

SSB 6501 - S AMD  
By Senator Rockefeller

ADOPTED 02/13/2006

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

9 (3) Diesel soot from diesel engines ranks as the highest toxic air  
10 pollutant in Washington, leading to hundreds of premature deaths and  
11 increasing rates of asthmas and other lung diseases;

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

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

17 (6) Washington has abundant supplies of organic wastes from farms  
18 that can be used for energy production and abundant farmland where  
19 crops could be grown to supplement or supplant petroleum-based fuels;

20 (7) The use of energy and fuel derived from these sources can help  
21 citizens and business conserve energy and reduce the use of petroleum-  
22 based fuels, would improve air and water quality in Washington, reduce  
23 environmental risks from farm wastes, create new markets for farm  
24 products, and provide new industries and jobs for Washington citizens;  
25 and

26 (8) The bioenergy industry is a new and developing industry that  
27 is, in part, limited by the availability of capital for the  
28 construction of facilities for converting farm and forest products into  
29 energy and fuels.

1           Therefore, the legislature finds that it is in the public interest  
2 to encourage the rapid adoption and use of bioenergy, to develop a  
3 viable bioenergy industry within Washington state, and to support a  
4 viable agriculture industry to grow bioenergy crops. To accomplish  
5 this, the Washington bioenergy assistance program is established to  
6 stimulate the construction of facilities in Washington to generate  
7 energy from farm sources or convert organic matter into fuels.

8           NEW SECTION.   **Sec. 2.** The definitions in this section apply  
9 throughout this chapter unless the context clearly requires otherwise.

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

12           (2) "Department" means the department of agriculture.

13           (3) "Director" means the director of the department of agriculture.

14           (4) "Political subdivision" means any port district, county, city,  
15 town, special purpose district, and any other municipal corporation or  
16 quasi-municipal corporation in the state.

17           (5) "Project" means the construction of facilities, including the  
18 purchase of equipment, to convert farm products or wastes into  
19 electricity or gaseous and liquid fuels. These specifically include  
20 facilities to generate electricity or methane from the anaerobic  
21 digestion of organic matter, and facilities for the extracting oils  
22 from canola, rape, mustard, and other oilseeds. "Project" may also  
23 include the construction of facilities used to distribute and store  
24 fuels that are produced from farm products or wastes.

25           NEW SECTION.   **Sec. 3.** (1) A bioenergy assistance program is  
26 established within the department. The director, in cooperation with  
27 the department of community, trade, and economic development, may  
28 approve an application providing assistance for a project only if the  
29 director finds:

30           (a) The project will convert farm products or wastes directly into  
31 electricity or into gaseous or liquid fuels;

32           (b) The project demonstrates technical feasibility and probable  
33 business success;

34           (c) The business or facility produces long-term economic benefits  
35 to the state, a region of the state, or a particular community in the  
36 state;

- 1 (d) The project does not require continuing state support;
- 2 (e) The assistance will result in new jobs, job retention, or  
3 higher incomes for citizens of the state;
- 4 (f) The assistance is accompanied by private investment;
- 5 (g) The state is provided an option under the assistance agreement  
6 to purchase a portion of the fuel or feedstock to be produced by the  
7 project, exercisable by the department of general administration;
- 8 (h) The project will increase energy independence or diversity for  
9 the state;
- 10 (i) The project will use feed stocks produced in the state, if  
11 feasible, except this criterion shall not apply to the construction of  
12 facilities used to distribute and store fuels that are produced from  
13 farm products or wastes;
- 14 (j) Any product produced by the project will be suitable for its  
15 intended use, will meet accepted national or state standards, and will  
16 be stored and distributed in a safe and environmentally sound manner;
- 17 (k) The application provides for adequate reporting or disclosure  
18 of financial and employment data to the director, and permits the  
19 director to require an annual or other periodic audit of the project  
20 books; and
- 21 (1) For applications seeking direct financial assistance, the  
22 applicant is unable to secure adequate financing from other sources.
- 23 (2) The director may approve an application for assistance up to  
24 five million dollars.
- 25 (3) The director shall enter into agreements with approved  
26 applicants to fix the terms and rates of the assistance to minimize the  
27 costs to the applicants, and to encourage establishment of a viable  
28 bioenergy industry. The agreement shall include provisions to protect  
29 the state's investment, taking into account depreciation and other  
30 circumstances or market conditions. In the event the department of  
31 general administration coordinates a biodiesel technical assistance  
32 team, the agreement shall incorporate the appropriate best management  
33 practices developed by the team.
- 34 (4) The director may defer any payments for up to twelve months or  
35 until the project starts to receive revenue from operations, whichever  
36 is sooner.
- 37 (5) Political subdivisions and private entities, including economic  
38 development councils, may participate in the program.

1        NEW SECTION.    **Sec. 4.**    (1) The director may establish policies and  
2 procedures necessary for processing, reviewing, and approving  
3 applications made under this section.

4        (2) Each application must show in detail the nature of the project,  
5 the source of the feedstock, and the technologies that will be used.  
6 Each application must contain a credit analysis of the applicant and a  
7 detailed feasibility analysis and business plan.

8        (3) The director shall consult with those agencies having expertise  
9 and knowledge to assess the technical and business feasibility of the  
10 project and probability of success. These agencies may include, but  
11 are not limited to, Washington State University, the University of  
12 Washington, the department of ecology, the department of community,  
13 trade, and economic development, and the Washington state conservation  
14 commission.

15        (4) If the total requested dollar amount of assistance exceeds the  
16 amount available in the Washington bioenergy assistance account created  
17 in section 5 of this act, the applications must be prioritized based  
18 upon the following criteria:

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

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

24        (c) The extent to which the project will establish a viable  
25 bioenergy production capacity in Washington;

26        (d) The benefits to Washington's agriculture producers; and

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

29        NEW SECTION.    **Sec. 5.**    The Washington bioenergy assistance account  
30 is created in the state treasury. All receipts from appropriations  
31 made to the account and any loan payments of principal and interest  
32 derived from loans made under this chapter must be deposited into the  
33 account. Moneys in the account may be spent only after appropriation.  
34 Expenditures from the account may be used only for assistance for  
35 projects consistent with this chapter. Administrative costs of the  
36 department may not exceed three percent of the total funds available  
37 for this program.

1        NEW SECTION.    **Sec. 6.**    The director shall report to the legislature  
2 and governor on the status of the Washington bioenergy assistance  
3 program created under this chapter, on or before December 1st of the  
4 years 2006, 2007, and 2009.    This report must include information on  
5 the projects that have been funded, the status of these projects, and  
6 their environmental, energy savings, and job creation benefits.

7        **Sec. 7.**    RCW 42.56.270 and 2005 c 274 s 407 are each amended to  
8 read as follows:

9        The following financial, commercial, and proprietary information is  
10 exempt from disclosure under this chapter:

11        (1) Valuable formulae, designs, drawings, computer source code or  
12 object code, and research data obtained by any agency within five years  
13 of the request for disclosure when disclosure would produce private  
14 gain and public loss;

15        (2) Financial information supplied by or on behalf of a person,  
16 firm, or corporation for the purpose of qualifying to submit a bid or  
17 proposal for (a) a ferry system construction or repair contract as  
18 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
19 or improvement as required by RCW 47.28.070;

20        (3) Financial and commercial information and records supplied by  
21 private persons pertaining to export services provided under chapters  
22 43.163 and 53.31 RCW, and by persons pertaining to export projects  
23 under RCW 43.23.035;

24        (4) Financial and commercial information and records supplied by  
25 businesses or individuals during application for loans or program  
26 services provided by chapters 43.-- (sections 1 through 6, 9, and 10 of  
27 this act), 43.163, 43.160, 43.330, and 43.168 RCW, or during  
28 application for economic development loans or program services provided  
29 by any local agency;

30        (5) Financial information, business plans, examination reports, and  
31 any information produced or obtained in evaluating or examining a  
32 business and industrial development corporation organized or seeking  
33 certification under chapter 31.24 RCW;

34        (6) Financial and commercial information supplied to the state  
35 investment board by any person when the information relates to the  
36 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the providers  
2 of this information;

3 (7) Financial and valuable trade information under RCW 51.36.120;

4 (8) Financial, commercial, operations, and technical and research  
5 information and data submitted to or obtained by the clean Washington  
6 center in applications for, or delivery of, program services under  
7 chapter 70.95H RCW;

8 (9) Financial and commercial information requested by the public  
9 stadium authority from any person or organization that leases or uses  
10 the stadium and exhibition center as defined in RCW 36.102.010;

11 (10) Financial information, including but not limited to account  
12 numbers and values, and other identification numbers supplied by or on  
13 behalf of a person, firm, corporation, limited liability company,  
14 partnership, or other entity related to an application for a liquor  
15 license, gambling license, or lottery retail license;

16 (11) Proprietary data, trade secrets, or other information that  
17 relates to: (a) A vendor's unique methods of conducting business; (b)  
18 data unique to the product or services of the vendor; or (c)  
19 determining prices or rates to be charged for services, submitted by  
20 any vendor to the department of social and health services for purposes  
21 of the development, acquisition, or implementation of state purchased  
22 health care as defined in RCW 41.05.011; and

23 (12)(a) When supplied to and in the records of the department of  
24 community, trade, and economic development:

25 (i) Financial and proprietary information collected from any person  
26 and provided to the department of community, trade, and economic  
27 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

28 (ii) Financial or proprietary information collected from any person  
29 and provided to the department of community, trade, and economic  
30 development or the office of the governor in connection with the  
31 siting, recruitment, expansion, retention, or relocation of that  
32 person's business and until a siting decision is made, identifying  
33 information of any person supplying information under this subsection  
34 and the locations being considered for siting, relocation, or expansion  
35 of a business;

36 (b) When developed by the department of community, trade, and  
37 economic development based on information as described in (a)(i) of  
38 this subsection, any work product is not exempt from disclosure;

1 (c) For the purposes of this subsection, "siting decision" means  
2 the decision to acquire or not to acquire a site;

3 (d) If there is no written contact for a period of sixty days to  
4 the department of community, trade, and economic development from a  
5 person connected with siting, recruitment, expansion, retention, or  
6 relocation of that person's business, information described in (a)(ii)  
7 of this subsection will be available to the public under this chapter.

8 **Sec. 8.** RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4, 2005  
9 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2 are  
10 each reenacted and amended to read as follows:

11 (1) All earnings of investments of surplus balances in the state  
12 treasury shall be deposited to the treasury income account, which  
13 account is hereby established in the state treasury.

14 (2) The treasury income account shall be utilized to pay or receive  
15 funds associated with federal programs as required by the federal cash  
16 management improvement act of 1990. The treasury income account is  
17 subject in all respects to chapter 43.88 RCW, but no appropriation is  
18 required for refunds or allocations of interest earnings required by  
19 the cash management improvement act. Refunds of interest to the  
20 federal treasury required under the cash management improvement act  
21 fall under RCW 43.88.180 and shall not require appropriation. The  
22 office of financial management shall determine the amounts due to or  
23 from the federal government pursuant to the cash management improvement  
24 act. The office of financial management may direct transfers of funds  
25 between accounts as deemed necessary to implement the provisions of the  
26 cash management improvement act, and this subsection. Refunds or  
27 allocations shall occur prior to the distributions of earnings set  
28 forth in subsection (4) of this section.

29 (3) Except for the provisions of RCW 43.84.160, the treasury income  
30 account may be utilized for the payment of purchased banking services  
31 on behalf of treasury funds including, but not limited to, depository,  
32 safekeeping, and disbursement functions for the state treasury and  
33 affected state agencies. The treasury income account is subject in all  
34 respects to chapter 43.88 RCW, but no appropriation is required for  
35 payments to financial institutions. Payments shall occur prior to  
36 distribution of earnings set forth in subsection (4) of this section.

1 (4) Monthly, the state treasurer shall distribute the earnings  
2 credited to the treasury income account. The state treasurer shall  
3 credit the general fund with all the earnings credited to the treasury  
4 income account except:

5 (a) The following accounts and funds shall receive their  
6 proportionate share of earnings based upon each account's and fund's  
7 average daily balance for the period: The capitol building  
8 construction account, the Cedar River channel construction and  
9 operation account, the Central Washington University capital projects  
10 account, the charitable, educational, penal and reformatory  
11 institutions account, the common school construction fund, the county  
12 criminal justice assistance account, the county sales and use tax  
13 equalization account, the data processing building construction  
14 account, the deferred compensation administrative account, the deferred  
15 compensation principal account, the department of retirement systems  
16 expense account, the developmental disabilities community trust  
17 account, the drinking water assistance account, the drinking water  
18 assistance administrative account, the drinking water assistance  
19 repayment account, the Eastern Washington University capital projects  
20 account, the education construction fund, the education legacy trust  
21 account, the election account, the emergency reserve fund, The  
22 Evergreen State College capital projects account, the federal forest  
23 revolving account, the freight mobility investment account, the health  
24 services account, the public health services account, the health system  
25 capacity account, the personal health services account, the state  
26 higher education construction account, the higher education  
27 construction account, the highway infrastructure account, the high-  
28 occupancy toll lanes operations account, the industrial insurance  
29 premium refund account, the judges' retirement account, the judicial  
30 retirement administrative account, the judicial retirement principal  
31 account, the local leasehold excise tax account, the local real estate  
32 excise tax account, the local sales and use tax account, the medical  
33 aid account, the mobile home park relocation fund, the multimodal  
34 transportation account, the municipal criminal justice assistance  
35 account, the municipal sales and use tax equalization account, the  
36 natural resources deposit account, the oyster reserve land account, the  
37 perpetual surveillance and maintenance account, the public employees'  
38 retirement system plan 1 account, the public employees' retirement



1 system combined plan 2 and plan 3 account, the public facilities  
2 construction loan revolving account beginning July 1, 2004, the public  
3 health supplemental account, the public works assistance account, the  
4 Puyallup tribal settlement account, the real estate appraiser  
5 commission account, the regional transportation investment district  
6 account, the resource management cost account, the rural Washington  
7 loan fund, the site closure account, the small city pavement and  
8 sidewalk account, the special wildlife account, the state employees'  
9 insurance account, the state employees' insurance reserve account, the  
10 state investment board expense account, the state investment board  
11 commingled trust fund accounts, the supplemental pension account, the  
12 Tacoma Narrows toll bridge account, the teachers' retirement system  
13 plan 1 account, the teachers' retirement system combined plan 2 and  
14 plan 3 account, the tobacco prevention and control account, the tobacco  
15 settlement account, the transportation infrastructure account, the  
16 transportation partnership account, the tuition recovery trust fund,  
17 the University of Washington bond retirement fund, the University of  
18 Washington building account, the volunteer fire fighters' and reserve  
19 officers' relief and pension principal fund, the volunteer fire  
20 fighters' and reserve officers' administrative fund, the Washington  
21 bioenergy assistance account, the Washington fruit express account, the  
22 Washington judicial retirement system account, the Washington law  
23 enforcement officers' and fire fighters' system plan 1 retirement  
24 account, the Washington law enforcement officers' and fire fighters'  
25 system plan 2 retirement account, the Washington public safety  
26 employees' plan 2 retirement account, the Washington school employees'  
27 retirement system combined plan 2 and 3 account, the Washington state  
28 health insurance pool account, the Washington state patrol retirement  
29 account, the Washington State University building account, the  
30 Washington State University bond retirement fund, the water pollution  
31 control revolving fund, and the Western Washington University capital  
32 projects account. Earnings derived from investing balances of the  
33 agricultural permanent fund, the normal school permanent fund, the  
34 permanent common school fund, the scientific permanent fund, and the  
35 state university permanent fund shall be allocated to their respective  
36 beneficiary accounts. All earnings to be distributed under this  
37 subsection (4)(a) shall first be reduced by the allocation to the state  
38 treasurer's service fund pursuant to RCW 43.08.190.

1 (b) The following accounts and funds shall receive eighty percent  
2 of their proportionate share of earnings based upon each account's or  
3 fund's average daily balance for the period: The aeronautics account,  
4 the aircraft search and rescue account, the county arterial  
5 preservation account, the department of licensing services account, the  
6 essential rail assistance account, the ferry bond retirement fund, the  
7 grade crossing protective fund, the high capacity transportation  
8 account, the highway bond retirement fund, the highway safety account,  
9 the motor vehicle fund, the motorcycle safety education account, the  
10 pilotage account, the public transportation systems account, the Puget  
11 Sound capital construction account, the Puget Sound ferry operations  
12 account, the recreational vehicle account, the rural arterial trust  
13 account, the safety and education account, the special category C  
14 account, the state patrol highway account, the transportation 2003  
15 account (nickel account), the transportation equipment fund, the  
16 transportation fund, the transportation improvement account, the  
17 transportation improvement board bond retirement account, and the urban  
18 arterial trust account.

19 (5) In conformance with Article II, section 37 of the state  
20 Constitution, no treasury accounts or funds shall be allocated earnings  
21 without the specific affirmative directive of this section.

22 NEW SECTION. **Sec. 9.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 10.** Sections 1 through 6 and 9 of this act  
27 expire June 30, 2016. Any moneys in the Washington bioenergy  
28 assistance account on that date and any moneys received pursuant to  
29 assistance made under this chapter must be deposited in the general  
30 fund.

31 NEW SECTION. **Sec. 11.** Sections 1 through 6, 9, 10, and 12 of this  
32 act constitute a new chapter in Title 15 RCW.

33 NEW SECTION. **Sec. 12.** This act takes effect July 1, 2006."

ADOPTED 02/13/2006

1       On page 1, line 2 of the title, after "program;" strike the  
2 remainder of the title and insert "amending RCW 42.56.270; reenacting  
3 and amending RCW 43.84.092; adding a new chapter to Title 15 RCW;  
4 providing an effective date; and providing an expiration date."

EFFECT:       Includes product purchases as a form of assistance. Requires the director of agriculture to cooperate with CTED when evaluating project applications. Requires the director of agriculture to find that applicants seeking direct financial assistance are unable to secure adequate financing from other sources. Requires assistance agreements to incorporate best management practices that may be developed by a biodiesel technical assistance team to be coordinated by the Department of General Administration. Makes technical changes.

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