

SENATE BILL REPORT

SB 6052

As of February 3, 2024

Title: An act relating to petroleum products supply and pricing.

Brief Description: Concerning petroleum products supply and pricing.

Sponsors: Senators Nguyen, Conway, Hasegawa, Keiser, Kuderer, Liias, Pedersen, Saldaña, Stanford and Valdez; by request of Office of the Governor.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/17/24, 1/30/24 [DPS-WM, DNP].

Ways & Means: 2/03/24.

Brief Summary of First Substitute Bill

- Requires, beginning January 1, 2026, a refinery, oil terminal operator, and major marketer to report or retain specified information regarding supply, pricing, transportation, maintenance, and transactions of transportation fuels, subject to confidentiality, cybersecurity, and other requirements.
- Creates a Division of Petroleum Market Oversight (Division) within the Utilities and Transportation Commission (UTC), and directs the Division to gather, analyze, interpret, and report on submitted information and other transportation fuels supply and price information.
- Requires the Division to submit a transportation fuels assessment to the Governor and Legislature, and requires the Division and the Department of Ecology to prepare a transportation fuels transition plan.
- Authorizes the UTC to impose civil penalties for failing to provide or falsifying information related to transportation fuels.
- Prohibits a person from making a deceptive environmental marketing claim related to transportation fuels.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Imposes an enhanced penalty under the Consumer Protection Act for unlawful acts or practices related to the sale of transportation fuels.
- Directs the UTC to post certain preliminary information on its website, by August 1, 2024, including a comparison of retail gasoline prices and associated cost components in Washington and other jurisdictions, the historical relationship between in-state transportation fuels and the price of crude oil, and other elements.
- Establishes cybersecurity standards and requirements applying to all state agencies that have authorized access to information being collected.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6052 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; Lovick, Trudeau and Wellman.

Minority Report: Do not pass.

Signed by Senators MacEwen, Ranking Member; Boehnke and Short.

Staff: Matt Shepard-Koningsor (786-7627)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

Background: Petroleum Refining and Transportation. Petroleum refineries convert—or refine—extracted crude oil into petroleum products for use as fuels for transportation, heating, paving roads, and generating electricity, and as feedstocks for producing chemicals. A U.S. 42-gallon barrel of crude oil yields about 45 gallons of petroleum products in U.S. refineries because of a processing gain. Petroleum products produced from a barrel of crude oil include, among others, gasoline, jet fuel, and distillate. After production, outgoing petroleum products are temporarily stored in large tanks near the refinery until they are transported to other destinations by pipelines, trains, marine vessels, and trucks. One of these destinations is an oil terminal, or the "rack," often located at or near a pipeline, where fuel is stored and supplied.

Currently, there is no crude oil extraction in Washington State, however, there are five oil refineries: (1) BP Cherry Point in Blaine; (2) Phillips 66 in Ferndale; (3) Shell Oil in Anacortes; (4) Tesoro in Anacortes; and (5) U.S. Oil in Tacoma. The Olympic Pipeline system runs 400 miles from Blaine, Washington to Portland, Oregon and transports

gasoline, diesel, and jet fuel.

Petroleum Industry Oversight. At the federal level, the petroleum industry is regulated by several agencies. For example, the Federal Trade Commission (FTC) reviews oil industry mergers and acquisitions, business conduct of oil and gas companies for possible antitrust violations, and gas prices in numerous markets across the country. In Washington, the Washington Attorney General's Office (AGO) monitors gas prices to determine whether price increases indicate possible anticompetitive behavior or reflect normal market forces. The AGO produces a quarterly gas report regarding factors contributing to state gas prices. The Utilities and Transportation Commission (UTC) regulates the rates and services of many transportation industries, including investor-owned utilities, solid waste companies, pipeline companies, and marine pilotage.

Fuel Action Plan. In November 2023, the Energy Resilience & Emergency Management Office, housed within the Department of Commerce, published the 2023 State Fuel Action Plan. The plan describes the fuel supply chain, hazards to fuel infrastructure, and tactics available to the state for responding to a fuel shortage or disruption.

Consumer Protection Act. The Consumer Protection Act (CPA) prohibits, among other things, unfair or deceptive trade practices in commerce; the formation of contracts, combinations, and conspiracies in restraint of trade or commerce; and monopolies. A private person or the AGO may bring a civil action to enforce the CPA. Civil penalties differ depending on the alleged CPA violation and in some cases, may include enhanced penalties. Every five years, the AGO must evaluate the efficacy of certain maximum civil penalty amounts in deterring CPA violations and to account for inflation.

Public Records Act. The Public Records Act (PRA) requires government agencies to make records available to the public for inspection and copying upon request, unless a specific statutory exemption applies. For example, certain records filed with the UTC or the AGO containing commercial information are not subject to inspection or copying under the PRA.

Other States. In June 2023, California established a Division of Petroleum Market Oversight (CA Division) as an independent agency within the California Energy Commission to monitor petroleum markets and flag potential market manipulation. The CA Division is authorized to refer violations to the California Attorney General for prosecution.

Summary of Bill (First Substitute): Definitions. Transportation fuels means gasoline, gasoline blending components, and diesel. Major marketer means any person who sells transportation fuels or crude oil in amounts determined by the UTC as having a major effect on transportation fuel supplies in the state. Oil terminal operator means a person who owns, operates, or otherwise controls a terminal in this state. Refinery means any industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing transportation fuels in the state.

Several other terms are defined, including "environmental marketing claim," "export," "import," "operational costs," "person," "planned maintenance," "spot market transaction," "terminal," "turnaround," "unbranded," and "unplanned maintenance."

Division of Petroleum Market Oversight. The Division of Petroleum Market Oversight (Division) is established within the UTC.

The Division must be led by a Governor-appointed director, who must hire necessary staff, including economists, fuel market experts, and legal investigative staff. The Division has the powers and duties to:

- provide independent analysis and evaluation of the transportation fuels markets for the protection of consumers by identifying price manipulation, market manipulation, monopolistic behaviors, and other methods by which market participants act to unfairly constrain the supply of transportation fuels or otherwise harm competition;
- provide guidance and recommendations to the UTC relating to the development of the transportation fuels assessment and the transportation fuels transition plan;
- provide guidance and recommendations to the Governor, UTC members, and other UTC divisions on issues relating to transportation fuels pricing and supply in the state;
- report its findings and recommendations to improve market performance to the Legislature, Governor, UTC, AGO, the Department of Ecology (Ecology), the Department of Commerce Energy Resilience and Emergency Management Office (EREMO), and the Department of Licensing;
- subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require production of records material to the performance of its duties, including, without limitation, current and historical pricing and sales data and contracts with other petroleum industry participants; and
- refer potential violations to the AGO confidentially.

Reporting and Retention Requirements. *Refinery, Oil Terminal Operator, and Major Marketer Monthly Reporting on Transportation Fuels Supply and Price Information.* Beginning January 1, 2026, a refinery must submit the following information to the Division monthly:

- acquisition cost of crude oil, by volume and country of origin;
- imports of transportation fuels and ethanol, by acquisition cost and volume;
- exports of transportation fuels and ethanol, by volume and sale price;
- refinery outputs of transportation fuels, by volume, including all gasoline sold unbranded;
- refinery capacity, and utilization and method of transportation; and
- Washington weighted average prices and sales volumes of transportation fuels sold through company-operated retail outlets, to wholesale customers, and to other end-users.

An oil terminal operator must submit the following information to the Division monthly:

- acquisition cost of transportation fuels by volume, sales by volume, including fees, surcharges, and taxes on transportation fuels;
- volume and sale price of transportation fuels;
- imports of transportation fuels, by volume and acquisition cost; and
- exports of transportation fuels, by volume and sale price.

A major marketer must submit the following information to the Division monthly:

- acquisition cost of transportation fuels by volume, sales by volume, including fees, surcharges, and taxes on transportation fuels;
- facility capacity, methods of transportation and distribution, and sales of transportation fuels by volume and price;
- imports of transportation fuels, by volume and acquisition cost; and
- exports of transportation fuels, by volume and sale price.

Information submitted above must include the full names of all persons or entities that directly or indirectly own 10 percent or more of the organization.

The UTC may, by order or rule, modify the reporting period for any individual item of information. The UTC must adopt rules prescribing the form and manner of information required above.

Refinery, Oil Terminal Operator, Major Marketer, and Other Entities Record Retention Requirements. Beginning January 1, 2026, a refinery, oil terminal operator, or major marketer must retain for Division review, for at least three years:

- copies of all contracts or agreements and associated amendments entered into with other specified transportation fuel entities; and
- records of each transaction made under the contracts or agreements and the prices charged.

Other entities, such as proprietary storage companies, that commercially trade in transportation fuels must retain for Division review, for at least three years:

- copies of monthly transportation fuels volume records by type for each position holder by name of company; and
- copies of all contracts or agreements entered into with other specified transportation fuel entities.

The record retention requirements apply regardless of whether the entity takes possession of the transportation fuels, as designated by the UTC by rule.

Refinery, Oil Terminal Operator, Major Marketer Monthly Reporting on Spot Market Transactions. Spot market transaction means a single, bulk transaction of at least 5000 barrels, involving a maximum of one product and one delivery, with title transfer occurring within one year. Beginning January 1, 2026, a refinery, oil terminal operator, major marketer, or other entity that trades in transportation fuels, completing a spot market

transaction must submit certain information for each transaction to the Division monthly. Some of the information required includes:

- the identity of the spot market where the transaction occurred;
- the date and time of the transaction and scheduled or actual delivery date;
- the contract identification number for the transaction;
- the name, or non-anonymized identification, of the executing trader for the transaction;
- the counterparty for the transaction, including company name and name or non-anonymized identification of the executing trader;
- the type of transportation fuel and product name;
- the volume of each transaction in thousands of barrels, or specified unit of measurement if unable to be indicated in thousands of barrels;
- the invoiced volume of each transaction in thousands of barrels, or specified unit of measurement if unable to be indicated in thousands of barrels;
- the time and date the material that is the subject of the transaction is scheduled to be delivered or was delivered;
- the actual title transfer date;
- the contract sub-cycle, including several listed descriptors;
- the type of pricing method;
- the contract price formula, including the differential from any contract formula and the unit of measurement for any price differential;
- the pricing start and end dates for each contract;
- the price value of the contract; and
- for exchange of futures for physical product contracts, the name of the product, the contract month of the product, and the price value of the product.

Refinery Quarterly Reporting on Maintenance and Turnaround Activities. Beginning January 1, 2026, a refinery must report quarterly all the following information, at a minimum, regarding planned maintenance, unplanned maintenance, or turnaround completed during the previous quarter:

- a brief description of the completed work;
- the start and return-to-service dates;
- the individual process units involved, and name and operational capacity of each unit;
- the daily decrease in output of transportation fuel intended to be used in Washington;
- the quantity of contractual supply obligations for finished transportation fuels due during the planned maintenance event or turnaround;
- the drawdown of inventory levels of transportation fuels and other material or substance produced by the unit controlled by the refiner at the refinery and at other storage locations during the planned maintenance event or turnaround;
- the levels of such inventories immediately before the start of the planned maintenance event or turnaround; and
- imports of transportation fuels and other material or substance produced by the unit in preparation for or during the planned maintenance event.

For unplanned maintenance, a refinery must submit the following additional information:

- the name and operational capacity of each process unit involved in the unplanned outage;
- the daily decrease in output of transportation fuels from each process unit affected by the unplanned outage;
- the inventory levels of the material or substance produced by the unit affected by the unplanned outage controlled by the refiner at the refinery and other storage locations in the state during the unplanned maintenance event;
- a description of the reason for the unplanned maintenance or outage;
- the duration of production reduction;
- the return-to-service date;
- the total decreased output of transportation fuels from each affected process unit, and amount of material obtained from other sources to compensate for this decrease;
- the total increased output from other process units by type of product to partially compensate for the reduced output from the process units affected by the unplanned outage; and
- the drawdown of inventory levels of any material or substance produced by the unit controlled by the refiner at the refinery and at other storage locations in the state during the unplanned maintenance event.

The Division may request additional information to assess the effect of planned maintenance, unplanned maintenance, or turnaround on the prices of transportation fuels in the state. The information must be reported no later than 30 days after the end of each quarter. The information is explicitly stated to be confidential information exempt from public disclosure and must comply with specified cybersecurity requirements.

Alternative Reporting. A refinery, oil terminal operator, or major marketer required to submit information above may instead, submit a report to any other governmental agency if the alternative report contains all the required information and the reporting entity clearly identifies the specific provision to which the alternative report is responsive.

Additional Division and Commission Duties. The Division, in consultation with EREMO, must gather, analyze, and interpret submitted information and other information relating to the supply and price of transportation fuels. Specifically, the Division must review:

- the nature, cause, and extent of any transportation fuels shortage or condition affecting supply;
- economic and environmental impacts of any transportation fuels shortage or condition affecting supply;
- transportation fuels demand and supply forecasting methodologies used by the industry;
- prices, including sales to unbranded retail markets, and any significant changes in prices charged by the industry and associated reasoning;
- profits, before and after taxes, of the industry overall and major entities, where in the supply chain the profits are realized, including a comparison with other major

- industry groups and major entities as to profits, return on equity and capital, and price-earnings ratio;
- emerging trends relating to supply, demand, and conservation of transportation fuels;
- the nature and extent of the industry to expand refinery capacity and acquire additional supplies of transportation fuels; and
- impacts of state and federal laws and policies upon the supply and prices of transportation fuels.

The Division must prepare and make a quarterly report publicly-available based on collected information. The information must be aggregated and comply with certain cybersecurity requirements. Beginning January 1, 2027, and quarterly thereafter, the Division must submit to the Legislature and Governor, a summary, analysis, and interpretation of information submitted by the industry, consistent with certain confidentiality and cybersecurity requirements.

Within 30 days of the end of each quarter, the UTC must post the following information obtained from the Division on its website: the gross transportation fuels refining margin and the net transportation fuels refining margin, calculated by the Division, as a volume-weighted margin in aggregate for all the combined refineries in the state; and the average retail price of gasoline by regional markets within the state, and a breakdown of that average price into retail, distribution, wholesale, and refinery margins and costs.

The Division, in consultation with Ecology, and after public input, must develop a methodology for refiners to provide separate quantification of fees and costs associated with the Washington Clean Fuels Program and the Climate Commitment Act, for each volume-weighted average price for specified sales. The methodology must be included in the refining margin reports.

By August 1, 2024, the UTC must post on its website information about transportation fuels including, but not limited to:

- a comparison between the retail price of gasoline and diesel in Washington, Oregon, and California, and the national average retail price of gasoline and diesel over the past 20 years;
- the relationship between the price of Washington transportation fuels and the price of crude oil for the past 20 years;
- a comparison between the cost components of a gallon of Washington retail gasoline and the cost components of the national average price of retail gasoline;
- a description of how transportation fuels are produced and distributed in Washington; and
- a description of the major factors affecting gasoline prices in Washington.

Transportation Fuels Assessment. On or before July 1, 2026, and every three years, the Division, in collaboration with EREMO, must submit a transportation fuels assessment (assessment) to the Governor and Legislature that:

- identifies methods to ensure a reliable supply of affordable and safe transportation fuels in Washington;
 1. the assessment must consider the potential benefits to Washington transportation fuel consumers of creating certain reserve level estimates to prevent shortages that result in sharp price increases;
 2. the assessment must consider all factors causing price fluctuations in retail transportation fuels prices when recommending adequate reserve levels;
 3. the commission must consider all relevant evidence from any reasonably available source; and
 4. the commission must transmit to the Legislature any proposals it deems appropriate for mandatory reserve levels and the terms of a program to implement those levels; and
- evaluates the price of transportation fuels, including branded and unbranded retail prices, alternate formulations of transportation fuels with lower carbon impact, and other suitable refinery products at three, seven, ten, and 20-year intervals, which must also include:
 1. an examination of whether branded fuel additives have any impact and, if so, how much on fuel efficiency and vehicle emissions; and
 2. an assessment of the presence and availability of retail outlets; and
- considers different levels of supply conditions and assesses the impact of potential refinery closures in the state;
- includes an analysis on the production impacts due to planned and unplanned maintenance, and turnaround activities at Washington refineries;
- evaluates the utility and feasibility of alternative methods to maintain adequate supplies of transportation fuels; and
- proposes solutions to mitigate impacts.

The first assessment must include an evaluation of transportation fuels refining. Each assessment must be developed in a public process and approved by the UTC Commissioners.

Transportation Fuels Transition Plan. On or before January 1, 2027, the Division and Ecology, must prepare a transportation fuels transition plan (plan) based on the assessment. The plan must include, at a minimum: a discussion of how to ensure the supply of transportation fuels is affordable, reliable, equitable, and adequate to meet demand; and an evaluation of the readiness of the electrical grid to serve as the main source of energy for the transportation sector and identify shortcomings where actions must be taken to strengthen grid reliability. The plan must be prepared in consultation with a specified multi-stakeholder, multi-agency work group convened by the Division and Ecology to identify mechanisms to plan for and monitor progress toward the state's reliable, safe, equitable, and affordable transition away from petroleum fuels consistent with declining in-state petroleum demand, the Clean Fuels Program, and the Climate Commitment Act.

Confidential Information and Cybersecurity Requirements. *Confidential Information.* In

general, information provided, disclosed, or presented to the Division, the UTC, or any other state agency, or otherwise obtained by such entities is confidential, exempt from public disclosure, must be appropriately aggregated, and comply with the cybersecurity requirements. There are certain exceptions provided when the receiving agency has a data-sharing agreement and is in compliance with the cybersecurity requirements, or for the AGO to present information in an adjudication.

Any person who knowingly discloses, misuses, or abuses certain confidential information is subject to specified penalties, including disciplinary action, a monetary fine, loss of employment, or imprisonment. These penalties must be based on the information involved, the intended use, and the harm cause by the mishandling. Records filed with the UTC or AGO under the act are explicitly exempted from disclosure under the PRA.

Cybersecurity Requirements. Critical energy infrastructure information (CEII) means information related to energy assets, systems, and networks that provide functions necessary for essential services, or a system or asset of the bulk-power system, refining systems, and other listed systems, the incapacity of which would negatively affect national security, social or economic security, public health or safety, or any combination of those matters. CEII includes category 3 and 4 data, as defined in policy by the Consolidated Technology Services Agency (WaTech). All state agencies that have authorized access to the data being collected must comply with certain cybersecurity requirements. Each authorized agency is responsible for implementing information technology (IT) infrastructure and procedures to protect CEII, including data governance, information protection, and other requirements, in addition to receiving an annual audit.

The UTC, in coordination with WaTech, must contract with an independent consultant with experience in developing IT architecture to provide recommendations on standards for each authorized agency to adopt to secure CEII. The standards must be consistent with federal standards for energy sector data security. The consultant must seek input from the transportation fuels industry. By September 1, 2025, each authorized agency must establish cybersecurity standards necessary to protect the CEII, which must be reviewed and updated annually.

The Office of the State Auditor (Auditor) must coordinate with the WaTech Office of Cybersecurity and EREMO to develop a risk-based compliance oversight evaluation for state agencies. The consultant must provide guidance by using existing federal infrastructure protection audit processes and established cybersecurity requirements to protect CEII. By September 1, 2025, the Auditor must establish the audit requirements necessary to protect CEII, which must be reviewed and updated annually. The Auditor must contract with an independent consultant to conduct an annual audit of each authorized agency's cybersecurity robustness and must provide a report based on the risk-based compliance oversight evaluation. The annual audit findings must be provided to the authorized agencies within 60 days of completion, and a process to correct certain deficiencies is established. An authorized agency may lose access to the CEII if unable to

correct certain high-risk deficiencies.

Enforcement and Penalties. *Penalties Related to Withholding or Falsifying Information.* If, within five business days after being notified by the UTC of a failure to provide required information, the person is subject to a civil penalty of between \$5,000 and \$20,000 per day for each day the required information is refused or delayed, up to a maximum penalty of \$500,000 per submission. A person who willfully makes a false statement, representation, or certification in required information is subject to a maximum civil penalty of \$40,000, in addition to all other civil and criminal liability provided under applicable law. The UTC may petition a court to compel a person to provide required information.

In connection with any investigation or action under the act, the UTC is explicitly granted several powers, including, among others, the ability to inspect and copy books and other documents; hear complaints; issue subpoenas; and provide information or evidence to the AGO or other governmental entities if the entity agrees to maintain confidentiality. The UTC may issue a civil penalty to any person or entity on whom an administrative penalty may be imposed under the act. Additional procedural requirements are stated. When determining the amount of an administrative civil penalty, the UTC must consider certain factors relating to the violation or violations, the enforcement cost to the state, and other factors related to the violating party.

Consumer Protection Act. It is unlawful for a person to make deceptive environmental marketing claims, whether explicit or implied, regarding transportation fuels. It is a defense for certain lawsuits or complaints where the person's environmental marketing claims conform to standards in FTC guides regarding such claims. Legislative intent language provides that a violation of the environmental marketing claim prohibition is not reasonable in relation to the development and preservation of business and is an unfair method of competition under the CPA. For unlawful acts or practices relating to the sale of transportation fuels, an enhanced penalty of up to three times the profit gained or loss avoided as a result of such unlawful acts or practices applies under the CPA. The AGO must evaluate the efficacy of certain maximum penalty amounts in the CPA by December 1, 2026, rather than December 1, 2027.

Other. The UTC is granted rulemaking authority. The UTC, Division, Ecology, Department of Commerce, Department of Licensing, WaTech, and the Office of the State Auditor may enter into data-sharing agreements as necessary to implement the act. The act contains a state severability clause, a null and void clause, and may be known and cited as the Oil Industry Accountability Act.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Modifies the definitions section by: (1) adding new definitions, including "export," "import," "oil terminal operator," and "terminal;" (2) amending existing definitions,

- including "person," "spot market transaction," "turnaround," and "unplanned maintenance;" (3) moving existing definitions to specific sections where the term is used; and (4) removing definitions of terms that are not used in the bill. Transportation fuels no longer include diesel blending components and explicitly exclude jet and maritime fuels.
- Revises the powers and duties of the Division, and adds Ecology and EREMO to the list of agencies to which the Division must report its findings and recommendations to.
 - Separates the monthly reporting and three-year retention requirements for a reporting entity into multiple sections, which were previously contained in two lengthy sections.
 - Removes major storers, pipeline operators, and ports from the reporting and three-year record retention requirements.
 - Specifies that the monthly reporting and three-year record retention requirements begin January 1, 2026, instead of August 1, 2024.
 - Removes a provision requiring importers of transportation fuels by marine vessel to report certain information to the UTC at least 96 hours before the vessel's arrival in Washington.
 - Strikes legislative intent language regarding refineries scheduling planned maintenance and turnaround in a manner that ensures minimum levels of transportation fuels in production or reserves necessary to meet demand adequately and affordably.
 - Specifies that the planned and unplanned maintenance, and turnaround monthly reporting requirements begin January 1, 2026, instead of August 1, 2024, and clarifying that the information must be reported quarterly after-the-fact, is confidential, and must comply with the new cybersecurity requirements.
 - Replaces, in numerous places throughout the bill: (1) The UTC or Division with the other, where appropriate; and (2) referencing to petroleum or petroleum products with the term transportation fuels.
 - Removes, for companies that own a refinery in Washington and one or more refineries elsewhere in the U.S., a comparison of profits between each refinery from the list of information the Division must gather, analyze, and interpret.
 - Includes EREMO as an entity with which the Division must consult when gathering, analyzing, and interpreting submitted information, and when submitting a transportation assessment to the Legislature and Governor.
 - Strikes the requirement for the Division to develop a petroleum information system in a manner that will enable the State to take action to meet and mitigate a petroleum shortage or condition affecting supply.
 - Provides that, within 45 days of the end of each quarter, the UTC must post on its website, information obtained from the Division relating to the gross and net transportation fuels refining margins, as calculated by the Division, rather than within 70 days after the end of the preceding quarter and including refining margins individually calculated by a refinery. Operational costs now include taxes and fees.
 - Requires the UTC, by August 1, 2024, to post on its website certain preliminary

- information about transportation fuels in plain language and with visual representations.
- Combines multiple sections regarding confidential information into one section and removes redundant provisions.
 - Requires EREMO to transmit to the Legislature, any proposals it deems appropriate for mandatory reserve levels and the terms of a program to implement such levels rather than requiring the UTC to submit such proposals.
 - Strikes the requirement for the UTC and the Division, in consultation with the Department of Labor and Industries and certain stakeholders, to consider ways to manage necessary refinery turnarounds and maintenance that would protect the health and safety of employees and the public and minimize the impact of maintenance-related production losses on fuel prices.
 - Removes language regarding evaluating the utility and feasibility of a public-maintained strategic fuel reserve from the assessment.
 - Extends the due date of the transition plan to January 1, 2027, from December 31, 2025.
 - Requires the transition plan to evaluate the readiness of the electrical grid to serve as the main source of energy for the transportation sector and identify shortcomings where actions must be taken to strengthen grid reliability.
 - Establishes new cybersecurity provisions applying to all state agencies that have authorized access to the data being collected in the bill.
 - Adds specified penalties to the confidential information provisions related to a person knowingly disclosing, misusing, or abusing confidential information, as determined by the UTC.
 - Applies the CPA to prohibited practices regarding environmental marketing claims include claims described as deceptive in certain FTC guides.
 - Authorizes the Division, the UTC, Ecology, Department of Licensing, WaTech, and the Auditor to enter into data sharing agreements as necessary to implement the act.
 - Adds a null and void clause.
 - Makes several other technical changes.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 31, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: Fuel prices are highly volatile. Since 1970 Washington State has had some of the highest gas prices in the nation. Price fluctuations do not only affect our wallets, but they also raise concerns about the underlying factors of fuel prices. The objective is to shed

light on fuel prices in the state. It is important we have a fair and transparent system for our consumers. As we transition to cleaner fuels, transparency is key to a smooth transition. We have very little information on the petroleum industry, markets, and factors influencing the price at the pump. The statewide price of gas has dropped \$1.12 since October 2023 when regulations have been stable. This bill is a work-in-progress. We are committed to working with industry and adding cybersecurity provisions. This is one of three priorities of the environmental coalition. This is a good consumer protection measure for the state to take. There is a lot about gas prices we do not understand. The plan is an important piece for this state. This bill is an important addition to the Climate Commitment Act. More transparency for consumers is a good thing. We appreciate the work on turnarounds is not to be reported until after the work is done. Fuel price fluctuations are something we all deal with and we want to know why.

CON Oil and fuel prices are a global commodity, which are changing by the minute. Fuel prices are high because of failed policies, and this would be another one. The cost of this policy will be passed on to consumers. This bill is not solely a transparency bill. There are no fines or penalties associated with an unauthorized release of information by the Division. We are unclear what information will not have competitive concerns. Our industry is one of 16 federally-identified critical infrastructure sectors that provide essential services to the public. We look forward to being involved in conversations developing cybersecurity provisions. There is not enough time for rule making for a bill that is supposed to be implemented by August of this year. The harsh penalties in this bill are not clearly laid out. The AGO already has authority to compel this information and look into anti-competitive behavior. This information is going to be provided to multiple agencies, the Governor's Office, the Legislature, and staff. There is a potential for a huge data breach. The risk is not worth the reward. It will be difficult for small businesses to comply. The definitions in the bill are either vague or nonexistent. Who would qualify as a major marketer under the bill? Fuel distributors pay a surcharge assessed by refineries based on Climate Commitment Act and Clean Fuels Program costs.

OTHER: We believe the market has the necessary checks and balances needed to ensure a competitive and compliant market. This bill does not meet the standards needed to get the information being sought. Mixing complexity and speed rarely ends in quality programs. Public ports serve in a landlord capacity, and do not market petroleum products. Ports do not have much of the information sought in the bill.

Persons Testifying (Environment, Energy & Technology): PRO: Senator Joe Nguyen, Prime Sponsor; Becky Kelley, Office of the Governor; Jason Lewis, Utilities and Transportation Commission; Clifford Traisman, Washington Conservation Action; Leah Missik, Climate Solutions; Skippy Shaw, The Nature Conservancy; Brian Bonlender, Center for Sustainable Energy; Matthew Hepner, IBEW/ceww.

CON: Jeff Pack, Me; Jessica Spiegel, Western States Petroleum Association; Greg Hanon, Western States Petroleum Association; Robert (Bob) Battles, Association of Washington

Business (AWB); Peter Godlewski, Association of Washington Business (AWB); Diana Carlen, Washington Oil Marketers Association (aka Washington Independent Distributors of Energy); Travis Coulter, Washington Oil Marketers Association (aka Washington Independent Distributors of Energy)/Connell Oil; Steve Clark, Genesee Energy; Steve Snider, Snider Energy; Nick Schoenfelder, Coleman Oil.

OTHER: Carly Michiels, Washington Public Ports Association; Tom Wolf, bp America.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: There needs to be more transparency around what consumers pay at the pump and why the prices swing wildly. The electric sector is already providing pricing visibility. As of yesterday, the statewide average price of gas was down \$1.20 from last year's highest price on October 1st. The transition from petroleum to electricity and other clean fuels in the decades to come will have major impacts on the state's economy, the budget, and consumer pocketbooks. Transparency for petroleum pricing will benefit consumers and allow the state to effectively manage the transition to electric energy. Legislation is needed to do this important work, just as it has been needed for other sectors of the economy, but it will take considerable state investment. The substitute bill includes significant cyber security protections to ensure sensitive data is protected. This bill is a priority of the environmental community. People care about the increased prices of gas, food, homeownership, and healthcare, which is why it is necessary to have oversight over how the fuel industry calculates fuel prices. The bill contains strong financial penalties for oil companies who may be withholding information, giving false information, or conducting illegal acts as it relates to the sale of transportation fuel. This bill is another consumer protection mechanism. Global trading prices are the biggest factor in fuel pricing but there is a lot of unknowns along the supply chain.

CON: The fiscal impacts of this bill continue to increase, and it is unclear what the state expects to receive for that investment. The oversight functions that this bill gives the Utilities and Transportation Commission (UTC) are already performed by the Attorney General's Office. The fiscal note may not be accurate because it is unclear who the bill regulates and leaves too much discretion to the UTC. The fuel industry is already reporting various data to the departments of Licensing, Revenue, and Ecology. It is unclear whether the intent of this legislation is to require distributors to file transactional reports for each sale of fuel and trace every gallon of fuel from the distributor to final consumer. There is concern as to how the industry will be able to implement the traceability requirements. This bill represents an extreme ignorance and arrogance as to the ability to provide oversight on a worldwide commodity. The bill will have no impact on the price of fuel. Regulations like the cap-and-trade program increase the cost of gasoline, not the fuel industry. The readily available spot price on gasoline already provides transparency into fuel pricing.

Persons Testifying (Ways & Means): PRO: Becky Kelley, Office of the Governor; Jason

Lewis, Utilities and Transportation Commission; Clifford Traisman, Washington Conservation Action; Leah Missik, Climate Solutions.

CON: Greg Hanon, Western States Petroleum Association; Jeffrey Pack, Washington Citizens Against Unfair Taxes; Diana Carlen, Washington Oil Marketers Association .

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.