
SECOND SUBSTITUTE SENATE BILL 5586

State of Washington**60th Legislature****2007 Regular Session**

By Senate Committee on Ways & Means (originally sponsored by Senators Murray, Poulsen, Rockefeller, Kline, Kilmer, Regala, Marr, Weinstein, Oemig, Hargrove, Keiser, Fairley, Tom, Kohl-Welles and McAuliffe)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to providing for the means to encourage the use of
2 cleaner energy thereby providing for healthier communities by reducing
3 emissions; amending RCW 53.08.040, 70.94.017, 15.110.040, 15.110.020,
4 15.110.005, 15.110.010, and 15.110.060; adding a new section to chapter
5 28A.300 RCW; adding new sections to chapter 15.110 RCW; adding a new
6 section to chapter 19.112 RCW; adding new sections to chapter 43.19
7 RCW; adding a new section to chapter 43.01 RCW; adding new sections to
8 chapter 43.31 RCW; adding a new section to chapter 43.135 RCW; adding
9 a new section to chapter 28B.30 RCW; adding a new section to chapter
10 82.16 RCW; creating new sections; and providing an expiration date.

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

12 NEW SECTION. **Sec. 1.** (1) The legislature finds that excessive
13 dependence on fossil fuels jeopardizes Washington's economic security,
14 environmental integrity, and public health. Accelerated development
15 and use of clean fuels and clean vehicle technologies will reduce the
16 drain on Washington's economy from importing fossil fuels. As fossil
17 fuel prices rise, clean fuels and vehicles can save money for consumers
18 while promoting the development of a major, sustainable industry that
19 provides good jobs and a new source of rural prosperity.

1 (2) Clean fuels and vehicles will protect public health by reducing
2 toxic air pollution and reduce our largest source of global warming
3 pollution. The state must better understand and prepare for the
4 effects of global warming and the challenges and opportunities
5 associated with evolving climate policies and carbon markets.

6 (3) To reduce fossil fuel dependence and build our clean energy
7 economy, the state should develop policies and incentives that help
8 businesses, consumers, and farmers gain greater access to affordable
9 clean fuels and vehicles and to produce clean fuels in the state.
10 These policies and incentives should include: Incentives for
11 replacement of the most polluting diesel engines, especially in school
12 buses; transitional incentives for development of the most promising
13 in-state clean fuels and fuel feedstocks, including biodiesel crops and
14 ethanol from plant waste; reduced fossil fuel consumption by state
15 fleets; development of promising new technologies for displacing
16 petroleum with electricity, such as "plug-in hybrids"; and impact
17 analysis and emission accounting procedures that prepare Washington to
18 respond and prosper as global warming impacts occur and as policies and
19 markets to reduce global warming pollution are developed.

20 **PART 1**

21 **CLEAN DIESEL INITIATIVE**

22 NEW SECTION. **Sec. 101.** (1) The legislature finds that fine
23 particle air pollution attributable to diesel fuel is a significant
24 health hazard to school children and other residents in our state.
25 Sources of diesel emissions include diesel-powered trucks, buses and
26 cars, diesel-powered marine vessels, construction equipment, trains,
27 aircraft support equipment, cargo handling equipment, and a variety of
28 other on and off-road engines. Reducing fine particles and toxic
29 emissions from diesel emissions and other sources of pollution reduces
30 the adverse health impacts on children, reduces cancer risk, and
31 reduces the incidence and severity of asthma attacks and chronic
32 bronchitis. Reducing diesel emissions, in addition to strategies to
33 reduce wood smoke, will also aid areas of the state facing potential
34 nonattainment of new fine particle standards established by the United
35 States environmental protection agency and help avoid the adverse
36 health and economic impacts of nonattainment.

1 (2) Under the current Washington state clean school bus program,
2 approximately seven thousand five hundred diesel school buses, over
3 three-quarters of the existing fleet statewide, will be retrofitted by
4 2008. Reduced exhaust emissions from these retrofitted buses provide
5 cleaner air to breathe for the children riding the buses and the
6 citizens in the communities served by the buses.

7 (3) The legislature finds that it is not cost-effective to retrofit
8 much older buses because of their mechanical condition and very high
9 emissions. Replacement with new, ultra-low emission buses, beginning
10 with the model year 2007, is the most effective means to nearly
11 eliminate the toxic emissions generated by the use of these older
12 buses. In addition, newer buses are safer, more reliable, provide
13 significantly higher fuel economy, and have lower overall operating
14 costs. An incentive program to accelerate purchase of newer buses and
15 replacement of older buses will more quickly achieve these gains and
16 result in a lower health risk to children.

17 (4) Even with new federal diesel fuel and engine standards going
18 into effect in 2006 and 2007, and due to the long life of diesel
19 engines, diesel emissions will continue to be an air pollution concern
20 for many years.

21 (5) Many public and private fleets continue to use diesel equipment
22 that has not been retrofitted to reduce emissions. Therefore, the
23 legislature finds that it is important to continue to take measures to
24 reduce diesel emissions in our state so we protect the health of our
25 citizens and create healthier communities. Reducing diesel emissions
26 will also allow continued growth in major ports in the state by
27 maintaining air quality within federal standards.

28 NEW SECTION. **Sec. 102.** A new section is added to chapter 28A.300
29 RCW to read as follows:

30 (1) The office of the superintendent of public instruction shall
31 implement a school bus replacement incentive program. As part of the
32 program, the office shall fund up to ten percent of the cost of a new
33 2007 or later model year school bus purchased by a school district by
34 no later than June 30, 2009, provided that the new bus is replacing a
35 1994 or older school bus in the school district's fleet. Replacement
36 of the oldest buses must be given highest priority.

1 (2) The office of the superintendent of public instruction shall
2 ensure that buses being replaced through this program are surplused
3 under RCW 28A.335.180. As part of the surplus process, school
4 districts must provide written documentation to the office of the
5 superintendent of public instruction demonstrating that buses being
6 replaced are scrapped and not purchased for road use. The
7 documentation must include bus make, model, year, vehicle
8 identification number, engine make, engine serial number, and salvage
9 yard receipts; and must demonstrate that the engine and body of the bus
10 being replaced has been rendered unusable.

11 **Sec. 103.** RCW 53.08.040 and 1989 c 298 s 1 are each amended to
12 read as follows:

13 (1) A district may improve its lands by dredging, filling,
14 bulkheading, providing waterways or otherwise developing such lands for
15 industrial and commercial purposes. A district may also acquire,
16 construct, install, improve, and operate sewer and water utilities to
17 serve its own property and other property owners under terms,
18 conditions, and rates to be fixed and approved by the port commission.
19 A district may also acquire, by purchase, construction, lease, or in
20 any other manner, and may maintain and operate other facilities for the
21 control or elimination of air, water, or other pollution, including,
22 but not limited to, facilities for the treatment and/or disposal of
23 industrial wastes, and may make such facilities available to others
24 under terms, conditions and rates to be fixed and approved by the port
25 commission. Such conditions and rates shall be sufficient to reimburse
26 the port for all costs, including reasonable amortization of capital
27 outlays caused by or incidental to providing such other pollution
28 control facilities(~~(:—PROVIDED, That)~~). However, no part of such
29 costs of providing any pollution control facility to others shall be
30 paid out of any tax revenues of the port(~~(:—AND PROVIDED FURTHER,~~
31 ~~That)~~) and no port shall enter into an agreement or contract to provide
32 sewer and/or water utilities or pollution control facilities if
33 substantially similar utilities or facilities are available from
34 another source (or sources) which is able and willing to provide such
35 utilities or facilities on a reasonable and nondiscriminatory basis
36 unless such other source (or sources) consents thereto.

1 (2) In the event that a port elects to make such other pollution
2 control facilities available to others, it shall do so by lease, lease
3 purchase agreement, or other agreement binding such user to pay for the
4 use of said facilities for the full term of the revenue bonds issued by
5 the port for the acquisition of said facilities, and said payments
6 shall at least fully reimburse the port for all principal and interest
7 paid by it on said bonds and for all operating or other costs, if any,
8 incurred by the port in connection with said facilities(~~(+
9 PROVIDED,)~~). However, (~~That~~) where there is more than one user of
10 any such facilities, each user shall be responsible for its pro rata
11 share of such costs and payment of principal and interest. Any port
12 intending to provide pollution control facilities to others shall first
13 survey the port district to ascertain the potential users of such
14 facilities and the extent of their needs. The port shall conduct a
15 public hearing upon the proposal and shall give each potential user an
16 opportunity to participate in the use of such facilities upon equal
17 terms and conditions.

18 (3) "Pollution control facility," as used in this section and RCW
19 53.08.041, does not include air quality improvement equipment that
20 provides emission reductions for engines, vehicles, and vessels.

21 **Sec. 104.** RCW 70.94.017 and 2005 c 295 s 5 are each amended to
22 read as follows:

23 (1) Money deposited in the segregated subaccount of the air
24 pollution control account under RCW 46.68.020(2) shall be distributed
25 as follows:

26 (a) Eighty-five percent shall be distributed to air pollution
27 control authorities created under this chapter. The money must be
28 distributed in direct proportion with the amount of fees imposed under
29 RCW 46.12.080, 46.12.170, and 46.12.181 that are collected within the
30 boundaries of each authority. However, an amount in direct proportion
31 with those fees collected in counties for which no air pollution
32 control authority exists must be distributed to the department.

33 (b) The remaining fifteen percent shall be distributed to the
34 department.

35 (2) Money distributed to air pollution control authorities and the
36 department under subsection (1) of this section must be used as
37 follows:

1 (a) Eighty-five percent of the money received by an air pollution
2 control authority or the department is available on a priority basis to
3 retrofit school buses with exhaust emission control devices or to
4 provide funding for fueling infrastructure necessary to allow school
5 bus fleets to use alternative, cleaner fuels. In addition, the
6 director of ecology or the air pollution control officer may direct
7 funding under this section for other publicly or privately owned diesel
8 equipment if the director of ecology or the air pollution control
9 officer finds that funding for other publicly or privately owned diesel
10 equipment will provide public health benefits and further the purposes
11 of this chapter.

12 (b) The remaining fifteen percent may be used by the air pollution
13 control authority or department to reduce transportation-related air
14 contaminant emissions and clean up air pollution, or reduce and monitor
15 toxic air contaminants.

16 (3) Money in the air pollution control account may be spent by the
17 department only after appropriation.

18 (4) This section expires July 1, 2020.

19 **PART 2**
20 **CLEAN FUELS INITIATIVE**

21 NEW SECTION. **Sec. 201.** (1) The legislature finds that the
22 development of a Washington-based feedstock agricultural and forest
23 products market is highly desirable for producing biodiesel and
24 ethanol. Research and incentive programs are needed to develop a
25 market in Washington to produce cellulosic ethanol from wood waste and
26 other organic materials. Cellulosic ethanol is a preferred biofuel
27 because it provides much greater reductions in petroleum dependence and
28 carbon emissions as compared to starch-based ethanol.

29 (2) It is important for the state of Washington to develop a
30 complete supply chain infrastructure that allows the state government,
31 including its local government subdivisions, to supply its complete
32 fuel needs with biofuels produced from feedstocks completely produced
33 in Washington. The goal of suppling one hundred percent of state and
34 local government's fuel needs with biofuels should be a reality by
35 2015.

1 NEW SECTION. **Sec. 202.** A new section is added to chapter 15.110
2 RCW to read as follows:

3 (1) Cellulosic ethanol production facilities are eligible for
4 assistance under the energy freedom program.

5 (2) For the purposes of this section, "cellulosic ethanol" means
6 ethanol derived from any lignocellulosic or hemicellulosic matter that
7 is available on a renewable or recurring basis, including dedicated
8 energy crops and trees, wood and wood residues, plants, grasses,
9 agricultural residues, fibers, animal wastes and other waste materials,
10 and municipal solid waste.

11 NEW SECTION. **Sec. 203.** A new section is added to chapter 19.112
12 RCW to read as follows:

13 (1) In addition to any other authority provided by law,
14 conservation districts and public development authorities are
15 authorized to enter into crop purchase contracts for a dedicated energy
16 crop for the purposes of producing, selling, and distributing biodiesel
17 produced from Washington state feedstocks, cellulosic ethanol, and
18 cellulosic ethanol blend fuels.

19 (2) In addition to any other authority provided by law, electric
20 utilities are authorized to produce and distribute biodiesel, ethanol,
21 and ethanol blend fuels, including entering into crop purchase
22 contracts for a dedicated energy crop for the purpose of generating
23 electricity or producing biodiesel produced from Washington feedstocks,
24 cellulosic ethanol, and cellulosic ethanol blend fuels for use in
25 internal operations of the electric utility and for sale or
26 distribution.

27 **Sec. 204.** RCW 15.110.040 and 2006 c 171 s 5 are each amended to
28 read as follows:

29 (1) If the total requested dollar amount of assistance awarded for
30 projects under RCW 15.110.020(3) exceeds the amount available in the
31 energy freedom account created in RCW 15.110.050, the applications must
32 be prioritized based upon the following criteria:

33 ~~((1))~~ (a) The extent to which the project will help reduce
34 dependence on petroleum fuels and imported energy either directly or
35 indirectly;

1 ~~((+2))~~ (b) The extent to which the project will reduce air and
2 water pollution either directly or indirectly;

3 ~~((+3))~~ (c) The extent to which the project will establish a viable
4 bioenergy production capacity in Washington;

5 ~~((+4))~~ (d) The benefits to Washington's agricultural producers;
6 ~~((and~~

7 ~~+5))~~ (e) The benefits to the health of Washington's forests; and
8 (f) The number and quality of jobs and economic benefits created by
9 the project.

10 (2) This section does not apply to assistance awarded for refueling
11 projects under RCW 15.110.020(4).

12 **Sec. 205.** RCW 15.110.020 and 2006 c 171 s 3 are each amended to
13 read as follows:

14 (1) The energy freedom program is established within the
15 department. The director may establish policies and procedures
16 necessary for processing, reviewing, and approving applications made
17 under this chapter.

18 (2) When reviewing applications submitted under this program, the
19 director shall consult with those agencies having expertise and
20 knowledge to assess the technical and business feasibility of the
21 project and probability of success. These agencies may include, but
22 are not limited to, Washington State University, the University of
23 Washington, the department of ecology, the department of community,
24 trade, and economic development, the department of natural resources,
25 and the Washington state conservation commission.

26 (3) Except as provided in subsection (4) of this section, the
27 director, in cooperation with the department of community, trade, and
28 economic development, may approve an application only if the director
29 finds:

30 (a) The project will convert landfill methane gas, wastewater
31 treatment gas, or farm products or wastes directly into electricity or
32 into gaseous or liquid fuels or other coproducts associated with such
33 conversion;

34 (b) The project demonstrates technical feasibility and directly
35 assists in moving a commercially viable project into the marketplace
36 for use by Washington state citizens;

1 (c) The facility will produce long-term economic benefits to the
2 state, a region of the state, or a particular community in the state;

3 (d) The project does not require continuing state support;

4 (e) The assistance will result in new jobs, job retention, or
5 higher incomes for citizens of the state;

6 (f) The state is provided an option under the assistance agreement
7 to purchase a portion of the fuel or feedstock to be produced by the
8 project, exercisable by the department of general administration;

9 (g) The project will increase energy independence or diversity for
10 the state;

11 (h) The project will use landfill methane gas, wastewater treatment
12 gas, or feedstocks produced in the state, if feasible, except this
13 criterion does not apply to the construction of facilities used to
14 distribute and store fuels that are produced from landfill methane gas,
15 wastewater treatment gas, or farm products or wastes;

16 (i) Any product produced by the project will be suitable for its
17 intended use, will meet accepted national or state standards, and will
18 be stored and distributed in a safe and environmentally sound manner;

19 (j) The application provides for adequate reporting or disclosure
20 of financial and employment data to the director, and permits the
21 director to require an annual or other periodic audit of the project
22 books; and

23 (k) For research and development projects, the application has been
24 independently reviewed by a peer review committee as defined in RCW
25 15.110.010 and the findings delivered to the director.

26 (4) When reviewing an application for a refueling project, the
27 director may award assistance to an applicant if the director finds:

28 (a) The project will offer biofuels or alternative fuels to the
29 motoring public;

30 (b) The project does not require continued state support;

31 (c) The project is located within a green highway zone as defined
32 in RCW 15.110.010;

33 (d) The project will contribute towards an efficient and adequately
34 spaced biofuel or alternative fuel refueling network along the green
35 highways; and

36 (e) The project will result in increased access to a biofueling
37 infrastructure or an alternative fueling infrastructure for the
38 motoring public along the green highways.

1 ~~(5)~~ (5) The director may approve ~~((an))~~ a project application for
2 assistance under subsection (3) of this section up to five million
3 dollars. In no circumstances shall this assistance constitute more
4 than fifty percent of the total project cost.

5 ~~((+5))~~ (6) The director may approve a refueling project
6 application for assistance under subsection (4) of this section up to
7 fifty thousand dollars. In no circumstances shall assistance awarded
8 constitute more than fifty percent of the total project cost.

9 (7) The director shall enter into agreements with approved
10 applicants to fix the terms and rates of the assistance to minimize the
11 costs to the applicants, and to encourage establishment of a viable
12 bioenergy industry. The agreement shall include provisions to protect
13 the state's investment, including a requirement that a successful
14 applicant enter into contracts with any partners that may be involved
15 in the use of any assistance provided under this program, including
16 services, facilities, infrastructure, or equipment. Contracts with any
17 partners shall become part of the application record.

18 ~~((+6))~~ (8) The director may defer any payments for up to twenty-
19 four months or until the project starts to receive revenue from
20 operations, whichever is sooner.

21 **PART 3**

22 **ESTABLISH GOALS FOR EMISSION REDUCTION**
23 **OF THE STATE'S MOTOR VEHICLE FLEETS**

24 NEW SECTION. Sec. 301. The legislature finds that there is a
25 compelling public interest in reducing fossil fuel dependence and
26 emissions of global warming pollution. It is important for the state
27 of Washington to demonstrate leadership in this regard and achieve
28 reductions in the use of fossil fuels by state fleets.

29 NEW SECTION. Sec. 302. A new section is added to chapter 43.19
30 RCW to read as follows:

31 (1) By no later than January 1, 2020, the annual fossil fuel usage
32 by the state's motor vehicle fleets must be at least twenty-five
33 percent below the annual usage for the year 2006.

34 (2) Except for cars owned or operated by the Washington state

1 patrol, when tires on vehicles in the state's motor vehicle fleet are
2 replaced, they must be replaced with tires that have the same or better
3 rolling resistance as the original tires.

4 (3) The governor shall report to the legislature at the beginning
5 of each biennium until January 1, 2020, on progress towards meeting the
6 goals in this section and any barriers to achieving the goals.

7 NEW SECTION. **Sec. 303.** A new section is added to chapter 43.01
8 RCW to read as follows:

9 It is in the state's interest and to the benefit of the people of
10 the state to encourage the use of electrical vehicles in order to
11 reduce emissions and provide the public with cleaner air. This section
12 expressly authorizes the purchase of power at state expense to recharge
13 privately and publicly owned plug-in electrical vehicles at state
14 office locations where the vehicles are used for state business, are
15 commute vehicles, or where the vehicles are at the state location for
16 the purpose of conducting business with the state.

17 NEW SECTION. **Sec. 304.** A new section is added to chapter 43.19
18 RCW to read as follows:

19 (1) In order to allow the motor vehicle fuel needs of state and
20 local government to be satisfied by Washington-produced biofuels, the
21 department of general administration shall contract in advance and
22 execute contracts with public or private producers, suppliers, or other
23 parties, for the purchase of biofuels, including but not limited to
24 biodiesel, ethanol, and ethanol blend fuels that are made from recycled
25 products or Washington feedstocks. Contract provisions may address
26 items including, but not limited to, fuel standards, price, and
27 delivery date.

28 (2) The department of general administration may combine the needs
29 of local government agencies, including ports, special districts,
30 school districts, and municipal corporations, for the purposes of
31 executing biodiesel, ethanol, and ethanol blend fuels contracts and to
32 secure a sufficient and stable supply of alternative fuels.

33 **PART 4**

34 **VEHICLE ELECTRIFICATION WORK GROUP**

1 NEW SECTION. **Sec. 401.** (1) The legislature finds that it is in
2 the state's interest and to the benefit of the people of the state to
3 encourage the use of electrical vehicle technology that will reduce
4 fossil fuel dependence and toxic air pollution. Displacing petroleum
5 with electricity will keep more energy expenditures and jobs in
6 Washington's economy instead of being lost to fossil fuel imports.

7 (2) Motor vehicles produce more than half of the global warming
8 pollution in the state of Washington. Reducing the use of fossil fuels
9 through alternatives such as electrification is one of the most
10 practical, beneficial climate solutions available to the state and its
11 citizens.

12 (3) The legislature finds that cleaner fuels and vehicles,
13 including vehicles that use electricity, can help the state achieve
14 better public health, increased energy security, and substantial
15 economic benefits.

16 NEW SECTION. **Sec. 402.** (1) The vehicle electrification work group
17 is established. Members of the group must be appointed by the governor
18 or the governor's designee and must include representatives of state
19 and local government agencies, ports, private and public electrical
20 power utilities, automobile manufacturers, trucking industry interests,
21 environmental interests, regional air quality agencies, and other
22 stakeholder groups. Staff for the work group must be provided by the
23 department of community, trade, and economic development, with
24 additional staff to be provided by other state agencies, as may be
25 required or requested.

26 (2) The vehicle electrification work group shall review, study,
27 evaluate, and make recommendations on at least the following items:

28 (a) Use by the state of plug-in hybrid vehicles and developing
29 plug-in availability at state locations. The use of hybrid vehicles
30 shall include an economic analysis of the total life-cycle cost to the
31 state over the vehicle's estimated useful life, including energy inputs
32 into the production of the vehicle, fuel usage, and all related costs
33 of selection, acquisition, operation, maintenance, and disposal, as far
34 as these costs can reasonably be determined, minus the salvage value at
35 the end of the vehicle's estimated useful life;

36 (b) Incentives to encourage the use of plug-in truck auxiliary
37 power units and truck stop electrification;

1 (c) Use of plug-in shore power for cargo and cruise ship terminals,
2 shipside technology, and use of electric power alternatives for port-
3 related operations and equipment such as switching locomotives, vessels
4 and harborcraft, and cargo-handling equipment;

5 (d) Potential uses for and availability of plug-in hybrid school
6 buses;

7 (e) Potential environmental and electrical grid impacts on
8 electrical power consumption of the conversion of a meaningful portion
9 of the state's private and public fleet to plug-in electrical power;

10 (f) Tax and fee incentives to encourage individual and fleet
11 purchases of plug-in hybrid vehicles;

12 (g) State laws, rules, tariffs, and policies that impact
13 transportation electrification and plug-in adoption, including pricing
14 with incentives for off-peak charging;

15 (h) Measures to encourage the use of plug-in vehicles by public
16 fleets, and resulting cost savings, and whether state and local fleets
17 should be required to purchase plug-in hybrid vehicles if it is
18 determined that plug-in hybrid vehicles are commercially available at
19 a reasonably comparable life-cycle cost;

20 (i) Explore the potential for the use of electrification of fixed
21 transit routes for magnetic levitation propulsion systems;

22 (j) Actions by the state to help industries located in the state
23 participate in developing and manufacturing plug-in vehicles and
24 vehicle-to-grid technologies;

25 (k) Additional ways the state can promote transportation
26 electrification in the private and public sectors, including cars and
27 light-duty vehicles, and truck stop and port electrification; and

28 (l) Potential partners for vehicle-to-grid pilot projects that test
29 the use of parked plug-in vehicles for power grid energy storage and
30 support.

31 (3) The vehicle electrification work group must complete its work
32 by December 1, 2008. The work group must submit an interim report to
33 the governor stating its findings, conclusions, and interim
34 recommendations by December 1, 2007. The group must submit a final
35 report to the governor stating its findings, conclusions, and final
36 recommendations by December 1, 2008.

37 (4) This section expires July 31, 2009.

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PART 5

PLANNING FOR THE FUTURE

NEW SECTION. **Sec. 501.** (1) The legislature finds that climate change is expected to have significant impacts in the Pacific Northwest region in the near and long-term future. These impacts include, among other things, increased temperatures, declining snowpack, more frequent heavy rainfall and flooding, receding glaciers, rising sea levels, increased risks to public health due to insect and rodent-borne diseases, declining salmon populations, and increased drought and risk of forest fires.

(2) The legislature recognizes the need at this time to continue to gather and analyze information related to climate protection. This will allow prudent steps to be taken to avoid, mitigate, or respond to climate impacts and protect our communities.

(3) The analysis of the health impacts of climate protection is needed to help prepare the state for and avoid health impacts such as West Nile virus and respiratory disease. At the same time, this analysis will contribute to our strategic thinking and planning for the impacts of climate change.

(4) The legislature finds that it is important for the state of Washington to participate in emerging regional, national, and international markets to mitigate climate change. The state has a strong interest in ensuring that climate policies and emission markets are designed to appropriately recognize our unique energy assets. Further, the legislature recognizes that any market system related to climate protection must be based on credible and durable accounting principles and have equally applicable rules across sectors in order to promote economically and environmentally effective trading.

NEW SECTION. **Sec. 502.** (1) The department of community, trade, and economic development shall develop and recommend a framework for the state of Washington to participate in emerging regional, national, and global markets to mitigate climate change, on a multisector basis, including the forest sector. This framework must include, but not be limited to, credible, verifiable, replicable inventory and accounting methodologies for each sector involved.

(2) The department of community, trade, and economic development

1 shall work closely with the department of natural resources on any
2 elements of this section's administration that studies or makes
3 recommendations on the role and opportunities of the forest sector.

4 (3) The stakeholder process identified in Executive Order No. 07-02
5 shall be utilized for this section.

6 **PART 6**

7 **THE ENERGY FREEDOM PROGRAM**

8 **Sec. 601.** RCW 15.110.005 and 2006 c 171 s 1 are each amended to
9 read as follows:

10 The legislature finds that:

11 (1) Washington's dependence on energy supplied from outside the
12 state and volatile global energy markets makes its economy and citizens
13 vulnerable to unpredictable and high energy prices;

14 (2) Washington's dependence on petroleum-based fuels increases
15 energy costs for citizens and businesses;

16 (3) Diesel soot from diesel engines ranks as the highest toxic air
17 pollutant in Washington, leading to hundreds of premature deaths and
18 increasing rates of asthma and other lung diseases;

19 (4) The use of biodiesel results in significantly less air
20 pollution than traditional diesel fuels;

21 (5) Improper disposal and treatment of organic waste from farms and
22 livestock operations can have a significant negative impact on water
23 quality;

24 (6) Landfill gas and wastewater treatment gas, if vented into the
25 atmosphere, poses a great risk to Washington's climate;

26 (7) Washington has abundant supplies of landfill methane and
27 wastewater treatment gas and organic wastes from farms (~~that~~), which
28 can be used for energy production, and abundant farmland where crops
29 could be grown to supplement or supplant petroleum-based fuels;

30 (~~(7)~~) (8) The use of energy and fuel derived from these sources
31 can help citizens and businesses conserve energy and reduce the use of
32 petroleum-based fuels, would improve air and water quality in
33 Washington, reduce environmental risks from landfills, wastewater
34 treatment plants, and farm wastes, create new markets for farm
35 products, and provide new industries and jobs for Washington citizens;

1 ~~((+8))~~ (9) The bioenergy industry is a new and developing industry
2 that is, in part, limited by the availability of capital for the
3 construction of facilities for converting farm and forest products and
4 waste gases into energy and fuels and the availability of
5 infrastructure necessary to allow motorists in Washington to refuel
6 their biofueled or alternative fueled vehicles while traveling along
7 major state highways;

8 ~~((+9))~~ (10) The 2010 Olympic and Paralympic Winter Games present
9 an opportunity to further Washington's energy independence by working
10 with Vancouver, British Columbia, Oregon, and California to develop a
11 hydrogen highway to showcase sustainable transportation and all of
12 Washington state's biofuels and alternative fuels, and to accelerate
13 the commercialization of hydrogen and fuel cell technologies;

14 (11) Instead of leaving our economy at the mercy of global events,
15 and the policies of foreign nations, Washington state should adopt a
16 policy of energy independence; and

17 ~~((+10))~~ (12) The energy freedom program is meant to lead
18 Washington state towards energy independence.

19 Therefore, the legislature finds that it is in the public interest
20 to encourage the rapid adoption and use of bioenergy, to develop a
21 viable bioenergy industry within Washington state, to promote public
22 research and development in bioenergy sources and markets, ~~((and))~~ to
23 support a viable agriculture industry to grow bioenergy crops, and to
24 develop infrastructure for the use of alternative fuels and biofuels by
25 the motorists of Washington state. To accomplish this, the energy
26 freedom program is established to promote public research and
27 development in bioenergy, ~~((and))~~ to stimulate the construction of
28 facilities in Washington to generate energy from farm sources or
29 convert organic matter, landfill gas, or wastewater treatment gas into
30 fuels, and to develop refueling infrastructure in Washington state to
31 ensure that alternative fuels and biofuels are readily accessible to
32 the motorists of Washington state.

33 **Sec. 602.** RCW 15.110.010 and 2006 c 171 s 2 are each amended to
34 read as follows:

35 The definitions in this section apply throughout this chapter
36 unless the context clearly requires otherwise.

1 (1) "Alternative fuel" means electricity, hydrogen, or liquid
2 natural gas produced from landfill methane gas or wastewater treatment
3 gas.

4 (2) "Applicant" means any political subdivision of the state,
5 including port districts, counties, cities, towns, special purpose
6 districts, and other municipal corporations or quasi-municipal
7 corporations. "Applicant" may also include federally recognized tribes
8 and state institutions of higher education with appropriate research
9 capabilities.

10 ((+2)) (3) "Assistance" includes loans, leases, product purchases,
11 or other forms of financial or technical assistance.

12 ((+3)) (4) "Department" means the department of agriculture.

13 ((+4)) (5) "Director" means the director of the department of
14 agriculture.

15 ((+5)) (6) "Green highway zone" means an area in the state
16 designated by the department that is within reasonable proximity of
17 state route number 5, state route number 90, and state route number 82.

18 (7) "Peer review committee" means a board, appointed by the
19 director, that includes bioenergy specialists, energy conservation
20 specialists, scientists, and individuals with specific recognized
21 expertise.

22 ((+6)) (8) "Project" means the construction of facilities,
23 including the purchase of equipment, to convert landfill methane gas,
24 wastewater treatment gas, or farm products or wastes into electricity
25 or gaseous or liquid fuels or other coproducts associated with such
26 conversion. These specifically include fixed or mobile facilities to
27 generate electricity or methane from the anaerobic digestion of organic
28 matter, and fixed or mobile facilities for extracting oils from canola,
29 rape, mustard, and other oilseeds. "Project" may also include the
30 construction of facilities associated with such conversion for the
31 distribution and storage of such feedstocks and fuels.

32 ((+7)) (9) "Refueling project" means the construction of new
33 biofuel and alternative fuel refueling facilities, as well as upgrades
34 and expansion of existing refueling facilities, that will enable these
35 facilities to offer alternative fuels to the motoring public.

36 (10) "Research and development project" means research and
37 development, by an institution of higher education as defined in
38 subsection ((+1)) (2) of this section, relating to:

1 (a) Bioenergy sources including but not limited to biomass and
2 associated gases, landfill gas, and wastewater treatment gas; or

3 (b) The development of markets for bioenergy coproducts.

4 NEW SECTION. Sec. 603. A new section is added to chapter 15.110
5 RCW to read as follows:

6 (1) If the total requested dollar amount of funds for refueling
7 projects under RCW 15.110.020(4) exceeds the amount available in the
8 green energy incentive subaccount created in section 604 of this act,
9 the applications must be prioritized based upon the following criteria:

10 (a) The extent to which the project will help reduce dependence on
11 petroleum fuels and imported energy either directly or indirectly;

12 (b) The extent to which the project will reduce air and water
13 pollution either directly or indirectly;

14 (c) The extent to which the project will establish a viable biofuel
15 or alternative fuel production capacity in Washington;

16 (d) The extent to which the project will make biofuels and
17 alternative fuels more accessible to the motoring public;

18 (e) The benefits to Washington's agricultural or alternative fuel
19 producers; and

20 (f) The number and quality of jobs and economic benefits created by
21 the project.

22 (2) This section does not apply to assistance awarded for projects
23 under RCW 15.110.020(3).

24 NEW SECTION. Sec. 604. A new section is added to chapter 15.110
25 RCW to read as follows:

26 The green energy incentive subaccount is created as a subaccount of
27 the energy freedom account. All receipts from appropriations made to
28 the green energy incentive subaccount shall be deposited into the
29 subaccount and shall be appropriated only for:

30 (1) Refueling projects awarded under this chapter;

31 (2) Pilot projects for plug-in hybrids;

32 (3) Programs to reduce truck stop idling;

33 (4) Demonstration projects developed with a science museum for the
34 purpose of bringing science education to children by way of a mobile
35 learning vehicle; and

1 (5) Demonstration projects developed with the University of
2 Washington that result in the design and building of a hydrogen vehicle
3 fueling station.

4 NEW SECTION. **Sec. 605.** Moneys deposited in the green energy
5 incentive subaccount created in section 604 of this act shall not
6 exceed one million dollars.

7 **Sec. 606.** RCW 15.110.060 and 2006 c 171 s 7 are each amended to
8 read as follows:

9 The director shall report to the legislature and governor on the
10 status of the energy freedom program created under this chapter, on or
11 before December 1, 2006, and annually thereafter. This report must
12 include information on the projects that have been funded, the status
13 of these projects, and their environmental, energy savings, and job
14 creation benefits, as well as an assessment of the availability of
15 biofuels and alternative fuels in the state.

16 NEW SECTION. **Sec. 607.** Sections 202, 204, 205, 601 through 604,
17 and 606 of this act expire June 30, 2016.

18 **PART 7**
19 **CLEAN ENERGY INCENTIVE ACCOUNT**

20 NEW SECTION. **Sec. 701.** A new section is added to chapter 43.31
21 RCW to read as follows:

22 (1) The clean energy incentive account is created in the state
23 treasury. All receipts from appropriations made to the account must be
24 deposited into the account. Moneys in the account may be spent only
25 after appropriation. Expenditures from the account may be used only
26 for the purposes of this act.

27 (2) Any state agency receiving funding from the clean energy
28 incentive account is prohibited from retaining greater than three
29 percent of any funding provided from the clean energy incentive account
30 for administrative overhead or other deductions not directly associated
31 with conducting the research, projects, or other end products that the
32 funding is designed to produce.

1 (3) Any university, institute, or other entity that is not a state
2 agency receiving funding from the clean energy incentive account is
3 prohibited from retaining greater than three percent of any funding
4 provided from the clean energy incentive account for administrative
5 overhead or other deductions not directly associated with conducting
6 the research, projects, or other end products that the funding is
7 designed to produce.

8 NEW SECTION. **Sec. 702.** A new section is added to chapter 43.135
9 RCW to read as follows:

10 RCW 43.135.035(4) does not apply to the transfers established in
11 this act.

12 NEW SECTION. **Sec. 703.** A new section is added to chapter 43.19
13 RCW to read as follows:

14 The department of general administration, in conjunction with
15 private sector suppliers, shall develop a pilot program for providing
16 E85 fueling capacity at appropriate intervals and locations along at
17 least interstate routes 5, 82, and 90 throughout the state for the use
18 of public and private vehicles.

19 NEW SECTION. **Sec. 704.** A new section is added to chapter 28B.30
20 RCW to read as follows:

21 Washington State University is directed to analyze and recommend
22 models for possible implementation by the legislature or the executive
23 office for at least the following potential biofuels incentive
24 programs:

25 (1) Market incentives to encourage instate production of brassica-
26 based biodiesel, and cellulosic ethanol, including such market methods
27 as direct grants, production tax credits, and the issuance by the state
28 of advance guaranteed purchase contracts;

29 (2) Possible preferred research programs, grants, or other forms of
30 assistance for accelerating the development of instate production of
31 cellulosic ethanol and in-state biodiesel crops and their coproducts;

32 (3) Coordinate with the Western Washington University alternative
33 automobile program for opportunities to support new Washington state
34 technology for conversion of fossil fuel fleets to biofuel, hybrid, or
35 alternative fuel propulsion;

1 (4) Coordinate with the University of Washington's college of
2 forest management and the Olympic natural resources center for the
3 identification of barriers to using the state's forest resources for
4 fuel production, including the economic and transportation barriers of
5 physically bringing forest biomass to the market;

6 (5) Developing, coordinating, and overseeing the implementation of
7 a plan, or series of plans, for the development of a complete supply
8 chain that allows for the production, transport, distribution, and
9 delivery to public sector end-users of biofuels produced exclusively
10 from recycled products or Washington feedstocks;

11 (6) Coordinate with the department of agriculture for the
12 identification of other barriers for future biofuels development; and

13 (7) Strategies for furthering the penetration of the Washington
14 state fossil fuel market with Washington produced biofuels,
15 particularly among public entities.

16 NEW SECTION. **Sec. 705.** A new section is added to chapter 43.31
17 RCW to read as follows:

18 The following goals and criteria should be considered in evaluating
19 potential biofuel incentives to be offered by the state in conjunction
20 with this act: To assist Washington farmers and businesses in the
21 development of economically viable, sustained instate biofuel and
22 biofuel feedstock production; to leverage and encourage private
23 investment in biofuel and biofuel feedstock production; and to assist
24 in the development of biofuel feedstocks and production techniques that
25 deliver the greatest net reductions in petroleum dependence and carbon
26 emissions.

27 NEW SECTION. **Sec. 706.** A new section is added to chapter 82.16
28 RCW to read as follows:

29 (1) Subject to the limitations in this section, an eligible light
30 and power business may claim a credit against the tax imposed under
31 this chapter.

32 (2) The amount of credit is equal to two percent annually, for a
33 period of at least seven but not more than thirty years after the
34 investment commences, of the cost of investments in distributed
35 generation, and in measures that improve, as measured in kilowatt-hour
36 savings, the overall efficiency of transmission, distribution, and

1 end-use consumption of electricity through energy efficiency
2 technologies, including any device, instrument, machine, appliance, or
3 process related to the transmission, distribution, and consumption of
4 electricity to increase energy efficiency, including but not limited to
5 smart grid technology, smart meters, and demand response technologies.

6 (3) Measures or projects encouraged under this section are those
7 for which construction or installation is begun after July 1, 2007, and
8 before January 1, 2017, and which, at the time they are placed in the
9 rate base, are reasonably expected to save, produce, or generate energy
10 at a total incremental system cost per unit of energy delivered to end
11 use that is less than or equal to the incremental system cost per unit
12 of energy delivered to end use from new baseload or peaking electric
13 generation and that the eligible light and power business could acquire
14 to meet energy demand in the same time period.

15 (4) The amount of credit taken under this section may not exceed
16 one million dollars in total for all light and power businesses in a
17 calendar year. If the department receives applications for credit that
18 exceed one million dollars prior to the end of the calendar year, the
19 department shall apportion the credit on a method determined by the
20 department.

21 (5) For purposes of this section, "eligible light and power
22 business" means a municipal utility formed under Title 35 RCW, a public
23 utility district formed under Title 54 RCW, an irrigation district
24 formed under chapter 87.03 RCW, a cooperative formed under chapter
25 23.86 RCW, a mutual corporation or association formed under chapter
26 24.06 RCW, or port district within which an industrial district has
27 been established as authorized by Title 53 RCW, that is engaged in the
28 business of distributing electricity to more than one retail electric
29 customer in the state.

30 **PART 8**

31 **MISCELLANEOUS**

32 NEW SECTION. **Sec. 801.** Part headings used in this act are not any
33 part of the law.

34 NEW SECTION. **Sec. 802.** The office of the superintendent of public

1 instruction may adopt any rules necessary for the implementation of
2 this act.

3 NEW SECTION. **Sec. 803.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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