- Amends the definition of alternative jet fuel to include "as it existed on the effective date of this section" for purpose of clarifying the WAC reference.
- Removes the section requiring Ecology to amend the energy economy ratio for alternative jet fuels relative to conventional jet fuel under the Clean Fuels Program.
- Clarifies that the per year alternative jet fuel production capacity may be met by one or more facilities.
- Removes the specification that the Office of Clean Technology must convene the work group and instead directs the Washington State University to convene the work group.
- Requires to Statewide Office of Renewable Fuels to also review existing tax and regulatory incentives, including assessment of adequacy of feedstock supply and in-state feedstock, renewable fuels, and alternative jet fuels production.
- Removes the requirement that the plan and recommendations submitted by the Statewide Office of Renewable Fuels on December 1, 2023, also consider alternative jet fuels.
- Revises the carry forward language for the per gallon B&O and PUT credits so that credits may be carried over and claimed against taxes due in the subsequent calendar year but may not be carried over for any calendar year thereafter.
- Removes the requirement that alternative jet fuels meet ASTM international standards in order to qualify for a B&O or PUT credit.
- Makes technical corrections.

AN ACT Relating to promoting the alternative jet fuel industry in Washington; amending RCW 70A.535.010, 43.330.565, and 43.330.570; adding a new section to chapter 70A.535 RCW; adding a new section to chapter 28B.30 RCW; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; creating new sections; providing effective dates; providing an expiration date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 Sec. 1. The legislature intends to use funds from NEW SECTION. 10 the climate commitment act to promote the production and use of 11 sustainable aviation fuels, thereby growing the clean energy sector, addressing greenhouse gas emissions, and creating 12 family Washington. Sustainable 13 manufacturing aviation fuels jobs in represent the most significant near and midterm opportunity for 14 15 aviation to reduce its greenhouse gas emissions. The use 16 sustainable aviation fuels will also improve air quality for airport 17 workers and communities surrounding airports. While many efforts are 18 underway to advance the use of sustainable aviation fuels, this act 19 is intended to assist and accelerate those efforts.

20 **PART I**

1 2

3

4

16

17

18

19 20

2122

23

24

25

26

27

28

2 **Sec. 2.** RCW 70A.535.010 and 2022 c 182 s 409 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

- 6 (1) "Carbon dioxide equivalents" has the same meaning as defined 7 in RCW 70A.45.010.
- 8 (2) "Carbon intensity" means the quantity of life-cycle greenhouse gas emissions, per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule (gCO2e/MJ).
- 11 (3) "Clean fuels program" means the requirements established 12 under this chapter.
- 13 (4) "Cost" means an expense connected to the manufacture, 14 distribution, or other aspects of the provision of a transportation 15 fuel product.
 - (5) "Credit" means a unit of measure generated when a transportation fuel with a carbon intensity that is less than the applicable standard adopted by the department under RCW 70A.535.025 is produced, imported, or dispensed for use in Washington, such that one credit is equal to one metric ton of carbon dioxide equivalents. A credit may also be generated through other activities consistent with this chapter.
 - (6) "Deficit" means a unit of measure generated when a transportation fuel with a carbon intensity that is greater than the applicable standard adopted by the department under RCW 70A.535.025 is produced, imported, or dispensed for use in Washington, such that one deficit is equal to one metric ton of carbon dioxide equivalents.
 - (7) "Department" means the department of ecology.
- 29 (8) "Electric utility" means a consumer-owned utility or 30 investor-owned utility, as those terms are defined in RCW 19.29A.010.
- 31 (9) "Greenhouse gas" has the same meaning as defined in RCW 32 70A.45.010.
- 33 (10) "Military tactical vehicle" means a motor vehicle owned by 34 the United States department of defense or the United States military 35 services and that is used in combat, combat support, combat service 36 support, tactical or relief operations, or training for such 37 operations.
- 38 (11) "Motor vehicle" has the same meaning as defined in RCW 39 46.04.320.

1 (12) "Price" means the amount of payment or compensation provided 2 as consideration for a specified quantity of transportation fuel by a 3 consumer or end user of the transportation fuel.

4

5

7

8

9

10 11

12

1617

18

19

2021

22

23

2425

26

27

32

33

34

- (13) "Regulated party" means a producer or importer of any amount of a transportation fuel that is ineligible to generate credits under this chapter.
- (14)(a) "Tactical support equipment" means equipment using a portable engine, including turbines, that meets military specifications, owned by the United States military services or its allies, and that is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.
- 13 (b) "Tactical support equipment" includes, but is not limited to, 14 engines associated with portable generators, aircraft start carts, 15 heaters, and lighting carts.
 - (15) "Transportation fuel" means electricity and any liquid or gaseous fuel sold, supplied, offered for sale, or used for the propulsion of a motor vehicle or that is intended for use for transportation purposes.
 - (16) "Alternative jet fuel" means a fuel made from petroleum or nonpetroleum sources that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure, and that have a lower carbon intensity than the applicable annual carbon intensity standard in Table 2 of WAC 173-424-900, as it existed on the effective date of this section. Alternative jet fuel includes jet fuels derived from coprocessed feedstocks at a conventional petroleum refinery.
- NEW SECTION. Sec. 3. A new section is added to chapter 70A.535 RCW to read as follows:
- 30 (1) By no later than December 31, 2023, the department must allow one or more carbon intensity pathways for alternative jet fuel.
 - (2) The department must allow biomethane to be claimed as the feedstock for renewable diesel and alternative jet fuel consistent with that allowable for compressed natural gas, liquified natural gas, liquified compressed natural gas, or hydrogen production.
- 36 (3) The department must notify the department of revenue within 30 days when one or more facilities capable of producing a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year are operating in this state.

- NEW SECTION. Sec. 4. A new section is added to chapter 28B.30 RCW to read as follows:
- (1) Washington State University must convene an alternative jet 3 fuels work group to further the development of alternative jet fuel 4 as a productive industry in Washington. The work group must include 5 6 members from the legislature and sectors involved in alternative jet 7 fuel research, development, production, and utilization. The work group must provide a report including any pertinent recommendations 8 to the governor and appropriate committees of the legislature by 9 December 1, 2024, and December 1st of every even-numbered year until 10 December 1, 2028. 11
- 12 (2) This section expires January 1, 2029.

1617

18

1920

2324

25

2627

28

- 13 **Sec. 5.** RCW 43.330.565 and 2022 c 292 s 102 are each amended to 14 read as follows:
 - (1) The statewide office of renewable fuels is established within the department. The office shall report to the director of the department. The office may employ staff as necessary to carry out the office's duties as prescribed by chapter 292, Laws of 2022, subject to the availability of amounts appropriated for this specific purpose.
- 21 (2) The purpose of the office is to leverage, support, and 22 integrate with other state agencies to:
 - (a) Accelerate comprehensive market development with assistance along the entire life cycle of renewable fuel projects;
 - (b) Support research into and development and deployment of renewable fuel and the production, distribution, and use of renewable and green electrolytic hydrogen and their derivatives, as well as product engineering and manufacturing relating to the production and use of such hydrogen and its derivatives;
- 30 (c) Drive job creation, improve economic vitality, and support 31 the transition to clean energy;
- 32 (d) <u>Further the development and use of alternative jet fuels as a</u> 33 productive industry in Washington;
- (e) Enhance resiliency by using renewable fuels, alternative jet
 fuels, and green electrolytic hydrogen to support climate change
 mitigation and adaptations; and
- 37 (((e))) <u>(f)</u> Partner with overburdened communities to ensure 38 communities equitably benefit from renewable and clean fuels efforts.

- **Sec. 6.** RCW 43.330.570 and 2022 c 292 s 103 are each amended to read as follows:
 - (1) The office shall:

- (a) Coordinate with federally recognized tribes, local government, state agencies, federal agencies, private entities, the state's public four-year institutions of higher education, labor unions, and others to facilitate and promote multi-institution collaborations to drive research, development, and deployment efforts in the production, distribution, and use of <u>alternative jet fuels and</u> renewable fuels including, but not limited to, green electrolytic hydrogen;
- (b) Review existing renewable fuels, alternative jet fuels, and green electrolytic hydrogen initiatives, policies, and public and private investments, and tax and regulatory incentives, including assessment of adequacy of feedstock supply and in-state feedstock, renewable fuels, and alternative jet fuels production;
- (c) Consider funding opportunities that provide for the coordination of public and private funds for the purposes of developing and deploying renewable fuels, alternative jet fuels, and green electrolytic hydrogen;
- (d) Assess opportunities for and barriers to deployment of renewable fuels, alternative jet fuels, and green electrolytic hydrogen in hard to decarbonize sectors of the state economy;
- (e) Request recommendations from the Washington state association of fire marshals regarding fire and other safety standards adopted by the United States department of energy and recognized national and international fire and safety code development authorities regarding renewable fuels, alternative jet fuels, and green electrolytic hydrogen;
- (f) By December 1, 2023, develop a plan and recommendations for consideration by the legislature and governor on renewable fuels and green electrolytic hydrogen policy and public funding including, but not limited to, project permitting, state procurement, and pilot projects; and
- (g) Encourage new and support existing public-private partnerships to increase coordinated planning and deployment of renewable fuels, alternative jet fuels, and green electrolytic hydrogen.
- 39 (2) The office may take all appropriate steps to seek and apply
 40 for federal funds for which the office is eligible, and other grants,

 Code Rev/CL:lel 5 S-1253.1/23

- and accept donations, and must deposit these funds in the renewable fuels accelerator account created in RCW 43.330.575.
 - (3) In carrying out its duties, the office must collaborate with the department, the department of ecology, the department of transportation, the utilities and transportation commission, electric utilities in Washington state, the Washington State University extension energy program, the alternative jet fuel work group established in section 4 of this act, and all other relevant state agencies. The office must also consult with and seek to involve federally recognized tribes, project developers, labor and industry trade groups, and other interested parties, in the development of policy analysis and recommended programs or projects.
- 13 (4) The office may cooperate with other state agencies in 14 compiling data regarding the use of renewable fuels and green 15 electrolytic hydrogen in state operations, including motor vehicle 16 fleets, the state ferry system, and nonroad equipment.

17 PART II

3

4

5

6 7

8

9

10 11

12

18

19

2021

2223

24

2526

27

2829

30

31

32

33

ALTERNATIVE JET FUEL TAX INCENTIVES

- NEW SECTION. Sec. 7. (1) This section is the tax preference performance statement for the tax preferences contained in sections 8 through 11, chapter . . ., Laws of 2023 (sections 8 through 11 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.
- (2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness as indicated in RCW 82.32.808(2)(b).
- (3) It is the legislature's specific public policy objective to encourage the production and use of alternative jet fuels. It is also the legislature's intent to support the development of the alternative jet fuels industry in Washington by providing targeted tax relief for such businesses.
- 34 (4) If a review finds that the production and use of alternative 35 jet fuels has increased, then the legislature intends to extend the 36 expiration date of these tax preferences.

- 1 (5) In order to obtain the data necessary to perform the review 2 in subsection (4) of this section, the joint legislative audit and 3 review committee may refer to any data collected by the state.
- 4 <u>NEW SECTION.</u> **Sec. 8.** A new section is added to chapter 82.04 5 RCW to read as follows:

7

8

9

11

17

18

1920

21

22

23

2425

26

27

- (1) Upon every person engaging within the state in the business of manufacturing alternative jet fuel; as to such persons, the amount of the tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.
- 12 (2) Upon every person engaging in making sales, at retail or 13 wholesale, of manufactured alternative jet fuel; as to such persons, 14 the amount of the tax with respect to such business is equal to the 15 gross proceeds of sales of the alternative jet fuel, multiplied by 16 the rate of 0.275 percent.
 - (3) For the purposes of this section, "alternative jet fuel" has the same meaning as in RCW 70A.535.010.
 - (4) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.
 - (5) (a) The tax rate under subsections (1) and (2) of this section takes effect on the first day of the first calendar quarter following the month in which the department receives notice from the department of ecology that there are one or more facilities operating in this state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year, as required in section 3 of this act.
- 29 (b) The tax rate expires nine calendar years after the close of 30 the calendar year in which the tax rate under subsections (1) and (2) 31 of this section takes effect.
- NEW SECTION. Sec. 9. A new section is added to chapter 82.04 RCW to read as follows:
- 34 (1)(a) Subject to the limits and provisions of this section, a 35 credit is allowed against the tax otherwise due under this chapter 36 for persons engaged in the manufacturing of alternative jet fuel.
- 37 (b) Except as provided in (c) of this subsection, the credit
 38 under this section is equal to \$1 for each gallon of alternative jet

 Code Rev/CL:lel 7 S-1253.1/23

fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional jet fuel and is sold during the prior calendar year by:

4

5

7

14

1516

17

18

19

2021

22

23

2425

26

27

2829

30 31

32

33

- (i) A business that produces alternative jet fuel and is located in a qualifying county; or
- (ii) A business's designated alternative jet fuel blender that is located in this state.
- 8 (c) The credit amount under (b) of this subsection must increase 9 by 2 cents for each additional one percent reduction in carbon 10 dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for 11 each gallon of alternative jet fuel.
- 12 (d) A person may not receive credit under both (b)(i) and (ii) of this subsection.
 - (e) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.
 - (f) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.
 - (g) Contract pricing for sales of alternative jet fuel between a person claiming the credit under this section and the final consumer must reflect the per gallon credit under (b) and (c) of this subsection.
 - (2) A person may not receive credit under this section for amounts claimed as credits under section 10 of this act or chapter 82.16 RCW.
 - (3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.
- 34 (4) To claim a credit under this section, the person applying 35 must:
 - (a) Complete an application for the credit which must include:
- 37 (i) The name, business address, and tax identification number of 38 the applicant;
- 39 (ii) Documentation of the total amount of alternative jet fuel 40 manufactured and sold in the prior calendar year;

- 1 (iii) Documentation sufficient for the department to verify that
 2 the alternative jet fuel for which the credit is being claimed meets
 3 the carbon intensity reduction benchmarks under subsection (1)(b) and
 4 (c) of this section, as certified by the department of ecology under
 5 section 3 of this act;
 - (iv) Documentation sufficient to verify compliance with subsection (1)(g) of this section; and
 - (v) Any other information deemed necessary by the department to support administration or reporting of the program.
- 10 (b) Obtain a carbon intensity score from the department of 11 ecology prior to submitting an application to the department.
 - (5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.
- 15 (6) If a person fails to supply the information as required in 16 subsection (4) of this section, the department must deny the 17 application.
 - (7) (a) The credit under this section may only be claimed against taxes due under section 8 of this act, less any taxable amount for which a credit is allowed under RCW 82.04.440.
 - (b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.
 - (c) No refunds may be granted for credits under this section.
 - (8) For the purposes of this section:

7

8

9

12

1314

18

19

20

21

22

23

2425

33

34

- 26 (a) "Alternative jet fuel" has the same meaning as in RCW 27 70A.535.010.
- 28 (b) "Carbon dioxide equivalent" has the same meaning as in RCW 29 70A.45.010.
- 30 (c) "Qualifying county" means a county that has a population less 31 than 650,000 at the time an application for a credit under this 32 section is received by the department.
 - (9) (a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1) (f) of this section was received by the department.
- 36 (b) Credits may not be earned beginning nine calendar years after 37 the close of the calendar year in which the credit may be earned, as 38 provided in (a) of this subsection.

- 1 (10) A person claiming the credit provided in this section must 2 file a complete annual tax performance report with the department 3 under RCW 82.32.534.
- 4 <u>NEW SECTION.</u> **Sec. 10.** A new section is added to chapter 82.04 5 RCW to read as follows:

7

8

9

11

12

13

14

1920

21

2223

24

25

- (1) (a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the use of alternative jet fuel.
- (b) Except as provided in (c) of this subsection, the credit under this section is equal to \$1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional jet fuel and is purchased during the prior calendar year by a business for use as alternative jet fuel for flights departing in this state.
- 15 (c) The credit amount under (b) of this subsection must increase 16 by 2 cents for each additional one percent reduction in carbon 17 dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for 18 each gallon of alternative jet fuel.
 - (d) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.
 - (e) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.
- 28 (2) A person may not receive credit under this section for 29 amounts claimed as credits under section 9 of this act or chapter 30 82.16 RCW.
- 31 (3) To claim a credit under this section a person must 32 electronically file with the department all returns, forms, and any 33 other information required by the department, in an electronic format 34 as provided or approved by the department.
- 35 (4) To claim a credit under this section, the person applying 36 must:
- 37 (a) Complete an application for the credit which must include:
- 38 (i) The name, business address, and tax identification number of 39 the applicant;

- 1 (ii) Documentation of the amount of alternative jet fuel 2 purchased by the business in the prior calendar year;
 - (iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under section 3 of this act; and
- 8 (iv) Any other information deemed necessary by the department to 9 support administration or reporting of the program.
 - (b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.
- 12 (5) The department must notify applicants of credit approval or 13 denial within 60 days of receipt of a final application and 14 documentation.
- 15 (6) If a person fails to supply the information as required in 16 subsection (4) of this section, the department must deny the 17 application.
- 18 (7)(a) The credit under this section may be used against any tax 19 due under this chapter.
 - (b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.
 - (c) No refunds may be granted for credits under this section.
 - (8) For the purposes of this section:

4

5

7

10 11

2021

22

- 25 (a) "Alternative jet fuel" has the same meaning as in RCW 26 70A.535.010.
- 27 (b) "Carbon dioxide equivalent" has the same meaning as in RCW 70A.45.010.
- (9) (a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1) (e) of this section was received by the department.
- 32 (b) Credits may not be earned beginning nine calendar years after 33 the close of the calendar year in which the credit may be earned, as 34 provided in (a) of this subsection.
- 35 (10) A person claiming the credit provided in this section must 36 file a complete annual tax performance report with the department 37 under RCW 82.32.534.
- NEW SECTION. Sec. 11. A new section is added to chapter 82.16 RCW to read as follows:

(1) (a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the use of alternative jet fuel.

- (b) Except as provided in (c) of this subsection, the credit under this section is equal to \$1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional jet fuel and is purchased during the prior calendar year by a business for use as alternative jet fuel for flights departing in this state.
- (c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for each gallon of alternative jet fuel.
- (d) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.
- (e) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.
- 23 (2) A person may not receive credit under this section for 24 amounts claimed as credits under chapter 82.04 RCW.
 - (3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.
- 29 (4) To claim a credit under this section, the person applying 30 must:
 - (a) Complete an application for the credit which must include:
 - (i) The name, business address, and tax identification number of the applicant;
 - (ii) Documentation of the amount of alternative jet fuel purchased by the business in the prior calendar year;
- (iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under section 3 of this act; and

1 (iv) Any other information deemed necessary by the department to 2 support administration or reporting of the program.

3

4

5

7

1314

- (b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.
- (5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.
- 8 (6) If a person fails to supply the information as required in 9 subsection (4) of this section, the department must deny the 10 application.
- 11 (7)(a) The credit under this section may be used against any tax 12 due under this chapter.
 - (b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.
 - (c) No refunds may be granted for credits under this section.
- 17 (8) The definitions in section 10 of this act apply to this 18 section.
- 19 (9)(a) Credits may be earned beginning on the first day of the 20 first calendar quarter following the month in which notice under 21 subsection (1)(e) of this section was received by the department.
- (b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the credit may be earned, as provided in (a) of this subsection.
- 25 (10) A person claiming the credit provided in this section must 26 file a complete annual tax performance report with the department 27 under RCW 82.32.534.
- NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
- 32 <u>NEW SECTION.</u> **Sec. 13.** RCW 82.32.805 does not apply to this act.
- 33 <u>NEW SECTION.</u> **Sec. 14.** Sections 8 through 11 of this act take 34 effect July 1, 2024.
- NEW SECTION. Sec. 15. Sections 1 through 6 of this act are necessary for the immediate preservation of the public peace, health, Code Rev/CL:lel 13 S-1253.1/23

- 1 or safety, or support of the state government and its existing public
- 2 institutions, and take effect July 1, 2023.

--- END ---