Sen. David Koehler

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AMENDMENT TO SENATE BILL 41

AMENDMENT NO. ______. Amend Senate Bill 41 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Clean Transportation Standard Act.

Section 5. Findings. The General Assembly finds that:

(1) The transportation sector in this State is a leading source of criteria air pollutants and greenhouse gas emissions, which collectively endanger public health and welfare by causing and contributing to increased air pollution and climate change.

(2) Shifting from petroleum-based transportation fuels to alternative fuels has the potential to significantly reduce transportation emissions of air pollutants and greenhouse gases and is recommended by the Intergovernmental Panel on Climate Change as an important

pathway for holding global warming at 1.5 degrees Celsius. A clean transportation standard would promote innovation in, and production and use of, nonpetroleum fuels that reduce vehicle-related and fuel-related air pollution that endangers public health and welfare and disproportionately impacts disadvantaged communities.

(3) Credits generated through the use of clean fuel under this Act will promote innovation and investment in clean fuels.

(4) Some of the most fertile soils in the world are found in the State, with the State boasting the productive silty clay loam soil, and with a majority of the cropland in the State being considered prime farmland.

(5) State fertile soils, however, are subject to ongoing degradation as soil erosion has contributed to the loss of fertile topsoil we need to grow crops.

(6) Sustainable agriculture can be used to restore the State's degraded soils to counteract loss of topsoil in recent years.

(7) An agricultural credit program will work to restore degraded soils and to produce soil health benefits accrued to the people of the State.

Section 10. Definitions. As used in this Act:

"Advance credits" refers to credits advanced under this Act for actions that will result in real reductions of the carbon intensity of the State's transportation fuels.

"Agency" means the Environmental Protection Agency.

"Aggregator" or "credit aggregator" means any party other than a deficit generator that offers to purchase credits from one or more credit generators or on-farm credit generators for resale to deficit generators.

"Alternative compliance credit" means a credit made available at the price cap for compliance purposes and in accordance with the provisions of paragraphs (4) and (5) of subsection (a) of Section 20.

"Automatic adjustment mechanism" means a mechanism which advances all subsequent annual carbon intensity standards by one year or reduces all subsequent annual carbon intensity standards by 50% when conditions are met as specified in Section 20.

"Aviation fuel" means a fuel suitably blended to be used in aviation engines.

"Backstop aggregator" means a qualified nonprofit entity approved by the Agency to aggregate credits for electricity used as a transportation fuel when those credits would not otherwise be generated.

"Board" means the Pollution Control Board.

"Carbon intensity" means the amount of life cycle greenhouse gas emissions per unit of fuel energy expressed in grams of carbon dioxide equivalent per megajoule.

"Clean fuel" means a transportation fuel that is domestically produced and has a carbon intensity below the clean transportation standard carbon intensity standard in a given year.

"Clean transportation standard" means the standard adopted by the Board under Section 15 for the reduction, on average, of life cycle carbon intensity of fuels used for on-road transportation.

"Consumer Price Index for All Urban Consumers" or "CPI-U" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services, United States city average, all items.

"Credit" means a unit of measure generated when clean fuel is provided for use in this State, such that one credit is equal to one metric ton of carbon dioxide equivalent.

"Credit generator" means an individual or entity, other than an on-farm credit generator, that has registered, on a mandatory or permissive basis, to participate in the clean transportation standard and generates a credit.

"Committee" means the Clean Transportation Standard Agricultural Committee created under Section 20.

"Deficit" means a unit of measure generated when a fuel provided in this State has a carbon intensity that exceeds the clean transportation standard for the applicable year, expressed in metric tons of carbon dioxide equivalent.

"Deficit generator" means an individual or entity that has registered, on a mandatory or permissive basis, to participate in the clean transportation standard and generates a deficit.

"Fuel" means any one or more of the following that is used to power vehicles or equipment for the purpose of transportation: electricity or a liquid, gaseous, or blended fuel, including gasoline, diesel, liquefied petroleum gas, natural gas, or hydrogen.

"Fuel pathway" means a detailed description of all stages of a transportation fuel's production and use, including feedstock growth, extraction, processing, transportation, distribution, and combustion or use by an end user.

"Life cycle carbon intensity" means the quantity of greenhouse gas emissions per unit of energy, expressed in carbon dioxide equivalent per megajoule, emitted by the fuel, including both direct and indirect sources, as calculated by the Agency under paragraph (2) of subsection (a) of Section 20 using the methods described under Section 30.

"Military tactical vehicle" means a motor vehicle owned by the U.S. Department of Defense or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

"On-farm credit generator" means the person who has registered on a permissive basis and assumes the variable cost and risk of on-farm best practices and standards that generates credits and implements those practices on acreage in the State.

"Petroleum-only portion" means the component of gasoline or diesel fuel before blending with ethanol, biodiesel, biofuel, or other clean fuel.

"Provider" means:

(1) with respect to any liquid fuel, hydrogen fuel, and renewable propane used as a fuel source for transportation, the person who refines, produces, or imports the fuel;

(2) with respect to any biomethane, the person who imports or produces, refines, treats, or otherwise processes biogas into biomethane used as a fuel source for transportation;

(3) with respect to electricity used as a fuel source for transportation, the person who is the direct provider of electricity, the electric vehicle charging service provider, the electric utility, the electric vehicle fleet operator, the electric vehicle manufacturer, and the owners or operators of charging stations located on commercial property; or

(4) with respect to other types of fuel, a person determined to be the provider by the Agency.

"Provider" does not include the owner or operator of a residential charging station.

"Sustainable aviation fuel" means an aviation fuel with a carbon intensity sufficient to generate credits under the clean transportation standard upon its production or supply.

"Tactical support equipment" means equipment using a portable engine, including turbines, that meets military specifications, is owned by the U.S. Department of Defense or the U.S. military services or its allies, and is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. "Tactical support equipment" includes, but is not limited to, engines associated with portable generators, aircraft start carts, heaters, and lighting carts.

Section 15. Rulemaking, implementation, and baseline calculations for clean transportation standard.

(a) To the extent allowed by federal law, within 24 months after the effective date of this Act, the Agency shall propose and the Board shall adopt rules in accordance with Section 20 establishing a clean transportation standard in order to reduce, after a 12-month implementation period for a clean transportation standard, within 10 years of the adoption of the Agency's rules by the Board, the life cycle carbon intensity of fuels for the ground transportation sector by 25% below the 2019 baseline level as calculated under this Section. Immediately after rules establishing a clean transportation standard are adopted by the Board, the Agency shall open a 12-month implementation period for credit generators, deficit generators, and on-farm credit generators to register in the clean transportation standard as required under this Act and in accordance with the adopted rules. All entities must be in compliance with the rules by the end of the second year after the effective date of this Act. After the 25% reduction described in this Section is attained, the Agency shall prepare a report that proposes further reductions in the life cycle carbon intensity of fuels for the ground transportation sector for the following 10 years. The report prepared by the Agency shall include proposed changes to this Act that are required to implement those reductions. The rules proposed and adopted shall be subject to public notice and comment under the Illinois Administrative Procedure Act. The Board may recommend to the General Assembly reductions to the clean transportation standard below those adopted in accordance with this Act, using factors, including, but not limited to, advances in clean fuel technology. The rules adopted by the Board under this Section shall include fees for the registration of credit generators, deficit generators, and on-farm credit generators to offset the costs incurred by the Board and the Agency that are associated with implementing the clean transportation standard. These fees shall be used only in connection with the administration of clean transportation standards and may be levied differently for credit generators, deficit generators, and on-farm credit generators.

(b) Prior to proposing the rules establishing the clean transportation standard, the Agency shall solicit feedback from and consult with the Clean Transportation Standard Advisory Council made up of the following members, to be appointed within 90 days after the effective date of this Act by the Governor, in consultation with the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives, as follows: one representative from the fuel production industry; one representative from the renewable fuel industry; one representative from the transportation industry; one representative from the State's largest general farm organization; one representative from an organization representing the State's largest feedstock used for biofuel production; one representative from an environmental advocacy organization; one representative from an organization representing utilities and power generation companies; one representative of a labor organization; one representative from an impacted environmental justice community, as defined in Section 801-10 of the Illinois Finance Authority Act; one representative from the Department of Agriculture; and one representative from the Department of Transportation. The Clean Transportation Standard Advisory Council shall meet at least once every 6 months with the Agency during the development of clean transportation standard rules. The Agency shall include or address the feedback received from the advisory committee in the proposed rules.

(c) The Agency shall calculate the baseline carbon intensities of the petroleum-only portion of all transportation fuels produced or imported in 2019 for use in this State by, in accordance with Section 30:

(1) reviewing and considering the best available applicable scientific data and calculations; and

(2) using a life cycle emissions, performance-based approach that is technology-and-feedstock neutral.

(d) The Agency shall calculate the life cycle emissions of nonpetroleum portions of transportation fuels in accordance with Section 30.

Section 20. Contents of clean transportation standard; the Clean Transportation Standard Agricultural Committee.

(a) The clean transportation standard adopted by the Board, by rule, shall:

(1) apply to all providers in the State;

(2) be measured based on a life cycle carbon intensity that shall be calculated by the Agency in accordance with Section 30;

(3) recognize voluntary farm emissions reductions that contribute to the reduced carbon intensity of fuels by allowing credit generators to use individualized farm-level carbon intensity scoring for approved sustainable agricultural practices and by requiring the Agency to use the GREET model's Feedstock Carbon Intensity Calculator (FD-CIC) to determine individualized farm-level

carbon intensity scoring;

(4) include a credit price cap that is to be established by the Agency and published by the Board using the trailing 24-month average price of credits available in 2 of the 3 highest value markets with comparable, technology-neutral clean transportation standards;

(5) ensure compliance with the price cap in paragraph (4) by (i) requiring evidence of an unfulfilled public tender for credit purchase at the cap price by any party claiming an inability to acquire credits needed for compliance, (ii) establishing a facility for the Agency or a designated nonprofit entity to sell alternative compliance credits at the cap price value plus one percent, and (iii) creating an approved list of uses for revenue from the sale of alternative compliance credits that increase access to and use of credit generating fuels produced from in-state resources and on-farm credit generating activities;

(6) contain a structure for compliance that conforms with the marketplace system described in Section 25, including, but not limited to, details, such as:

(A) methods for assigning compliance obligations and methods for tracking tradable credits;

(B) mechanisms that allow credits to be traded, transferred, sold, and banked for future compliance periods;

(C) mechanisms that provide for the creation of a list of accepted credit transactions and a list of prohibited forms of credit transactions, which may include trades involving, related to, or associated with any of the following:

(i) any manipulative or deceptive device;

(ii) a corner or an attempt to corner the market for credits;

(iii) fraud or an attempt to defraud any other entity;

(iv) false, misleading, or inaccurate reports concerning information or conditions that affect or tend to affect the price of a credit; and

(v) applications, reports, statements, or documents required to be filed under this Act that are false or misleading with respect to a material fact or that omit a material fact necessary to make the contents therein not misleading;

This subparagraph may not prohibit the voluntary sale of credits by credit generators to any party otherwise acting in compliance with this Act. Credits generated outside of the clean transportation standard established under this Act shall be ineligible for sale or purchase for compliance purposes required under this Act;

(D) procedures for verifying the validity of credits and deficits generated under the clean transportation standard;

(E) mechanisms by which persons associated with the supply chains of transportation fuels that are used for purposes that are exempt from the clean transportation standard described in Section 40 and persons that are associated with the supply chains of transportation fuels and will generate credits may register with the Agency to participate in the clean transportation standards; and

(F) an administrative procedure by which a deficit generator may contest the Board's or Agency's calculation prior to the levying of a penalty for failure to remedy a given deficit; and

(G) procedures that will allow the Agency to cancel or reverse (i) a credit transfer that is determined to be a prohibited transaction under items (i) through (v) of subparagraph (B) or (ii) any other prohibited transaction as determined by the Board in rulemaking;

(7) contain a clean transportation standards review procedure whereby the Board or Agency shall, every 2 years after the implementation period for the clean transportation standard ends, solicit feedback from and consult with the advisory council established in subsection (b); the substance of the consultations shall

include, but may not be limited to, a review of the economic impact of the clean transportation standard, whether the clean transportation standard is adhering to the established carbon intensity reduction goals, the health impact of the emissions reductions on disadvantaged environmental justice communities, as defined in Section 801-10 of the Illinois Finance Authority Act, and whether access to transportation has been affected as a result of the implementation of the clean transportation standard;

(8) include annual carbon intensity reduction standards that are to be met by deficit generators and that result in the attainment of carbon intensity reduction targets set by the Board;

(9) maximize benefits to the environment and natural resources and develop safeguards and incentives to protect natural lands and enhance environmental integrity, including biodiversity;

(10) aim to support, through credit generation or other financial means, voluntary farmer-led efforts to adopt agricultural practices that benefit soil health and water quality;

(11) support equitable transportation electrification that benefits all communities and is powered primarily with low-carbon and carbon-free electricity;

(12) seek to improve air quality and public health, targeting communities that bear a disproportionate health

burden from transportation pollution;

(13) establish, in consultation with the Department of Agriculture and the Department of Transportation, a procedure for determining fuel pathways that:

(A) is consistent with Section 25;

(B) is consistent for all fuel types;

(C) is based on science and engineering; and

(D) accounts for any on-site additional energy use by a carbon capture technology employed in the fuel production process, including, but not limited to, generation, distillation, and compression;

(14) contain mechanisms to excuse noncompliance from enforcement action if compliance is impossible, including rules that shall specify the criteria and procedures for the Agency to determine whether a period of noncompliance is excusable in accordance with Sections 50 and 55;

(15) include mechanisms by which providers who would be eligible to generate credits from electricity used as transportation fuel may assign their right to generate credits to an aggregator, and include mechanisms by which a backstop aggregator may register to generate credits if an electric utility opts out of the clean transportation standards;

(16) provide indirect accounting mechanisms, such as book-and-claim or mass-balancing for clean fuels entering fungible supply systems that can access this State; and

(17) contain an automatic adjustment mechanism that shall be implemented no earlier than the third compliance period after rules establishing a clean transportation standard are adopted by the Board, with the intention to provide adjustments to the carbon intensity reduction standards during periods of sustained and significant overperformance or underperformance.

As used in this paragraph:

"Overperformance" means when the total number of credits in the credit bank exceeds the total number of deficits generated during the prior 4 consecutive quarters by 150%, and the total number of credits generated during the prior 4 consecutive quarters exceeds the total number of deficits generated during the prior 4 consecutive quarters.

"Underperformance" means when the total number of credits in the credit bank is less than 20% of the total number of deficits generated during the prior 4 consecutive quarters, and the total number of credits generated during the prior 4 consecutive quarters is less than the total number of deficits generated during the prior 4 consecutive quarters.

(A) An adjustment mechanism cannot be implemented:

(i) prior to 4 consecutive quarters of being last triggered; or

(ii) within 2 compliance periods if the annual carbon intensity standard was adjusted as part of a clean transportation standards review.

(B) Starting the first quarter of the second compliance period, and every quarter thereafter, the Agency shall announce whether the conditions of this paragraph have been met for that quarter and the cumulative number of quarters that the conditions have been met. This announcement will take place on February 15, May 15, August 15, and November 15 of each year.

(C) If the conditions in this subsection have been met, the Agency shall post updated annual carbon intensity standards on the Agency's website on May 15, following the announcement that the automatic adjustment mechanism has been triggered.

(i) If there is a period of sustained and significant overperformance and the conditions in item (i) of subparagraph (A) have been met, all annual carbon intensity standards shall be advanced by one year.

(ii) If there is a period of sustained and significant underperformance and the conditions in item (ii) of subparagraph (A) have been met, all annual carbon intensity standards shall be reduced by 50% of the annual carbon intensity standards.

(iii) The updated annual carbon intensity standards shall replace the prior annual carbon intensity standards and shall take effect at the beginning of the compliance period after the Agency posted the updated annual carbon intensity standards on the Agency's website.

(b) The rules adopted by the Board shall include provisions enabling the generation of credits by on-farm credit generators that produce feedstocks.

(1) The rules shall establish a process for on-farm credit generation that:

(A) is pragmatic and informed by actual farming operations and recordkeeping practices;

(B) minimizes costs and operational burdens for participating farmers;

(C) ensures accuracy in GHG emission reduction claims by utilizing the GREET model's Feedstock Carbon Intensity Calculator (FD-CIC) to determine carbon intensity scoring;

(D) provides fair opportunity for farmer participation in market activities as credit sellers;

(E) is updated every 2 years to reflect the continuous improvement in optimizing low-cost, efficient accounting practices that deliver high integrity results;

(F) ensures the Agency shall protect farm data by ensuring farmer ownership of data for a specified amount of time or a period negotiated and agreed to by the farmers on an annual basis; and

(G) uses a verification process that is in compliance with and does not exceed subsection (c) of Section 25.

(2) The Department of Agriculture shall maintain a public list of best practices and approved accounting methods reflecting the Committee's recommendations.

(A) The Department of Agriculture shall publish and certify an initial list immediately after rules establishing a clean transportation standard are adopted by the Board.

(B) The Department of Agriculture shall publish and certify an updated list no later than June 1 in the second year after the completion of the implementation period for the clean transportation standard and by June 1 every 2 years thereafter to reflect improving and evolving methods of on-farm greenhouse gas accounting practices.

(3) Within 90 days after the effective date of this Act, the Director of the Department of Agriculture, in consultation with the Agency, shall appoint and facilitate the Clean Transportation Standard Agricultural Committee for the purpose of making and updating recommendations of best practices to enable the implementation of on-farm crediting and accounting practices.

(A) The Committee shall consist of the following members:

(i) the Director of Agriculture or a designated appointee from the Department of Agriculture;

(ii) a State Natural Resources Conservation Service agronomist;

(iii) a member from the State's largest farm organization;

(iv) a member from the organization that represents the State's largest feedstock used for biofuel production;

(v) a member from the organization that represents the State's second largest feedstock used for biofuel production;

(vi) a certified crop advisor with cover crop expertise;

(vii) an extension specialist with row crop production credentials;

(viii) a specialist in the GREET model and life cycle analysis;

(ix) 2 representatives of organizations representing conservation or environmental interests that work on climate smart agriculture with farmers; and

(x) a University of Illinois, College of

Agriculture, Consumer, and Environmental Sciences economist specializing in row crop production practices.

(B) The Committee shall:

(i) develop a list of best practices and standards that are considered for greenhouse gas and carbon reduction and ensure that technical experts from the field evaluate the greenhouse gas and carbon benefit of those practices to understand how they will be conducted on-farm;

(ii) evaluate different ecosystem service market mechanisms and clean transportation standards frameworks to ensure transparency of the value generated by the greenhouse gas and carbon reduction practices;

(iii) establish minimum criteria for a contractual definition of fair market value to be used by credit aggregators seeking to acquire credits from on-farm credit generators and ensure the value of credits reflects the improving and evolving practices to improve on-farm greenhouse gas and carbon reductions and is equitable to credit generators and buyers in accordance with the risk and level of effort assumed by each party; and

(iv) meet at least twice a year to evaluate and propose recommendations of best practices and standards for approval of the Director of Agriculture.

(c) Rules developed by the Board shall ensure that:

(1) credits shall be based on annual submissions reported in accordance with methods approved by the Director of Agriculture;

(2) on-farm credit generators will receive one credit for every metric ton of greenhouse gas emission reduction or removal;

(3) credits will be awarded to or owned by the on-farm credit generator that submitted a compliant report of on-farm practices for the prior 12-month period;

(4) credit holders will have full property rights to hold, sell, or assign credits without restriction;

(5) credits accumulated by regulated fuel producers will be accepted by the Board for the purpose of demonstrating compliance with clean transportation standards;

(6) third-party credit aggregators may purchase on-farm credits from one or more on-farm credit generator, as long as purchasing agreements do not violate minimum requirements for ensuring fair market value as established by the Director of Agriculture after consultation with the Committee;

(7) entities may purchase or otherwise acquire credits

from on-farm credit generators for the purpose of demonstrating compliance with regulatory or voluntary standards other than the clean transportation standards, such as the voluntarily established corporate greenhouse gas reduction targets; and

(8) upon request, the Board will provide certification confirmation that on-farm practices were generated and documented according to the practices recommended by the Committee and approved by the Director of Agriculture.

(d) All advance credits must represent actual reductions of greenhouse gas emissions against the clean transportation standards. Vehicles must be registered in the State to be eligible to earn advance credits.

Entities involved with zero-emission vehicles have the ability to generate advance credits.

On-farm credit generators shall be subject to an annual registration fee of $50.

(e) Imports that have a high risk of deforestation and other environmental concerns, such as, but not limited to, palm oil, are prohibited.

Section 25. Credit market; verification and data privacy; compliance and penalties.

(a) The clean transportation standard adopted by the Board shall take the form of a credit marketplace with the following structure. The marketplace shall consist of a system of credits and deficits monitored by the Agency. The Agency shall compile a list of fuel pathways that providers may use to generate credits. Providers seeking to be credit generators must register with the Agency and attest to the transportation fuels they provide in the State in order to qualify to generate credits. Each deficit generator must register and comply with the clean transportation standards. Fuels that are registered must have a dedicated, verifiable fuel pathway with a carbon intensity score measurable by software described in Section 30 and assigned a unique identifier by the Agency. Providers reaching or exceeding the required reduction of life cycle carbon intensity under the clean transportation standard shall receive credits from the Agency upon verification described in subsection (c) at the end of a reoccurring reporting period as determined by the Agency. Fuel providers that are deficit generators during a year shall eliminate the deficit by either providing transportation fuels whose carbon intensity is at or below the level of that year's annual clean transportation standard or by purchasing credits to offset the deficit. The system of credits created under this subsection shall provide credits based on a life cycle emissions performance-based approach that is technology neutral, feedstock neutral, and has the purpose of achieving transportation fuel decarbonization.

(b) In compiling the list of fuel pathways authorized in subsection (a) the Agency must create an initial pathway list and identify procedures for modifying existing pathways or adding new pathways providers may use to generate credits. All listed pathways must have a carbon intensity calculated in accordance with Section 30.

(1) The Agency must, as part of its initial rules, provide a list of pathways that providers may use to generate credits. The list must include pathways that have a carbon intensity calculated in accordance with Section 30 and are already approved for use in comparable and technology-neutral clean fuel programs established by any other jurisdiction in North America.

(2) Any provider may request approval of a modification to an existing pathway or approval of a new pathway. Such requests must be accompanied by documentation identified by the Agency as appropriate to review such requests, including third-party validation of the submitted materials and carbon intensity calculations. The Agency shall have 60 days to review and respond to any pathway requests submitted in compliance with all documentation requirements. The Agency may request additional documentation as appropriate for any new pathway approval requests by providing a written explanation of any documentation deficiencies to the provider. A request for additional documentation shall pause the 60 days to review the pathway request until the provider submits the requested documentation. Upon

submittal of the requested documentation by the provider, the Agency must review and respond to the request within the days remaining from the 60 days to review at the time the request for additional documentation was made by the Agency. The Agency shall approve a pathway request in compliance with all documentation requirements set forth by this Section. In the absence of a decision by the Agency within the 60-day deadline, the request shall be deemed approved. If the Agency denies a pathway request, it must provide a written explanation of the reasons for the denial to the provider.

(c) The Agency must, in collaboration with the Department of Agriculture and the Department of Transportation, establish acceptable methods to verify compliance with the clean transportation standard as required under this Act. Upon registering, credit generators, deficit generators, or on-farm credit generators must agree to provide data related to the registered fuel pathway used to generate credits or deficits with the Agency as required to administer the clean transportation standards. Upon registering, credit generators, deficit generators, or on-farm credit generators must agree to be subject to periodic audits as determined by the Agency. The Agency is authorized to contract with third party verifiers to accomplish this requirement.

All information gathered by or provided to the Agency or contractors of the Agency, either by credit generators, deficit generators or on-farm credit generators, agents of credit generators, deficit generators, or on-farm credit generators used in a registered fuel pathway, through either voluntary disclosure or audit, must not be shared by the Agency with any party except in relation to the limited and fully disclosed administration of the clean transportation standard absent written consent by credit generators, deficit generators, or on-farm credit generators and the entity from which the data was gathered. This data must not be used for any purpose outside of the administration and enforcement of the clean transportation standard except by written consent from the original data holder. Information provided under this subsection shall be exempt under subsection (b) of subsection (1) of Section 7 of the Freedom of Information Act. Ownership of all data shared or collected by the Agency for the administration and enforcement of the clean transportation standard is retained with the entity from which the data originates. Data protected under this subparagraph does not include a credit generator's, deficit generator's, or on-farm credit generator's credit or deficit balance, which may be publicly disclosed by the Agency.

(d) Deficit generators who fail to offset their deficits at the conclusion of any compliance period administered by the Agency shall be subject to a civil penalty established by the Agency subject to the following limitations:

(1) the value of the penalty shall correspond to the

amount of deficits attributed to a given deficit generator at the time the transaction has completed; and

(2) for every one deficit the deficit generator fails to offset, the penalty for failure to offset that deficit shall not exceed 10 times the value of the credit needed to offset the deficit.

(e) Credit generators, deficit generators, or on-farm credit generators that submit false information in support of an application to register for the clean transportation standard, share false information during an audit or in support of an attestation, or otherwise share false or inaccurate information to the Agency or a contractor working under the direction of the Agency shall be subject to penalties to be determined by the Agency by rule. Penalties under this subsection may include monetary penalties, forfeiture of credits, and reversals of prohibited transactions. The Agency may waive penalties under this subparagraph. In determining whether penalties should be applied and, if a penalty is to be applied, the amount of penalties to be levied for violations under this subsection, the Agency shall consider:

(1) evidence of willfulness by the credit generator, deficit generator, or on-farm credit generator to submit false information;

(2) the scope of the false information;

(3) evidence of past submissions of false information;

and

(4) efforts undertaken by the credit generator, deficit generator, or on-farm credit generator to remedy the false submission.

If the violator under this subsection is a credit generator, following 3 violations, the Agency may remove the violating credit generator from the clean transportation standard.

(f) The penalties provided for in this Section may be recovered in a civil action brought in the name of the people of the State of Illinois by the State's Attorney of the county in which the violation occurred or by the Attorney General. Any penalties collected under this Section in an action in which the Attorney General has prevailed shall be used to offset registration fees in support of the administration of the clean transportation standards. Any amount of penalties collected in addition to the amount needed to administer the clean transportation standards shall be deposited into the Environmental Protection Trust Fund, to be used in accordance with the provisions of the Environmental Protection Trust Fund Act.

(g) The Attorney General or the State's Attorney of a county in which a violation occurs may institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act or to require such actions as may be necessary to address violations of this Act.

(h) The penalties and injunctions provided in this Act are in addition to any penalties, injunctions, or other relief provided under any other law. Nothing in this Act bars an action by the State for any other penalty, injunction, or other relief provided by any other law.

Section 30. Life cycle carbon intensity calculations; software. The life cycle carbon intensity calculation conducted by the Agency under paragraph (2) of Section 20 and subsection (b) of Section 25 shall use the Argonne National Laboratory's GREET model and shall include all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution, delivery, and use of the finished fuel by the ultimate consumer. The Agency shall use the most recent model available. Carbon intensity values calculated for clean fuel pathways under construction or in operation using the current version of the GREET model shall be allowed if the GREET model is revised during the compliance year. In calculating the life cycle carbon intensity, the mass values for all greenhouse gases that are not carbon dioxide must be adjusted to account for each of their relative global warming potentials. This adjustment shall be performed using the global warming potential deemed most accurate by the Agency for each greenhouse gas for the period during which reductions in greenhouse gas emissions are to be attained under the clean transportation standard. When measuring the carbon intensity of clean fuels, the Agency shall use the GREET model's Feedstock Carbon Intensity Calculator (FD-CIC) for the purposes of accounting for variations in farming practices across different fuel pathways.

Section 35. Investments by backstop aggregators and utilities. In implementing this Act, the Agency and the Board shall establish rules directing participating utilities and backstop aggregators under the standard to invest all revenue earned from trading credits toward investments into distribution, grid modernization, infrastructure and other projects that support transportation decarbonization, with at least 50% of such revenues supporting environmental justice communities as defined in Section 801-10 of the Illinois Finance Authority Act. All labor paid for with money from required investments under this Section shall be subject to the prevailing wage. The Agency and Board shall determine projects and goals under this Act in consultation with relevant stakeholders, including, but not limited to, credit generators, affected communities, and environmental justice advocacy organizations.

Section 40. Exemptions. The following fuels are exempt from the clean transportation standard established in Section 15:

(1) aviation fuels;

(2) transportation fuel used in locomotives;

(3) transportation fuel used in ocean-going vessels; and

(4) fuel used in military tactical vehicles and tactical support equipment owned by the U.S. Department of Defense or the U.S. military services.

However, providers of these fuels, if deemed to be clean fuels, shall be eligible under the rules adopted pursuant to this Act to receive credits on an opt-in basis that may be applied to future obligations or sold to deficit generators.

Section 45. Agency reporting obligation. Within 12 months after the implementation period for the clean transportation standard and every 2 years thereafter, the Agency shall submit a report to the General Assembly detailing the implementation of the clean transportation standard, the reductions in greenhouse gas emissions that have been achieved through the clean transportation standard, and targets for future reductions in greenhouse gas emissions. These reports shall include feedback solicited from stakeholders under paragraph (7) of subsection (a) of Section 20.

Section 50. Fuel supply forecasting. In consultation with the Department of Transportation and the Department of Agriculture, the Agency must develop a periodic fuel supply forecast to project the availability of fuels to the State necessary for compliance with clean transportation standard requirements. The fuel supply forecast for each upcoming compliance period must include, but is not limited to, the following:

(1) an estimate of the potential volumes of gasoline, gasoline substitutes, and gasoline alternatives, and diesel, diesel substitutes, and diesel alternatives available to the State. In developing this estimate, the Agency must consider, but is not limited to, considering:

(A) the existing and future vehicle fleet in this State; and

(B) any constraints that might be preventing access to available and cost-effective clean fuels by the State, such as geographic and logistical factors, and alleviating factors to the constraints;

(2) an estimate of the total banked credits and carried over deficits held by deficient generators, credit generators, on-farm credit generators, and credit aggregators at the beginning of the compliance period, and an estimate of the total credits attributable to fuels described in paragraph (1);

(3) an estimate of the number of credits needed to meet the applicable clean transportation standard requirements during the forecasted compliance period; and

(4) a comparison in the estimates of paragraphs (1)

and (2) with the estimate in paragraph (3), for the purpose of indicating the availability of fuels and banked credits needed for compliance with the requirements of this chapter.

The Agency may appoint a forecast review team of relevant experts to participate in the fuel supply forecast or examination of data required by this Section. The Agency must finalize a fuel supply forecast for an upcoming compliance period by no later than 90 days prior to the start of the compliance period.

Section 55. Forecast deferral.

(a) No later than 30 calendar days before the commencement of a compliance period, the Agency shall issue an order declaring a forecast deferral if the fuel supply forecast under Section 50 projects that the amount of credits that will be available during the forecast compliance period will be less than 100% of the credits projected to be necessary for regulated parties to comply with the scheduled applicable clean transportation standard adopted by the Agency for the forecast compliance period.

(b) An order declaring a forecast deferral under this Section must set forth:

(1) the duration of the forecast deferral;

(2) the types of fuel to which the forecast deferral applies; and

(3) which of the following methods the Agency has selected for deferring compliance with the scheduled applicable clean transportation standard during the forecast deferral:

(A) temporarily adjusting the scheduled applicable clean transportation standards to a standard identified in the order that better reflects the forecast availability of credits during the forecast compliance period and requiring deficit generators to comply with the temporary standard;

(B) requiring deficit generators to comply only with the clean transportation standard applicable during the compliance period prior to the forecast compliance period; or

(C) suspending deficit accrual for part or all of the forecast deferral period.

(c) In implementing a forecast deferral, the Agency may take an action for deferring compliance with the clean transportation standard other than, or in addition to, selecting a method under paragraph (3) of subsection (b) only if the Agency determines that none of the methods under paragraph (3) of subsection (b) will provide a sufficient mechanism for containing the costs of compliance with the clean transportation standard during the forecast deferral.

(d) If the Agency makes the determination specified in subsection (c), the Agency shall:

(1) include in the order declaring a forecast deferral the determination and the action to be taken; and

(2) provide written notification and justification of the determination and the action to:

(A) the Governor;

(B) the President of the Senate;

(C) the Speaker of the House of Representatives;

(D) the Minority Leader of the Senate; and

(E) the Minority Leader of the House of Representatives.

(e) The duration of a forecast deferral may not be less than one calendar quarter or longer than one compliance period. Only the Agency may terminate, by order, a forecast deferral before the expiration date of the forecast deferral. Termination of a forecast deferral is effective on the first day of the next calendar quarter after the date that the order declaring the termination is adopted.

Section 60. Conflicts with other State programs. Nothing in this Act precludes the Agency or Board from adopting or maintaining other programs as permitted or required by existing or future legislation to reduce greenhouse gas emissions from the transportation sector.

Section 99. Effective date. This Act takes effect January 1, 2027.".