3 (12) That the approved company shall provide the authority with documentation of
4 capital expenditures in a manner acceptable to the authority;

5 (13) Negotiated terms relating to repayment or similar remedies for incentives received
6 prior to the completion of construction if the approved company fails to comply
7 with the terms of the tax incentive agreement;

8 (14) That, if the authority determines that the approved company has failed to comply
9 with any of its obligations under the tax incentive agreement:

10 (a) The authority shall have the right to suspend the incentives available to the
11 approved company;

12 (b) Both the authority and the department shall have the right to pursue any
13 remedy provided under the tax incentive agreement;

14 (c) The authority may terminate the tax incentive agreement; and

15 (d) Both the authority and the department may pursue any other remedy at law to
16 which it may be entitled;

17 (15) A requirement that the authority monitor the tax incentive agreement;

18 (16) A requirement that the approved company provide to the authority the information
19 necessary to monitor the tax incentive agreement and authorization for the authority
20 to share that information with the Department of Revenue, the Office of Energy
21 Policy, or any other entity the authority determines is necessary for the purposes of
22 monitoring and enforcing the terms of the tax incentive agreement; and

23 (17) Any other provisions not inconsistent with this subchapter and determined to be
24 necessary or appropriate by the parties to the tax incentive agreement.

25 ➔Section 10. KRS 154.27-060 is amended to read as follows:

26 (1) ~~[(a) Notwithstanding any other provision of KRS 134.580 or KRS Chapter 143, an~~
27 ~~approved company that purchases or severs coal that:~~

- 1 1. ~~Is subject to the tax imposed under KRS 143.020; and~~
2 2. ~~Is used by the approved company exclusively as feedstock for an~~
3 ~~alternative fuel facility, energy efficient alternative fuel facility, or a~~
4 ~~gasification facility;~~
5 ~~— may be eligible for an incentive in an amount up to eighty percent (80%) of~~
6 ~~the taxes paid pursuant to KRS 143.020 on coal purchased or severed by the~~
7 ~~approved company that is above the base amount.~~

8 ~~(b)~~ Notwithstanding any other provision of KRS 134.580 or KRS Chapter 143A,
9 an approved company that purchases or severs natural gas or natural gas
10 liquids on or after August 1, 2010, that:

11 ~~(a)~~¹ Is subject to the tax imposed under KRS 143A.020; and

12 ~~(b)~~² Is used by the approved company exclusively as feedstock for an
13 alternative fuel facility described in KRS 154.27-020(4)(d);
14 may be eligible for an incentive in an amount up to eighty percent (80%) of the
15 taxes paid pursuant to KRS 143A.020 on natural gas or natural gas liquids
16 purchased or severed by the approved company that is above the base amount.

17 (2) An approved company that has purchased or severed coal subject to the tax imposed
18 under KRS 143.020 or purchased or severed natural gas or natural gas liquids
19 subject to the tax imposed under KRS 143A.020 prior to the execution of a tax
20 incentive agreement shall not create an affiliate, subsidiary, corporation, or other
21 related entity that would result in a base amount of zero (0).

22 (3) The incentive may be requested beginning in the first calendar year after the
23 construction of a new facility or the upgrade or retrofit of an existing facility is
24 completed.

25 (4) Upon completion of the construction of a new alternative fuel facility, energy-
26 efficient alternative fuel facility, or gasification facility or the retrofit or upgrade of
27 an existing facility, an approved company shall notify the authority and the

1 department.

2 (5) The approved company may obtain the incentive on an annual basis by filing a
3 request for the incentive with the department as provided in KRS 143.024.

4 (6) The department shall notify the authority of the incentives requested and the
5 incentives distributed, upon request of the authority.

6 ➔Section 11. KRS 164.7890 is amended to read as follows:

7 (1) To ensure the public health purpose of access to pharmaceutical services in the coal-
8 producing counties of the Commonwealth, which have been traditionally
9 underserved for pharmaceutical services due to a shortage of pharmacists in the
10 Commonwealth, the General Assembly hereby establishes a coal county scholarship
11 program to provide eligible Kentucky students the opportunity to attend an
12 accredited school of pharmacy or a provisionally accredited school of pharmacy in
13 the Commonwealth, and to become certified pharmacists in the Commonwealth,
14 provided that the scholarship recipient agrees to practice pharmacy in a coal-
15 producing county for each year a scholarship is provided.

16 (2) "Coal-producing county" as used in this section has the same meaning as in KRS
17 42.4592(1)(c).

18 (3) The authority may award scholarships, to the extent funds are available for that
19 purpose, to any person who:

20 (a) Is a Kentucky resident;

21 (b) Is considered a permanent resident of a coal-producing county for at least one
22 (1) year immediately preceding July 1 of the academic year in which the
23 scholarship is made for students who first receive a scholarship under this
24 section on or after July 1, 2014;

25 (c) Is a United States citizen as determined by the institution in accordance with
26 criteria established by the Council on Postsecondary Education for the
27 purposes of admission and tuition assessment;

- 1 (d) Is enrolled or accepted for enrollment in a Pharm.D. program at an accredited
2 institution or a provisionally accredited institution in the Commonwealth on a
3 full-time basis, or is a student who has a disability defined by Title II of the
4 Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a
5 licensed physician to be unable to attend the eligible program of study full-
6 time because of the disability;
- 7 (e) Agrees to render one (1) year of qualified service in a coal-producing county
8 of the Commonwealth for each year the scholarship was awarded. "Qualified
9 service" means a full-time practice in a coal-producing county of the
10 Commonwealth of Kentucky as a licensed pharmacist for a majority of the
11 calendar year, except that an individual having a disability defined by Title II
12 of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose
13 disability, certified by another licensed physician, prevents him or her from
14 practicing full-time, shall be deemed to perform qualified service by
15 practicing the maximum time permitted by the attending physician, in the
16 coal-producing county; and
- 17 (f) Agrees to sign a promissory note as evidence of the scholarship awarded and
18 the obligation to repay the scholarship amount or render pharmacy service as
19 agreed in lieu of payment.
- 20 (4) (a) Notwithstanding KRS 164.753(3), the amount of the scholarship shall not
21 exceed forty percent (40%) of the approximate average of first professional
22 year in-state tuition for all pharmacy schools in the United States. The
23 authority shall establish, by administrative regulation a procedure for
24 awarding scholarships which shall give preference to students residing in coal-
25 producing counties and which shall establish procedures to award scholarships
26 should funding be insufficient to award scholarships to all eligible students.
27 The authority may also, by administrative regulation, establish scholarship

- 1 amounts based on demonstration of initial financial need by eligible students.
- 2 (b) The actual amount of the scholarship awarded to each eligible student by the
3 authority for each semester shall be based on the amount of funds available
4 and the criteria established under paragraph (a) of this subsection.
- 5 (5) (a) The authority shall require each student receiving a scholarship to execute a
6 promissory note as evidence of the obligation.
- 7 (b) The recipient shall render one (1) year of qualified service in a coal-producing
8 county for each year the scholarship was awarded. Upon completion of each
9 year of qualified service in a coal-producing county, the authority shall cancel
10 the appropriate number of promissory notes. Promissory notes shall be
11 canceled by qualified service in the order in which the promissory notes were
12 executed. Service credit shall not include residency service.
- 13 (c) If a recipient fails to complete an eligible program of study, or fails to render
14 service as a pharmacist as agreed in this subsection, the recipient shall be
15 liable for the total repayment of the sum of all outstanding promissory notes
16 and accrued interest.
- 17 (6) Any person who is in default on any obligation to the authority under any program
18 administered by the authority under KRS 164.740 to 164.785 shall not be awarded a
19 scholarship or have a promissory note canceled until all financial obligations to the
20 authority are satisfied, except that ineligibility for this reason may be waived by the
21 authority for cause.
- 22 (7) A repayment obligation imposed by this section shall not be voidable by reason of
23 the age of the recipient at the time of executing the promissory note.
- 24 (8) Failure to meet repayment obligations imposed by this section shall be cause for the
25 revocation of the scholarship recipient's license to practice pharmacy, subject to the
26 procedures set forth in KRS Chapter 311.
- 27 (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative

1 regulation procedures for the administration of this program, including but not
2 limited to the execution of appropriate contracts and promissory notes, cancellation
3 of obligations, the rate of repayment, and deferment of repayment of outstanding
4 debt.

5 (10) Notwithstanding any other statute to the contrary, the maximum interest rate
6 applicable to repayment of a promissory note under this section shall be twelve
7 percent (12%) per annum, except that if a judgment is rendered to recover payment,
8 the judgment shall bear interest at the rate of five percent (5%) greater than the rate
9 actually charged on the promissory note.

10 (11) (a) The coal county pharmacy scholarship fund is hereby created as a revolving
11 fund in the State Treasury to be administered by the Kentucky Higher
12 Education Assistance Authority for the purpose of providing scholarships to
13 qualifying students studying pharmacy in schools in the Commonwealth.

14 (b) The fund shall consist of ~~amounts transferred from coal severance tax~~
15 ~~receipts as provided in paragraph (c) of this subsection and any other]~~
16 proceeds from grants, contributions, appropriations, or other moneys made
17 available for the fund.

18 ~~[(c) 1. Receipts from the coal severance tax levied under KRS 143.020 shall be~~
19 ~~transferred to the fund on an annual basis in an amount not to exceed the~~
20 ~~lesser of:~~

21 ~~a. Four percent (4%) of the total annual coal severance tax revenues~~
22 ~~collected under KRS 143.020; or~~

23 ~~b. The amount necessary to provide full funding for all students who~~
24 ~~qualify for a scholarship under this section, considering all other~~
25 ~~resources available.]~~

26 ~~[2. Transfers required by subparagraph 1. of this paragraph shall be made as~~
27 ~~follows:~~

1 a.—~~On or before August 1 of each year, sixty five percent (65%) of the~~
2 ~~amount of funding provided for in this paragraph shall be~~
3 ~~transferred to the fund; and~~

4 b.—~~The remaining thirty five percent (35%) shall be transferred on or~~
5 ~~before December 1 of each year.~~

6 3.—~~The amount transferred shall be based upon the prevailing revenue~~
7 ~~estimate for coal severance tax receipts at the time each transfer is~~
8 ~~made.]~~

9 (d) Any unallotted or unencumbered balances in the trust fund shall be invested as
10 provided in KRS 42.500(9).

11 (e) Income earned from the investments shall be credited to the trust fund.

12 (f) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year
13 shall not lapse but shall be transferred to the Osteopathic Medicine
14 Scholarship Program described in KRS 164.7891 within ninety (90) days of
15 the end of the fiscal year.

16 (g) All amounts included in the fund shall be continuously appropriated only for
17 the purposes specified in this section.

18 (h) A general statement that all continuing appropriations are repealed,
19 discontinued, or suspended shall not operate to repeal, discontinue, or suspend
20 this fund or to repeal this action.

21 (i) All moneys repaid to the authority under this section shall be added to the
22 fund.

23 ➔Section 12. KRS 164.7891 is amended to read as follows:

24 (1) It is the intent of the General Assembly to establish a scholarship program to
25 provide eligible Kentucky students the opportunity to attend an accredited
26 osteopathic school of medicine located in the Commonwealth and become certified
27 practitioners rendering medical service in the Commonwealth.

- 1 (2) The Kentucky Higher Education Assistance Authority may award scholarships, to
2 the extent funds are available for that purpose, to persons who declare an intent to
3 become osteopaths and practice in the Commonwealth and who are eligible under
4 subsection (4) of this section.
- 5 (3) The authority may award scholarships to students who meet the following criteria:
- 6 (a) Kentucky residents who are United States citizens as determined by the
7 institution in accordance with criteria established by the Council on
8 Postsecondary Education for the purposes of admission and tuition
9 assessment;
- 10 (b) Students who are enrolled or accepted for enrollment in an eligible program of
11 study accredited by the Bureau of Professional Education of the American
12 Osteopathy Association or its successor, on a full-time basis, or eligible
13 students who have a disability defined by Title II of the Americans with
14 Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed
15 physician to be unable to attend the eligible program of study full-time
16 because of the disability;
- 17 (c) Students who agree to render one (1) year of qualified service in the
18 Commonwealth for each year the scholarship was awarded. "Qualified
19 service" means a full-time practice in the Commonwealth of Kentucky as a
20 licensed doctor of osteopathy for a majority of the calendar year in the fields
21 of family practice, general practice, general internal medicine, general
22 pediatrics, general obstetrics, or gynecology, except that an individual having
23 a disability defined by Title II of the Americans with Disabilities Act, 42
24 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed
25 physician, prevents him or her from practicing full-time, shall be deemed to
26 perform qualified service by practicing the maximum time permitted by the
27 attending physician; and

- 1 (d) Students who sign a promissory note as evidence of the scholarship awarded
2 and the obligation to repay the scholarship amount or render medical service
3 as agreed in lieu of payment.
- 4 (4) The amount of the scholarship awarded to an eligible student by the authority shall
5 be equal to the difference between:
- 6 (a) The average of the prevailing amount charged for in-state tuition at the
7 University of Kentucky School of Medicine and the University of Louisville
8 School of Medicine; and
- 9 (b) The prevailing amount charged for tuition at the osteopathic school of
10 medicine in which the student is enrolled.
- 11 (5) The authority shall require a promissory note to be executed by the student as
12 evidence of the obligation. The recipient shall render one (1) year of qualified
13 service for each year the scholarship was awarded. Upon completion of each year of
14 qualified service, the authority shall cancel the appropriate number of promissory
15 notes. Promissory notes shall be canceled by qualified service in the order in which
16 the promissory notes were executed. Service credit shall not include residency
17 service. In the event a recipient fails to complete an eligible program of study, or
18 fails to render qualified medical service as a primary care physician as agreed in
19 subsection (3) of this section, the recipient shall be liable for the total repayment of
20 the sum of all outstanding promissory notes and accrued interest.
- 21 (6) A scholarship shall not be awarded or a promissory note cancellation shall not be
22 granted to any person who is in default on any obligation to the authority under any
23 program administered by the authority under KRS 164.740 to 164.785 until
24 financial obligations to the authority are satisfied, except that ineligibility for this
25 reason may be waived by the authority for cause.
- 26 (7) A repayment obligation imposed by this section shall not be voidable by reason of
27 the age of the recipient at the time of executing the promissory note.

- 1 (8) Failure to meet repayment obligations imposed by this section shall be cause for the
2 revocation of the scholarship recipient's license to practice medicine, subject to the
3 procedures set forth in KRS Chapter 311.
- 4 (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative
5 regulation procedures or the terms of promissory notes for the administration of this
6 program, including the execution of appropriate contracts and promissory notes,
7 cancellation of the obligation, the rate of repayment and deferment of repayment of
8 outstanding debt, and the priority of awarding scholarships if funds are insufficient
9 to honor all requests.
- 10 (10) Notwithstanding any other statute to the contrary, the maximum interest rate
11 applicable to repayment of a promissory note under this section shall be twelve
12 percent (12%) per annum, except that if a judgment is rendered to recover payment,
13 the judgment shall bear interest at the rate of five percent (5%) greater than the rate
14 actually charged on the promissory note.
- 15 (11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a
16 special trust fund in the State Treasury administered by the Kentucky Higher
17 Education Assistance Authority for the purpose of providing funds for
18 scholarships to eligible students studying osteopathic medicine in schools in
19 the Commonwealth.
- 20 (b) ~~Funding shall be transferred to the special trust fund from the coal severance~~
21 ~~tax revenues levied under KRS 143.020 in an amount that permits each~~
22 ~~Kentucky resident eligible under subsection (3) of this section to be awarded a~~
23 ~~scholarship in the amount established under subsection (4) of this section. No~~
24 ~~more than four percent (4%) of the coal severance tax revenues levied under~~
25 ~~KRS 143.020 and collected annually shall be transferred to the trust fund.]To~~
26 ~~the extent[this appropriation and other] funds are available, the authority shall~~
27 award scholarships to all renewal applicants and eligible students in

1 accordance with the formula for determining the amount of the scholarship
2 award established in this section.

3 (c) The trust fund may~~[-also]~~ receive state appropriations, gifts, and grants from
4 public and private sources, and federal funds. Any unallotted or
5 unencumbered balances in the trust fund shall be invested as provided in KRS
6 42.500(9). Income earned from the investments shall be credited to the trust
7 fund. Any fund balance at the close of the fiscal year shall not lapse but shall
8 be carried forward to the next fiscal year and continuously appropriated only
9 for the purposes specified in this section. A general statement that all
10 continuing appropriations are repealed, discontinued, or suspended shall not
11 operate to repeal, discontinue, or suspend this fund or to repeal this section.

12 (d) All moneys repaid to the authority under this section shall be added to the
13 appropriations made for purposes of this section, and the funds and
14 unobligated appropriations shall not lapse.

15 ~~[(12) On or before August 1 of each year, sixty five percent (65%) of the amount of
16 funding provided in subsection (11)(b) of this section shall be transferred to the
17 special trust fund and the remaining thirty five percent (35%) shall be transferred on
18 or before December 1 of each year. The revenue transfers shall be based upon the
19 revenue estimates prevailing at the time each transfer is due.]~~

20 ➔Section 13. The following KRS sections are repealed:

21 42.4585 Transfers from local government economic development fund to local
22 government economic assistance fund -- Schedule of transfers.

23 143.023 Limitation of tax on coal severance for coal used in burning solid waste.

24 143.024 Tax incentive for purchase or severance of coal used in alternative fuel or
25 gasification facility.

26 143.090 Revenue credited to road fund and Office of Energy Policy.

27 ➔Section 14. This Act applies to periods beginning on or after July 1, 2019.