

**E2SHB 1303** - S COMM AMD

By Committee on Water, Energy & Telecommunications

OUT OF ORDER 04/13/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that excessive  
4 dependence on fossil fuels jeopardizes Washington's economic security,  
5 environmental integrity, and public health. Accelerated development  
6 and use of clean fuels and clean vehicle technologies will reduce the  
7 drain on Washington's economy from importing fossil fuels. As fossil  
8 fuel prices rise, clean fuels and vehicles can save consumers money  
9 while promoting the development of a major, sustainable industry that  
10 provides good jobs and a new source of rural prosperity. In addition,  
11 clean fuels and vehicles protect public health by reducing toxic air  
12 and climate change emissions.

13 (2) The legislature also finds that climate change is expected to  
14 have significant impacts in the Pacific Northwest region in the near  
15 and long-term future. These impacts include: Increased temperatures,  
16 declining snowpack, more frequent heavy rainfall and flooding, receding  
17 glaciers, rising sea levels, increased risks to public health due to  
18 insect and rodent-borne diseases, declining salmon populations, and  
19 increased drought and risk of forest fires. The legislature recognizes  
20 the need at this time to continue to gather and analyze information  
21 related to climate protection. This analysis will allow prudent steps  
22 to be taken to avoid, mitigate, or respond to climate impacts and  
23 protect our communities.

24 (3) Finally, the legislature finds that to reduce fossil fuel  
25 dependence, build our clean energy economy, and reduce climate impacts,  
26 the state should develop policies and incentives that help businesses,  
27 consumers, and farmers gain greater access to affordable clean fuels  
28 and vehicles and to produce clean fuels in the state. These policies  
29 and incentives should include: Incentives for replacement of the most  
30 polluting diesel engines, especially in school buses; transitional

1 incentives for development of the most promising in-state clean fuels  
2 and fuel feedstocks, including biodiesel crops, ethanol from plant  
3 waste, and liquid natural gas from landfill or wastewater treatment  
4 gases; reduced fossil fuel consumption by state fleets; development of  
5 promising new technologies for displacing petroleum with electricity,  
6 such as "plug-in hybrids"; and impact analysis and emission accounting  
7 procedures that prepare Washington to respond and prosper as climate  
8 change impacts occur, and as policies and markets to reduce climate  
9 pollution are developed.

10 **PART 1**

11 **INVESTING IN CLEAN AIR**

12 NEW SECTION. **Sec. 101.** A new section is added to chapter 28A.300  
13 RCW to read as follows:

14 (1) The office of the superintendent of public instruction shall  
15 implement a school bus replacement incentive program. As part of the  
16 program, the office shall fund up to ten percent of the cost of a new  
17 2007 or later model year school bus that meets the 2007 federal motor  
18 vehicle emission control standards and is purchased by a school  
19 district by no later than June 30, 2009, provided that the new bus is  
20 replacing a 1994 or older school bus in the school district's fleet.  
21 Replacement of the oldest buses must be given highest priority.

22 (2) The office of the superintendent of public instruction shall  
23 ensure that buses being replaced through this program are surplusued  
24 under RCW 28A.335.180. As part of the surplus process, school  
25 districts must provide written documentation to the office of the  
26 superintendent of public instruction demonstrating that buses being  
27 replaced are scrapped and not purchased for road use. The  
28 documentation must include bus make, model, year, vehicle  
29 identification number, engine make, engine serial number, and salvage  
30 yard receipts; and must demonstrate that the engine and body of the bus  
31 being replaced has been rendered unusable.

32 (3) The office of the superintendent of public instruction may  
33 adopt any rules necessary for the implementation of this act.

34 **Sec. 102.** RCW 70.94.017 and 2005 c 295 s 5 are each amended to  
35 read as follows:

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

4 (a) Eighty-five percent shall be distributed to air pollution  
5 control authorities created under this chapter. The money must be  
6 distributed in direct proportion with the amount of fees imposed under  
7 RCW 46.12.080, 46.12.170, and 46.12.181 that are collected within the  
8 boundaries of each authority. However, an amount in direct proportion  
9 with those fees collected in counties for which no air pollution  
10 control authority exists must be distributed to the department.

11 (b) The remaining fifteen percent shall be distributed to the  
12 department.

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

16 (a) Eighty-five percent of the money received by an air pollution  
17 control authority or the department is available on a priority basis to  
18 retrofit school buses with exhaust emission control devices or to  
19 provide funding for fueling infrastructure necessary to allow school  
20 bus fleets to use alternative, cleaner fuels. In addition, the  
21 director of ecology or the air pollution control officer may direct  
22 funding under this section for other publicly or privately owned diesel  
23 equipment if the director of ecology or the air pollution control  
24 officer finds that funding for other publicly or privately owned diesel  
25 equipment will provide public health benefits and further the purposes  
26 of this chapter.

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

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

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

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

36 (1) A district may improve its lands by dredging, filling,  
37 bulkheading, providing waterways or otherwise developing such lands for

1 industrial and commercial purposes. A district may also acquire,  
2 construct, install, improve, and operate sewer and water utilities to  
3 serve its own property and other property owners under terms,  
4 conditions, and rates to be fixed and approved by the port commission.  
5 A district may also acquire, by purchase, construction, lease, or in  
6 any other manner, and may maintain and operate other facilities for the  
7 control or elimination of air, water, or other pollution, including,  
8 but not limited to, facilities for the treatment and/or disposal of  
9 industrial wastes, and may make such facilities available to others  
10 under terms, conditions and rates to be fixed and approved by the port  
11 commission. Such conditions and rates shall be sufficient to reimburse  
12 the port for all costs, including reasonable amortization of capital  
13 outlays caused by or incidental to providing such other pollution  
14 control facilities(~~(+ PROVIDED, That)~~). However, no part of such  
15 costs of providing any pollution control facility to others shall be  
16 paid out of any tax revenues of the port(~~(+ AND PROVIDED FURTHER,~~  
17 ~~That)~~) and no port shall enter into an agreement or contract to provide  
18 sewer and/or water utilities or pollution control facilities if  
19 substantially similar utilities or facilities are available from  
20 another source (or sources) which is able and willing to provide such  
21 utilities or facilities on a reasonable and nondiscriminatory basis  
22 unless such other source (or sources) consents thereto.

23 (2) In the event that a port elects to make such other pollution  
24 control facilities available to others, it shall do so by lease, lease  
25 purchase agreement, or other agreement binding such user to pay for the  
26 use of said facilities for the full term of the revenue bonds issued by  
27 the port for the acquisition of said facilities, and said payments  
28 shall at least fully reimburse the port for all principal and interest  
29 paid by it on said bonds and for all operating or other costs, if any,  
30 incurred by the port in connection with said facilities(~~(+ PROVIDED,~~  
31 ~~PROVIDED,)~~). However, (~~That~~) where there is more than one user of  
32 any such facilities, each user shall be responsible for its pro rata  
33 share of such costs and payment of principal and interest. Any port  
34 intending to provide pollution control facilities to others shall first  
35 survey the port district to ascertain the potential users of such  
36 facilities and the extent of their needs. The port shall conduct a  
37 public hearing upon the proposal and shall give each potential user an

1 opportunity to participate in the use of such facilities upon equal  
2 terms and conditions.

3 (3) "Pollution control facility," as used in this section and RCW  
4 53.08.041, does not include air quality improvement equipment that  
5 provides emission reductions for engines, vehicles, and vessels.

6 **PART 2**  
7 **PUBLIC SECTOR FUEL USE**

8 **Sec. 201.** RCW 43.19.642 and 2006 c 338 s 10 are each amended to  
9 read as follows:

10 ~~(1) ((All state agencies are encouraged to use a fuel blend of~~  
11 ~~twenty percent biodiesel and eighty percent petroleum diesel for use in~~  
12 ~~diesel powered vehicles and equipment.~~

13 ~~(2))~~ Effective June 1, 2006, for agencies complying with the  
14 ultra- low sulfur diesel mandate of the United States environmental  
15 protection agency for on-highway diesel fuel, agencies shall use  
16 biodiesel as an additive to ultra-low sulfur diesel for lubricity,  
17 provided that the use of a lubricity additive is warranted and that the  
18 use of biodiesel is comparable in performance and cost with other  
19 available lubricity additives. The amount of biodiesel added to the  
20 ultra-low sulfur diesel fuel shall be not less than two percent.

21 ~~((3))~~ (2) Effective June 1, 2009, state agencies are required to  
22 use a minimum of twenty percent biodiesel as compared to total volume  
23 of all diesel purchases made by the agencies for the operation of the  
24 agencies' diesel-powered vessels, vehicles, and construction equipment.

25 ~~((4))~~ (3) All state agencies using biodiesel fuel shall,  
26 beginning on July 1, 2006, file ~~((quarterly))~~ biannual reports with the  
27 department of general administration documenting the use of the fuel  
28 and a description of how any problems encountered were resolved.

29 NEW SECTION. **Sec. 202.** A new section is added to chapter 43.19  
30 RCW to read as follows:

31 (1) Effective June 1, 2015, all state agencies and local government  
32 subdivisions of the state, to the extent determined practicable by the  
33 rules adopted by the department of community, trade, and economic  
34 development pursuant to section 204 of this act, are required to

1 satisfy one hundred percent of their fuel usage, as determined for  
2 operating publicly owned vessels, vehicles, and construction equipment  
3 from electricity or biofuel.

4 (2) By no later than January 1, 2020, the annual fossil fuel usage  
5 by the state must be at least twenty-five percent below the annual  
6 usage for the year 2006.

7 (3) Except for cars owned or operated by the Washington state  
8 patrol, when tires on vehicles in the state's motor vehicle fleet are  
9 replaced, they must be replaced with tires that have the same or better  
10 rolling resistance as the original tires.

11 NEW SECTION. **Sec. 203.** A new section is added to chapter 43.19  
12 RCW to read as follows:

13 (1) In order to allow the motor vehicle fuel needs of state and  
14 local government to be satisfied by Washington-produced biofuels as  
15 provided in RCW 43.19.642, the department of general administration as  
16 well as local governments may contract in advance and execute contracts  
17 with public or private producers, suppliers, or other parties, for the  
18 purchase of appropriate biofuels, as that term is defined in RCW  
19 15.110.010 (as recodified by this act), and biofuel blends. Contract  
20 provisions may address items including, but not limited to, fuel  
21 standards, price, and delivery date.

22 (2) The department of general administration may combine the needs  
23 of local government agencies, including ports, special districts,  
24 school districts, and municipal corporations, for the purposes of  
25 executing contracts for biofuels and to secure a sufficient and stable  
26 supply of alternative fuels.

27 NEW SECTION. **Sec. 204.** By June 1, 2010, the department of  
28 community, trade, and economic development shall adopt rules to define  
29 practicability and clarify how state agencies and local government  
30 subdivisions will be evaluated in determining whether they have met the  
31 goals set out in section 202(1) of this act. At a minimum, the rules  
32 must address:

33 (1) Criteria for determining how the goal in section 202(1) of this  
34 act will be met by June 1, 2015;

35 (2) Factors considered to determine compliance with the goal in  
36 section 202(1) of this act, including but not limited to: The regional

1 availability of fuels; vehicle costs; differences between types of  
2 vehicles, vessels, or equipment; the cost of program implementation;  
3 and cost differentials in different parts of the state; and

4 (3) A schedule for phased-in progress towards meeting the goal in  
5 section 202(1) of this act that may include different schedules for  
6 different fuel applications, different quantities of biofuels, or  
7 changes to the 2015 date.

8 NEW SECTION. **Sec. 205.** The director of the department of  
9 community, trade, and economic development shall appoint a coordinator  
10 that is responsible for:

11 (1) Managing, directing, inventorying, and coordinating state  
12 efforts to promote, develop, and encourage a biofuels market in  
13 Washington;

14 (2) Developing, coordinating, and overseeing the implementation of  
15 a plan, or series of plans, for the production, transport,  
16 distribution, and delivery of biofuels produced predominantly from  
17 recycled products or Washington feedstocks;

18 (3) Working with the departments of transportation and general  
19 administration, or other applicable state and local governmental  
20 entities, to develop biofuel fueling stations for use by state and  
21 local motor vehicle fleets and to provide greater access to public  
22 sector fueling capacity for biofuels;

23 (4) Coordinating with the Western Washington University alternative  
24 automobile program for opportunities to support new Washington state  
25 technology for conversion of fossil fuel fleets to biofuel, hybrid, or  
26 alternative fuel propulsion;

27 (5) Coordinating with the University of Washington's college of  
28 forest management and the Olympic natural resources center for the  
29 identification of barriers to using the state's forest resources for  
30 fuel production, including the economic and transportation barriers of  
31 physically bringing forest biomass to the market;

32 (6) Coordinating with the department of agriculture and the  
33 University of Washington for the identification of other barriers for  
34 future biofuels development and development of strategies for  
35 furthering the penetration of the Washington state fossil fuel market  
36 with Washington produced biofuels, particularly among public entities.

1        NEW SECTION.    **Sec. 206.**    A new section is added to chapter 43.01  
2    RCW to read as follows:

3        (1) It is in the state's interest and to the benefit of the people  
4    of the state to encourage the use of electrical vehicles in order to  
5    reduce emissions and provide the public with cleaner air. This section  
6    expressly authorizes the purchase of power at state expense to recharge  
7    privately and publicly owned plug-in electrical vehicles at state  
8    office locations where the vehicles are used for state business, are  
9    commute vehicles, or where the vehicles are at the state location for  
10   the purpose of conducting business with the state.

11       (2) The director of the department of general administration shall  
12   provide reports to the governor and the appropriate committees of the  
13   legislature, as deemed necessary by the director, on the estimated  
14   amount of state-purchased electricity consumed by plug-in electrical  
15   vehicles if the director of general administration determines that the  
16   use has a significant cost to the state, and on the number of plug-in  
17   electric vehicles using state office locations.

18       NEW SECTION.    **Sec. 207.**    A new section is added to chapter 89.08  
19    RCW to read as follows:

20        In addition to any other authority provided by law, conservation  
21   districts are authorized to enter into crop purchase contracts for a  
22   dedicated energy crop for the purposes of producing, selling, and  
23   distributing biodiesel produced from Washington state feedstocks,  
24   cellulosic ethanol, and cellulosic ethanol blend fuels.

25       NEW SECTION.    **Sec. 208.**    A new section is added to chapter 35.21  
26    RCW to read as follows:

27        In addition to any other authority provided by law, public  
28   development authorities are authorized to enter into crop purchase  
29   contracts for a dedicated energy crop for the purposes of producing,  
30   selling, and distributing biodiesel produced from Washington state  
31   feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels.

32       NEW SECTION.    **Sec. 209.**    A new section is added to chapter 35.92  
33    RCW to read as follows:

34        In addition to any other authority provided by law, municipal  
35   utilities are authorized to produce and distribute biodiesel, ethanol,

1 and ethanol blend fuels, including entering into crop purchase  
2 contracts for a dedicated energy crop for the purpose of generating  
3 electricity or producing biodiesel produced from Washington feedstocks,  
4 cellulosic ethanol, and cellulosic ethanol blend fuels for use in  
5 internal operations of the electric utility and for sale or  
6 distribution.

7 NEW SECTION. **Sec. 210.** A new section is added to chapter 54.04  
8 RCW to read as follows:

9 In addition to any other authority provided by law, public utility  
10 districts are authorized to produce and distribute biodiesel, ethanol,  
11 and ethanol blend fuels, including entering into crop purchase  
12 contracts for a dedicated energy crop for the purpose of generating  
13 electricity or producing biodiesel produced from Washington feedstocks,  
14 cellulosic ethanol, and cellulosic ethanol blend fuels for use in  
15 internal operations of the electric utility and for sale or  
16 distribution.

17 **PART 3**  
18 **ENERGY FREEDOM PROGRAM**

19 **Sec. 301.** RCW 15.110.010 and 2006 c 171 s 2 are each amended to  
20 read as follows:

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

23 (1) "Applicant" means any political subdivision of the state,  
24 including port districts, counties, cities, towns, special purpose  
25 districts, and other municipal corporations or quasi-municipal  
26 corporations. "Applicant" may also include federally recognized tribes  
27 and state institutions of higher education with appropriate research  
28 capabilities.

29 (2) "Alternative fuel" means all products or energy sources used to  
30 propel motor vehicles, other than conventional gasoline, diesel, or  
31 reformulated gasoline. "Alternative fuel" includes, but is not limited  
32 to, cellulose, liquefied petroleum gas, liquefied natural gas,  
33 compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels  
34 containing seventy percent or more by volume of alcohol fuel, fuels

1 that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel,  
2 nonhazardous motor fuel, or electricity, excluding onboard electric  
3 generation.

4 (3) "Assistance" includes loans, leases, product purchases, or  
5 other forms of financial or technical assistance.

6 ((+3)) (4) "Biofuel" includes, but is not limited to, biodiesel,  
7 ethanol, and ethanol blend fuels and renewable liquid natural gas or  
8 liquid compressed natural gas made from biogas.

9 (5) "Biogas" includes waste gases derived from landfills and  
10 wastewater treatment plants and dairy and farm wastes.

11 (6) "Cellulose" means lignocellulosic, hemicellulosic, or other  
12 cellulosic matter that is available on a renewable or recurring basis,  
13 including dedicated energy crops and trees, wood and wood residues,  
14 plants, grasses, agricultural residues, fibers, animal wastes and other  
15 waste materials, and municipal solid waste.

16 (7) "Coordinator" means the person appointed by the director of the  
17 department of community, trade, and economic development.

18 (8) "Department" means the department of ((agriculture)) community,  
19 trade, and economic development.

20 ((+4)) (9) "Director" means the director of the department of  
21 ((agriculture)) community, trade, and economic development.

22 ((+5)) (10) "Green highway zone" means an area in the state  
23 designated by the department that is within reasonable proximity of  
24 state route number 5, state route number 90, and state route number 82.

25 (11) "Peer review committee" means a board, appointed by the  
26 director, that includes bioenergy specialists, energy conservation  
27 specialists, scientists, and individuals with specific recognized  
28 expertise.

29 ((+6)) (12) "Project" means the construction of facilities,  
30 including the purchase of equipment, to convert farm products or wastes  
31 into electricity or gaseous or liquid fuels or other coproducts  
32 associated with such conversion. These specifically include fixed or  
33 mobile facilities to generate electricity or methane from the anaerobic  
34 digestion of organic matter, and fixed or mobile facilities for  
35 extracting oils from canola, rape, mustard, and other oilseeds.  
36 "Project" may also include the construction of facilities associated  
37 with such conversion for the distribution and storage of such  
38 feedstocks and fuels.

1        ~~((7))~~ (13) "Refueling project" means the construction of new  
2 alternative fuel refueling facilities, as well as upgrades and  
3 expansion of existing refueling facilities, that will enable these  
4 facilities to offer alternative fuels to the public.

5        (14) "Research and development project" means research and  
6 development, by an institution of higher education as defined in  
7 subsection (1) of this section, relating to:

8        (a) Bioenergy sources including but not limited to biomass and  
9 associated gases; or

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

11        **Sec. 302.** RCW 15.110.020 and 2006 c 171 s 3 are each amended to  
12 read as follows:

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

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

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

31        (a) The project will convert farm products ~~((or))~~ wastes,  
32 cellulose, or biogas directly into electricity or ~~((into gaseous or~~  
33 ~~liquid fuels))~~ biofuel or other coproducts associated with such  
34 conversion;

35        (b) The project demonstrates technical feasibility and directly  
36 assists in moving a commercially viable project into the marketplace  
37 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 feedstocks produced in the state, if  
12 feasible, except this criterion does not apply to the construction of  
13 facilities used to distribute and store fuels that are produced from  
14 farm products or wastes;

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

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

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

26 (4) When reviewing an application for a refueling project, the  
27 coordinator may award a grant or a loan to an applicant if the director  
28 finds:

29 (a) The project will offer alternative fuels to the motoring  
30 public;

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

32 (c) The project is located within a green highway zone as defined  
33 in RCW 15.110.010 (as recodified by this act);

34 (d) The project will contribute towards an efficient and adequately  
35 spaced alternative fuel refueling network along the green highways  
36 designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

37 (e) The project will result in increased access to alternative

1 fueling infrastructure for the motoring public along the green highways  
2 designated in RCW 47.17.020, 47.17.135, and 47.17.140.

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

7 ~~((+5))~~ (b) The director may approve a refueling project  
8 application for a grant or a loan under subsection (4) of this section  
9 up to fifty thousand dollars. In no circumstances shall a grant or a  
10 loan award constitute more than fifty percent of the total project  
11 cost.

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

22 ~~((+6))~~ (7) The director may defer any payments for up to twenty-  
23 four months or until the project starts to receive revenue from  
24 operations, whichever is sooner.

25 **Sec. 303.** RCW 15.110.040 and 2006 c 171 s 5 are each amended to  
26 read as follows:

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

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

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

1       ~~((3))~~ (c) The extent to which the project will establish a viable  
2 bioenergy or biofuel production capacity in Washington;

3       ~~((4))~~ (d) The benefits to Washington's agricultural producers;  
4 ~~((and~~

5 ~~+5))~~ (e) The benefits to the health of Washington's forests;

6 (f) The beneficial uses of biogas; and

7 (g) The number and quality of jobs and economic benefits created by  
8 the project.

9       (2) This section does not apply to grants or loans awarded for  
10 refueling projects under RCW 15.110.020(4) (as recodified by this act).

11       NEW SECTION. Sec. 304. If the total requested dollar amount of  
12 funds for refueling projects under RCW 15.110.020(4) (as recodified by  
13 this act) exceeds the amount available for refueling projects in the  
14 energy freedom account created in RCW 15.110.050 (as recodified by this  
15 act), the applications must be prioritized based upon the following  
16 criteria:

17       (1) The extent to which the project will help reduce dependence on  
18 petroleum fuels and imported energy either directly or indirectly;

19       (2) The extent to which the project will reduce air and water  
20 pollution either directly or indirectly;

21       (3) The extent to which the project will establish a viable  
22 bioenergy production capacity in Washington;

23       (4) The extent to which the project will make biofuels more  
24 accessible to the motoring public;

25       (5) The benefits to Washington's agricultural producers; and

26       (6) The number and quality of jobs and economic benefits created by  
27 the project.

28       **Sec. 305.** RCW 15.110.050 and 2006 c 371 s 223 are each amended to  
29 read as follows:

30       (1) The energy freedom account is created in the state treasury.  
31 All receipts from appropriations made to the account and any loan  
32 payments of principal and interest derived from loans made under this  
33 chapter must be deposited into the account. Moneys in the account may  
34 be spent only after appropriation. Expenditures from the account may  
35 be used only for assistance for projects consistent with this chapter

1 or otherwise authorized by the legislature. (~~Administrative costs of~~  
2 ~~the department may not exceed three percent of the total funds~~  
3 ~~available for this program.~~)

4 (2) The green energy incentive account is created in the state  
5 treasury as a subaccount of the energy freedom account. All receipts  
6 from appropriations made to the green energy incentive account shall be  
7 deposited into the account, and may be spent only after appropriation.  
8 Expenditures from the account may be used only for:

9 (a) Refueling projects awarded under this chapter;

10 (b) Pilot projects for plug-in hybrids, including grants provided  
11 for the electrification program set forth in section 408 of this act;

12 (c) Programs to reduce truck stop idling;

13 (d) Demonstration projects developed with a science museum for the  
14 purpose of bringing science education to children by way of a mobile  
15 learning vehicle; and

16 (e) Demonstration projects developed with the University of  
17 Washington that result in the design and building of a hydrogen vehicle  
18 fueling station.

19 (3) Any state agency receiving funding from the energy freedom  
20 account is prohibited from retaining greater than three percent of any  
21 funding provided from the energy freedom account for administrative  
22 overhead or other deductions not directly associated with conducting  
23 the research, projects, or other end products that the funding is  
24 designed to produce unless this provision is waived in writing by the  
25 director.

26 (4) Any university, institute, or other entity that is not a state  
27 agency receiving funding from the energy freedom account is prohibited  
28 from retaining greater than fifteen percent of any funding provided  
29 from the energy freedom account for administrative overhead or other  
30 deductions not directly associated with conducting the research,  
31 projects, or other end products that the funding is designed to  
32 produce.

33 (5) This section does not apply to assistance awarded for projects  
34 under RCW 15.110.020(3) (as recodified by this act).

35 **Sec. 306.** RCW 15.110.060 and 2006 c 171 s 7 are each amended to  
36 read as follows:

37 The (~~director~~) coordinator shall report to the legislature and

1 governor on the status of the energy freedom program created under this  
2 chapter, on or before December 1, 2006, and annually thereafter. This  
3 report must include information on the projects that have been funded,  
4 the status of these projects, and their environmental, energy savings,  
5 and job creation benefits as well as an assessment of the availability  
6 of alternative fuels in the state and best estimates to indicate, by  
7 percentage, the types of biofuel feedstocks and sources that contribute  
8 to biofuels used in the state and the general geographic origination of  
9 such feedstocks and sources. Based on analysis of this information,  
10 the report must also recommend appropriate mechanisms, including but  
11 not limited to changes in state contracting practices, tax incentives,  
12 or renewable fuel standard provisions, that will help Washington  
13 farmers and businesses compete in an economically viable manner and  
14 will encourage sustained development of an in-state biofuels industry  
15 based on feedstocks grown and produced in Washington.

16 NEW SECTION. Sec. 307. (1) Energy freedom program projects funded  
17 pursuant to RCW 15.110.050 (as recodified by this act) or by the  
18 legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006  
19 for which the department of agriculture has signed loan agreements and  
20 disbursed funds prior to June 30, 2007, shall continue to be serviced  
21 by the department of agriculture.

22 (2) Energy freedom program projects funded pursuant to RCW  
23 15.110.050 (as recodified by this act) or by the legislature pursuant  
24 to sections 191 and 192, chapter 371, Laws of 2006 for which moneys  
25 have been appropriated but loan agreements or disbursements have not  
26 been completed must be transferred to the department for project  
27 management on July 1, 2007, subject to the ongoing requirements of the  
28 energy freedom program.

29 **PART 4**

30 **PLANNING FOR THE FUTURE**

31 NEW SECTION. Sec. 401. (1) The department of ecology and the  
32 department of community, trade, and economic development, in  
33 implementing executive order number 07-02 shall include an analysis of,  
34 and potential for, vehicle electrification. That analysis may include:

1 (a) Use by the state of plug-in hybrid vehicles and developing  
2 plug-in availability at state locations;

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

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

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

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

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

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

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

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

26 (j) Actions by the state to help industries located in the state  
27 participate in developing and manufacturing plug-in vehicles and  
28 vehicle-to-grid technologies;

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

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

35 (2) The departments of ecology and community, trade, and economic  
36 development shall provide the appropriate committees of the legislature  
37 an analysis or report by March 1, 2008. The report may be included  
38 within the report produced for executive order number 07-02.

1        NEW SECTION.    **Sec. 402.**    A new section is added to chapter 28B.30  
2    RCW to read as follows:

3        Washington State University is directed to analyze and recommend  
4    models for possible implementation by the legislature or the executive  
5    office for at least the following potential biofuels incentive  
6    programs:

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

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

15       (3) The following should be considered when evaluating potential  
16   biofuel incentive programs:

17       (a) Assisting Washington farmers and businesses in the development  
18   of economically viable, sustained instate biofuel and biofuel feedstock  
19   production;

20       (b) Leveraging and encouraging private investment in biofuel  
21   production and distribution and biofuel feedstock production; and

22       (c) Assisting in the development of biofuel feedstocks and  
23   production techniques that deliver the greatest net reductions in  
24   petroleum dependence and carbon emissions.

25       NEW SECTION.    **Sec. 403.**    (1) The department of community, trade,  
26   and economic development and the department of ecology shall develop a  
27   framework for the state of Washington to participate in emerging  
28   regional, national, and to the extent possible, global markets to  
29   mitigate climate change, on a multisector basis. This framework must  
30   include, but not be limited to, credible, verifiable, replicable  
31   inventory and accounting methodologies for each sector involved, along  
32   with the completion of the stakeholder process identified in executive  
33   order number 07-02 creating the Washington state climate change  
34   challenge.

35       (2) The department of community, trade, and economic development  
36   and the department of ecology shall include the forestry sector and

1 work closely with the department of natural resources on those  
2 recommendations.

3 (3) The department must provide a report to the legislature by  
4 December 1, 2008. The report may be included within the report  
5 produced for executive order number 07-02.

6 NEW SECTION. **Sec. 404.** (1) In preparing for the impacts of  
7 climate change consistent with executive order number 07-02, the  
8 departments of community, trade, and economic development and ecology  
9 shall work with the climate impacts group at the University of  
10 Washington to produce:

11 (a) A comprehensive state climate change assessment that includes  
12 the impacts of global warming, including impacts to public health,  
13 agriculture, the coast line, forestry, infrastructure, and water supply  
14 and management;

15 (b) An analysis of the potential human health impacts of climate  
16 change on the state of Washington.

17 (2) To ensure the appropriateness of these assessments for public  
18 agency planning and management, the departments and the climate impacts  
19 group shall consult with state and local public health resource  
20 planning and management agencies.

21 (3) If adequate funding is not made available for the completion of  
22 all elements required under this section, the departments and the  
23 climate impacts group shall list and prioritize which research projects  
24 have the greatest cost/benefit ratio in terms of providing information  
25 important for planning decisions.

26 (4) The work under this section that is completed by December 1,  
27 2007, must be included in the final report of the Washington climate  
28 change challenge. Any further reports must be completed by December  
29 15, 2008.

30 **Sec. 405.** RCW 47.17.020 and 1970 ex.s. c 51 s 5 are each amended  
31 to read as follows:

32 A state highway to be known as state route number 5, and designated  
33 as a Washington green highway, is established as follows:

34 Beginning at the Washington-Oregon boundary line on the interstate  
35 bridge over the Columbia river at Vancouver, thence northerly by way of  
36 Kelso, Chehalis, Centralia, Olympia, Tacoma, Seattle, Everett and Mt.

1 Vernon, thence northwesterly to the east of Lake Samish, thence  
2 northeasterly and northerly by way of Bellingham to the international  
3 boundary line in the vicinity of Blaine in Whatcom county.

4 **Sec. 406.** RCW 47.17.135 and 1979 ex.s. c 33 s 3 are each amended  
5 to read as follows:

6 A state highway to be known as state route number 82, and  
7 designated as a Washington green highway, is established as follows:

8 Beginning at a junction with state route number 90 in the vicinity  
9 of Ellensburg, thence southerly and easterly by way of Yakima, Union  
10 Gap, Sunnyside, Prosser, Kiona, and Goose Gap west of Richland, thence  
11 southeasterly near Kennewick and southwesterly by way of the vicinity  
12 of Plymouth to a crossing of the Columbia river at the Washington-  
13 Oregon boundary line.

14 **Sec. 407.** RCW 47.17.140 and 1991 c 56 s 2 are each amended to read  
15 as follows:

16 A state highway to be known as state route number 90, and  
17 designated as the American Veterans Memorial Highway as well as a  
18 Washington green highway, is established as follows:

19 Beginning at a junction with state route number 5, thence, via the  
20 west approach to the Lake Washington bridge in Seattle, in an easterly  
21 direction by way of Mercer Island, North Bend, Snoqualmie pass,  
22 Ellensburg, Vantage, Moses Lake, Ritzville, Sprague and Spokane to the  
23 Washington-Idaho boundary line.

24 NEW SECTION. **Sec. 408.** (1) The vehicle electrification  
25 demonstration grant program is established within the department of  
26 community, trade, and economic development. The director may establish  
27 policies and procedures necessary for processing, reviewing, and  
28 approving applications made under this chapter.

29 (2) The director may approve an application for a vehicle  
30 electrification demonstration project only if the director finds:

31 (a) The applicant is a state agency, public school district, public  
32 utility district, or a political subdivision of the state, including  
33 port districts, counties, cities, towns, special purpose districts, and  
34 other municipal corporations or quasi-municipal corporations or a state  
35 institution of higher education;

1 (b) The project partially funds the purchase of or conversion of  
2 existing vehicles to plug-in hybrid electric vehicles or battery  
3 electric vehicles for use in the applicant's fleet or operations;

4 (c) The project partners with an electric utility and demonstrates  
5 technologies to allow controlled vehicle charging, including the use of  
6 power electronics or wireless technologies, to regulate time-of-day and  
7 duration of charging;

8 (d) The project provides matching resources; and

9 (e) The project provides evaluation of fuel savings, greenhouse gas  
10 reductions, battery capabilities, energy management system, charge  
11 controlling technologies, and other relevant information determined on  
12 the advice of the vehicle electrification work group.

13 (3) The director may approve an application for a vehicle  
14 electrification demonstration project if the project, in addition to  
15 meeting the requirements of subsection (2) of this section, also  
16 demonstrates charging using on-site renewable resources or  
17 vehicle-to-grid capabilities that enable the vehicle to discharge  
18 electricity into the grid.

19 NEW SECTION. **Sec. 409.** A new section is added to chapter 43.19  
20 RCW to read as follows:

21 (1) During the biennium ending June 30, 2009, the department of  
22 general administration is authorized to purchase at least one hundred  
23 plug-in electric hybrid vehicles for state agency light duty vehicle  
24 uses, when commercially available at comparable life costs to other  
25 vehicles. The department of general administration shall assign these  
26 vehicles to departments and job functions that on average log the most  
27 miles driving light duty vehicles. The vehicles must bear a prominent  
28 designation as a plug-in electric hybrid vehicle. The department of  
29 general administration shall develop a purchasing contract under which  
30 state agencies and local governments may purchase plug-in electric  
31 hybrid vehicles.

32 (2) The use of hybrid vehicles shall include an economic analysis  
33 of the total life-cycle cost to the state over the vehicle's estimated  
34 useful life, including energy inputs into the production of the  
35 vehicle, fuel usage, and all related costs of selection, acquisition,  
36 operation, maintenance, and disposal, as far as these costs can

1 reasonably be determined, minus the salvage value at the end of the  
2 vehicle's estimated useful life.

3 (3) By December 31, 2009, the department of general administration  
4 shall provide a report to the transportation and energy committees of  
5 the senate and house of representatives on the acquisition of these  
6 vehicles and their operational and maintenance performance.

7 NEW SECTION. **Sec. 410.** (1) The office of Washington state  
8 climatologist is created.

9 (2) The office of Washington state climatologist consists of the  
10 director of the office, who is the state climatologist, and appropriate  
11 staff and administrative support as necessary to carry out the powers  
12 and duties of the office as enumerated in section 411 of this act.

13 (3) The director of the office of Washington state climatologist  
14 must be appointed jointly by the president of Washington State  
15 University and the president of the University of Washington. The  
16 office of Washington state climatologist is administered as determined  
17 jointly by these two presidents.

18 NEW SECTION. **Sec. 411.** The office of Washington state  
19 climatologist has the following powers and duties:

20 (1) To serve as a credible and expert source of climate and weather  
21 information for state and local decision makers and agencies working on  
22 drought, flooding, climate change, and other related issues;

23 (2) To gather and disseminate, and where practicable archive, in  
24 the most cost-effective manner possible, all climate and weather  
25 information that is or could be of value to policy and decision makers  
26 in the state;

27 (3) To act as the representative of the state in all climatological  
28 and meteorological matters, both within and outside of the state, when  
29 requested by the legislative or executive branches of the state  
30 government;

31 (4) To prepare, publish, and disseminate climate summaries for  
32 those individuals, agencies, and organizations whose activities are  
33 related to the welfare of the state and are affected by climate and  
34 weather;

35 (5) To supply critical information for drought preparedness and  
36 emergency response as needed to implement the state's drought

1 contingency response plan maintained by the department of ecology under  
2 RCW 43.83B.410, and to serve as a member of the state's drought water  
3 supply and emergency response committees as may be formed in response  
4 to a drought event;

5 (6) To conduct and report on studies of climate and weather  
6 phenomena of significant socioeconomic importance to the state; and

7 (7) To evaluate the significance of natural and man-made changes in  
8 important features of the climate affecting the state, and to report  
9 this information to those agencies and organizations in the state who  
10 are likely to be affected by these changes.

11 NEW SECTION. **Sec. 412.** (1) The legislature finds that:

12 (a) The United Nation's intergovernmental panel on climate change  
13 report, released February 2, 2007, states that evidence of the  
14 climate's warming "is unequivocal, as is now evident from observations  
15 of increases in global average air and ocean temperatures, widespread  
16 melting of snow and ice, and rising global mean sea level";

17 (b) Global warming will have serious adverse consequences on the  
18 economy, health, and environment of Washington;

19 (c) During the last several years, the state has taken significant  
20 strides towards implementing an environmentally and economically sound  
21 energy policy through reliance on energy efficiency, conservation, and  
22 renewable energy resources in order to promote a sustainable energy  
23 future that ensures an adequate and reliable energy supply at  
24 reasonable and stable prices;

25 (d) The governor, in executive order number 07-02, has called for  
26 the reduction of Washington's emission of greenhouse gases to 1990  
27 levels by 2020;

28 (e) To the extent energy efficiency and renewable resources are  
29 unable to satisfy increasing energy and capacity needs, the state will  
30 rely on clean and efficient fossil fuel fired generation and will  
31 encourage the development of cost-effective, highly efficient, and  
32 environmentally sound supply resources to provide reliability and  
33 consistency with the state's energy priorities;

34 (f) It is vital to ensure all electric utilities internalize the  
35 significant and underrecognized cost of emissions and to reduce  
36 Washington's exposure to costs associated with future regulation of  
37 these emissions;

1 (g) A greenhouse gases emissions performance standard for new long-  
2 term financial commitments to electric generating resources will reduce  
3 potential exposure of Washington's consumers to future reliability  
4 problems in electricity supplies;

5 (h) The state of California recently enacted a law establishing a  
6 greenhouse gases emissions performance standard for electric utility  
7 procurement of baseload electric generation that is based on the  
8 emissions of a combined-cycle thermal electric generation facility  
9 fueled by natural gas;

10 (i) The legislature recognizes that state or federal legislation  
11 may be enacted and federal regulation may occur that would provide  
12 standards or programs that would preempt, make inconsistent, or render  
13 unnecessary emission standards or schedules established in this act;  
14 and

15 (j) The state of Washington has an obligation to provide clear  
16 guidance for the procurement of baseload electric generation to  
17 alleviate regulatory uncertainty while addressing risks that can affect  
18 the ability of electric utilities to make necessary and timely  
19 investments to ensure an adequate, reliable, and cost-effective supply  
20 of electricity.

21 (2) The legislature declares that:

22 (a) A greenhouse gases emissions performance standard for new  
23 long-term financial commitments for baseload electric generation should  
24 reduce financial risk to electric utilities and their customers from  
25 future pollution-control costs, without jeopardizing the state's  
26 commitment to lowest reasonable cost resources and the need to maintain  
27 a reliable regional electric system.

28 (b) A greenhouse gases emissions performance standard will  
29 complement the state's carbon dioxide mitigation policy for  
30 fossil-fueled thermal electric generation facilities under chapter  
31 80.70 RCW.

32 (c) The need for long-term financial commitments for new baseload  
33 electric generation can be reduced over time through the deployment by  
34 electric utilities of technologies that improve the efficiency of  
35 electricity production, transmission, distribution, and consumption.

36 NEW SECTION. **Sec. 413.** The definitions in this section apply  
37 throughout this chapter unless the context clearly requires otherwise.

- 1           (1) "Attorney general" means the Washington state office of the  
2 attorney general.
- 3           (2) "Auditor" means: (a) The Washington state auditor's office or  
4 its designee for qualifying utilities under its jurisdiction that are  
5 not investor-owned utilities; or (b) an independent auditor selected by  
6 a qualifying utility that is not under the jurisdiction of the state  
7 auditor and is not an investor-owned utility.
- 8           (3) "Baseload electric generation" means electric generation from  
9 a power plant that is designed and intended to provide electricity at  
10 an annualized plant capacity factor of at least sixty percent.
- 11           (4) "Cogeneration facility" means a power plant in which the heat  
12 or steam is also used for industrial or commercial heating or cooling  
13 purposes and that meets federal energy regulatory commission standards  
14 for qualifying facilities under the public utility regulatory policies  
15 act of 1978 (16 U.S.C. Sec. 824a-3), as amended.
- 16           (5) "Combined-cycle natural gas thermal electric generation  
17 facility" means a power plant that employs a combination of one or more  
18 gas turbines and steam turbines in which electricity is produced in the  
19 steam turbine from otherwise lost waste heat exiting from one or more  
20 of the gas turbines.
- 21           (6) "Commission" means the Washington utilities and transportation  
22 commission.
- 23           (7) "Consumer-owned utility" means a municipal utility formed under  
24 Title 35 RCW, a public utility district formed under Title 54 RCW, an  
25 irrigation district formed under chapter 87.03 RCW, a cooperative  
26 formed under chapter 23.86 RCW, a mutual corporation or association  
27 formed under chapter 24.06 RCW, or port district within which an  
28 industrial district has been established as authorized by Title 53 RCW,  
29 that is engaged in the business of distributing electricity to more  
30 than one retail electric customer in the state.
- 31           (8) "Department" means the department of ecology.
- 32           (9) "Electrical company" means a company owned by investors that  
33 meets the definition of RCW 80.04.010.
- 34           (10) "Electric utility" means an electrical company or a consumer-  
35 owned utility.
- 36           (11) "Governing board" means the board of directors or legislative  
37 authority of a consumer-owned utility.

1 (12) "Greenhouse gases" includes carbon dioxide, methane, nitrous  
2 oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

3 (13) "Long-term financial commitment" means:

4 (a) Either a new ownership interest in baseload electric generation  
5 or an upgrade to a baseload electric generation facility; or

6 (b) A new or renewed contract for baseload electric generation with  
7 a term of five or more years for the provision of retail power or  
8 wholesale power to end-use customers in this state.

9 (14) "Output-based methodology" means a greenhouse gases emissions  
10 performance standard that is expressed in pounds of greenhouse gases  
11 emitted per net megawatt-hour produced, factoring in the electrical  
12 equivalent of useful thermal energy employed for purposes other than  
13 the generation of electricity.

14 (15) "Plant capacity factor" means the ratio of the electricity  
15 produced during a given time period, measured in kilowatt-hours, to the  
16 electricity the unit could have produced if it had been operated at its  
17 rated capacity during that period, expressed in kilowatt-hours.

18 (16) "Power plant" means a facility for the generation of  
19 electricity that includes one or more generating units at the same  
20 location.

21 (17) "Upgrade" means any modification made for the primary purpose  
22 of increasing the electric generation capacity of a baseload electric  
23 generation facility. "Upgrade" does not include routine or necessary  
24 maintenance, installation of emission control equipment, installation,  
25 replacement, or modification of equipment that improves the heat rate  
26 of the facility, or installation, replacement, or modification of  
27 equipment for the primary purpose of maintaining reliable generation  
28 output capability that does not increase the heat input or fuel usage  
29 as specified in existing generation air quality permits but may result  
30 in incidental increases in generation capacity.

31 NEW SECTION. **Sec. 414.** (1) Beginning July 1, 2008, the greenhouse  
32 gases emissions performance standard for all baseload electric  
33 generation for which electric utilities enter into long-term financial  
34 commitments on or after such date is the lower of one thousand one  
35 hundred pounds of greenhouse gases per megawatt-hour or the rate of  
36 emissions of greenhouse gases for a commercially available  
37 combined-cycle natural gas thermal electric generation facility that

1 provides baseload electric generation. Even if their actual emissions  
2 are higher than the greenhouse gas emissions performance standard, all  
3 baseload electric generation facilities in operation as of June 30,  
4 2008, are deemed to be in compliance with the greenhouse gas emissions  
5 performance standard established under this section until the  
6 facilities are the subject of long-term financial commitments. All  
7 electric generating facilities or power plants powered by renewable  
8 resources, as defined in RCW 19.285.030, are deemed to be in compliance  
9 with the greenhouse gas emissions performance standard established  
10 under this section. For the purposes of this subsection, "commercially  
11 available" means that at least one hundred plants of substantially the  
12 same design, specifications, and performance characteristics have been  
13 in commercial operation for at least three years. In determining the  
14 rate of emissions of greenhouse gases for baseload electric generation,  
15 the net emissions resulting from the production of electricity by the  
16 baseload electric generation shall be included.

17 (2) The department shall establish an output-based methodology to  
18 ensure that the calculation of emissions of greenhouse gases for a  
19 cogeneration facility recognizes the total usable energy output of the  
20 process, and includes all greenhouse gases emitted by the facility in  
21 the production of both electrical and thermal energy. In developing  
22 and implementing the greenhouse gases emissions performance standard,  
23 the department shall consider and act in a manner consistent with any  
24 rules adopted pursuant to the public utilities regulatory policy act of  
25 1978 (16 U.S.C. Sec. 824a-3), as amended.

26 (3) Carbon dioxide that is injected permanently in geological  
27 formations, so as to prevent releases into the atmosphere, in  
28 compliance with applicable laws and regulations may not be counted as  
29 emissions of the power plant in determining compliance with the  
30 greenhouse gases emissions performance standard.

31 (4) In adopting and implementing the greenhouse gases emissions  
32 performance standard, the department, in consultation with the  
33 commission, the Bonneville power administration, the western  
34 electricity coordination council, electric utilities, public interest  
35 representatives, and consumer representatives shall consider the  
36 effects of the greenhouse gases emissions performance standard on  
37 system reliability and overall costs to electricity customers.

1 (5) In developing and implementing the greenhouse gases emissions  
2 performance standard, the department shall, with assistance of the  
3 commission and electric utilities, and to the extent practicable,  
4 address long-term purchases of electricity from unspecified sources in  
5 a manner consistent with this chapter.

6 (6) The department shall adopt the greenhouse gases emissions  
7 performance standard by rule pursuant to chapter 34.05 RCW, the  
8 administrative procedure act. The department shall adopt rules to  
9 enforce the requirements of this section, and adopt procedures to  
10 verify the emissions of greenhouse gases from any baseload electric  
11 generation supplied directly or under a contract subject to the  
12 greenhouse gases emissions performance standard to ensure compliance  
13 with the standard. Enforcement of the greenhouse gases emissions  
14 performance standard must begin immediately upon the establishment of  
15 the standard.

16 (7) In adopting the rules for implementing this section, the  
17 department shall include criteria to be applied in evaluating the  
18 carbon sequestration plan. The rules shall include:

19 (a) Provisions for financial assurances, as a condition of plant  
20 operation, sufficient to ensure successful implementation of the carbon  
21 sequestration plan, including construction and operation of necessary  
22 equipment, and any other significant costs;

23 (b) Provisions for geological sequestration to commence within five  
24 years of plant operation;

25 (c) Provisions for monitoring the effectiveness of the  
26 implementation of the sequestration plan;

27 (d) Penalties for failure to achieve implementation of the plan on  
28 schedule; and

29 (e) Provisions for public notice and comment on the carbon  
30 sequestration plan.

31 (8) A project under consideration by the energy facility site  
32 evaluation council before the adoption of rules in subsection (7) of  
33 this section is required to include all of the requirements of  
34 subsection (7) of this section in its carbon sequestration plan  
35 submitted to the department as part of the energy facility site  
36 evaluation council process. The department shall provide for timely  
37 hearings and public comment on the carbon sequestration plan.

1 (9) The department shall adopt the rules necessary to implement  
2 this section by June 30, 2008.

3 NEW SECTION. **Sec. 415.** (1) No electrical company may enter into  
4 a long-term financial commitment unless the baseload electric  
5 generation supplied under such a long-term financial commitment  
6 complies with the greenhouse gases emissions performance standard  
7 established under section 414 of this act.

8 (2) In order to enforce the requirements of this chapter, the  
9 commission shall review in a general rate case or as provided in  
10 subsection (5) of this section any long-term financial commitment  
11 entered into by an electrical company after June 30, 2008, to determine  
12 whether the baseload electric generation to be supplied under that  
13 long-term financial commitment complies with the greenhouse gases  
14 emissions performance standard established under section 414 of this  
15 act.

16 (3) In determining whether a long-term financial commitment is for  
17 baseload electric generation, the commission shall consider the design  
18 of the power plant and its intended use, based upon the electricity  
19 purchase contract, if any, permits necessary for the operation of the  
20 power plant, and any other matter the commission determines is relevant  
21 under the circumstances.

22 (4) Upon application by an electric utility, the commission may  
23 provide a case-by-case exemption from the greenhouse gases emissions  
24 performance standard to address: (a) Unanticipated electric system  
25 reliability needs; or (b) catastrophic events or threat of significant  
26 financial harm that may arise from unforeseen circumstances.

27 (5) Upon application by an electrical company, the commission shall  
28 make a determination regarding the company's proposed decision to  
29 acquire electric generation or enter into a power purchase agreement  
30 for electricity that complies with the greenhouse gases emissions  
31 performance standard established under section 414 of this act, as to  
32 the need for the resource, and the appropriateness of the specific  
33 resource selected. The commission shall take into consideration  
34 factors such as the company's forecasted loads, need for energy, power  
35 plant technology, expected costs, and other associated investment  
36 decisions. In addition, the commission shall provide for recovery of  
37 the prudently incurred capital and operating cost of these resources

1 and may impose such conditions as it finds necessary to ensure that  
2 rates are fair, just, reasonable, and sufficient, coincident with the  
3 in-service date of the project or the effective date of the power  
4 purchase agreement.

5 (6) An electrical company may account for and defer for later  
6 consideration by the commission costs incurred in connection with the  
7 long-term financial commitment, including operating and maintenance  
8 costs, depreciation, taxes, and cost of invested capital. The deferral  
9 begins with the date on which the power plant begins commercial  
10 operation or the effective date of the power purchase agreement and  
11 ends on the effective date of the final decision by the commission  
12 regarding recovery in rates of these deferred costs. Creation of such  
13 a deferral account does not by itself determine whether recovery of any  
14 or all of these costs is appropriate.

15 (7) In establishing rates for each electrical company regulated  
16 under chapter 80.28 RCW, the commission shall adopt policies allowing  
17 an additional return on investments to encourage meeting energy  
18 requirements through distributed generation as defined in RCW  
19 19.285.030, and to accelerate efficiencies in electric transmission and  
20 distribution systems that increase reliability and reduce energy losses  
21 or otherwise increase the efficiency of energy delivery to end-use  
22 consumers. These policies shall include but are not limited to adding  
23 an increment of two percent to the rate of return on common equity  
24 permitted on an electrical company's other investments for prudently  
25 incurred investments in distributed generation, and in measures that  
26 improve, as measured in kilowatt-hour savings, the overall efficiency  
27 of transmission, distribution, and end-use consumption of electricity  
28 through energy efficiency technologies, including any device,  
29 instrument, machine, appliance, or process related to the transmission,  
30 distribution, and consumption of electricity to increase energy  
31 efficiency, including but not limited to smart grid technology, smart  
32 meters, and demand response technologies. The rate of return increment  
33 must be allowed for a period, at the commission's discretion, of at  
34 least seven but not more than thirty years after the investment is  
35 first placed in the rate base. Measures or projects encouraged under  
36 this section are those for which construction or installation is begun  
37 after July 1, 2007, and before January 1, 2017, and which, at the time  
38 they are placed in the rate base, are reasonably expected to save,

1 produce, or generate energy at a total incremental system cost per unit  
2 of energy delivered to end use that is less than or equal to the  
3 incremental system cost per unit of energy delivered to end use from  
4 new baseload or peaking electric generation and that the electrical  
5 company could acquire to meet energy demand in the same time period.

6 (8) The commission shall apply the procedures adopted by the  
7 department to verify the emissions of greenhouse gases from baseload  
8 electric generation under section 414 of this act.

9 (9) The commission shall adopt rules for the enforcement of this  
10 section with respect to electrical companies and adopt procedural rules  
11 for approving costs incurred by an electrical company under subsection  
12 (4) of this section.

13 (10) The commission shall adopt the rules necessary to implement  
14 this section by June 30, 2008.

15 NEW SECTION. **Sec. 416.** (1) No consumer-owned utility may enter  
16 into a long-term financial commitment unless the baseload electric  
17 generation supplied under such a long-term financial commitment  
18 complies with the greenhouse gases emissions performance standard  
19 established under section 414 of this act.

20 (2) The governing board of a consumer-owned utility shall review  
21 and make a determination on any long-term financial commitment by the  
22 utility, pursuant to this chapter, to determine whether the baseload  
23 electric generation to be supplied under that long-term financial  
24 commitment complies with the greenhouse gases emissions performance  
25 standard established under section 414 of this act. No consumer-owned  
26 utility may enter into a long-term financial commitment unless the  
27 baseload electric generation to be supplied under that long-term  
28 financial commitment complies with the greenhouse gases emissions  
29 performance standard established under section 414 of this act.

30 (3) In confirming that a long-term financial commitment is for  
31 baseload electric generation, the governing board shall consider the  
32 design of the power plant and the intended use of the power plant based  
33 upon the electricity purchase contract, if any, permits necessary for  
34 the operation of the power plant, and any other matter the governing  
35 board determines is relevant under the circumstances.

36 (4) The governing board may provide a case-by-case exemption from  
37 the greenhouse gases emissions performance standard to address: (a)

1 Unanticipated electric system reliability needs; or (b) catastrophic  
2 events or threat of significant financial harm that may arise from  
3 unforeseen circumstances.

4 (5) The governing board shall apply the procedures adopted by the  
5 department to verify the emissions of greenhouse gases from baseload  
6 electric generation pursuant to section 414 of this act, and may  
7 request assistance from the department in doing so.

8 (6) For consumer-owned utilities, the auditor is responsible for  
9 auditing compliance with this chapter and rules adopted under this  
10 chapter that apply to those utilities and the attorney general is  
11 responsible for enforcing that compliance.

12 NEW SECTION. **Sec. 417.** A new section is added to chapter 82.16  
13 RCW to read as follows:

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

17 (2) The amount of credit is equal to two percent annually, for a  
18 period of at least seven but not more than thirty years after the  
19 investment commences, of the cost of investments in distributed  
20 generation, and in measures that improve, as measured in kilowatt-hour  
21 savings, the overall efficiency of transmission, distribution, and  
22 end-use consumption of electricity through energy efficiency  
23 technologies, including any device, instrument, machine, appliance, or  
24 process related to the transmission, distribution, and consumption of  
25 electricity to increase energy efficiency, including but not limited to  
26 smart grid technology, smart meters, and demand response technologies.

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

36 (4) The amount of credit taken under this section may not exceed  
37 one million dollars in total for all light and power businesses in a

1 calendar year. If the department receives applications for credit that  
2 exceed one million dollars prior to the end of the calendar year, the  
3 department shall apportion the credit on a method determined by the  
4 department.

5 (5) For purposes of this section, "eligible light and power  
6 business" means a municipal utility formed under Title 35 RCW, a public  
7 utility district formed under Title 54 RCW, an irrigation district  
8 formed under chapter 87.03 RCW, a cooperative formed under chapter  
9 23.86 RCW, a mutual corporation or association formed under chapter  
10 24.06 RCW, or port district within which an industrial district has  
11 been established as authorized by Title 53 RCW, that is engaged in the  
12 business of distributing electricity to more than one retail electric  
13 customer in the state.

14 **PART 5**  
15 **MISCELLANEOUS**

16 NEW SECTION. **Sec. 501.** Part headings used in this act are not any  
17 part of the law.

18 NEW SECTION. **Sec. 502.** The following sections are codified and  
19 recodified as a new chapter in Title 43 RCW entitled "Energy Freedom  
20 Program":

- 21 RCW 15.110.005;
- 22 RCW 15.110.010;
- 23 RCW 15.110.020;
- 24 RCW 15.110.030;
- 25 RCW 15.110.040;
- 26 RCW 15.110.050;
- 27 RCW 15.110.060;
- 28 RCW 15.110.900;
- 29 RCW 15.110.901;
- 30 Section 204 of this act;
- 31 Section 205 of this act;
- 32 Section 304 of this act;
- 33 Section 307 of this act; and
- 34 Section 403 of this act.

