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HOUSE BILL 2775

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By Representatives P. Sullivan, Holmquist, Morris, Kilmer, Green, Sells, Kenney, McCoy, Wallace, Springer, Ormsby, Moeller, Morrell, Linville and Hudgins; by request of Governor Gregoire

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1 AN ACT Relating to the creation of the Washington bioenergy loan  
2 program; amending RCW 42.56.270; reenacting and amending RCW 43.84.092;  
3 adding a new chapter to Title 43 RCW; providing an effective date; and  
4 providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

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

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

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

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

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

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

14 Therefore, the legislature finds that it is in the public interest  
15 to encourage the rapid adoption and use of bioenergy, to develop a  
16 viable bioenergy industry within Washington state, and to support a  
17 viable agriculture industry to grow bioenergy crops. To accomplish  
18 this, the Washington bioenergy loan program is established to stimulate  
19 the construction of facilities in Washington to generate energy from  
20 farm sources or convert organic matter into fuels.

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

23 (1) "Department" means the department of community, trade, and  
24 economic development.

25 (2) "Director" means the director of the department of community,  
26 trade, and economic development.

27 (3) "Project" means the construction of facilities, including the  
28 purchase of equipment, to convert farm products or wastes into  
29 electricity or gaseous and liquid fuels. These specifically include  
30 facilities to generate electricity or methane from the anaerobic  
31 digestion of organic matter, and facilities for the extracting oils  
32 from canola, rape, mustard, and other oilseeds.

33 NEW SECTION. **Sec. 3.** (1) A bioenergy loan program is established  
34 within the department. The director may only approve an application  
35 providing a loan for a project that the director finds:

1 (a) Will convert farm products or wastes directly into electricity  
2 or into gaseous or liquid fuels;

3 (b) Demonstrates technical feasibility and probable business  
4 success;

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

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

9 (e) The expenditure will result in new jobs, job retention, or  
10 higher incomes for citizens of the state; and

11 (f) The expenditure is accompanied by private investment.

12 (2) The director may not approve an application if it fails to  
13 provide for adequate reporting or disclosure of financial and  
14 employment data to the director. The director may require an annual or  
15 other periodic audit of the project books.

16 (3) The director may approve an application that results in a loan  
17 of up to five million dollars.

18 (4) The director shall fix the terms and rates of these loans to  
19 minimize the costs to the borrowers and to encourage establishment of  
20 a viable bioenergy industry. The interest rates for these loans must  
21 be one percent below the prime interest rate offered by private lending  
22 institutions.

23 (5) The director may defer loan repayment for up to twelve months  
24 or until the project starts to receive revenue from operations,  
25 whichever is sooner.

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

29 (2) Each application must show in detail the nature of the project,  
30 the source of the feedstock, and the technologies that will be used.  
31 Each application must contain a credit analysis of the business to  
32 receive the loan and a detailed feasibility analysis and business plan.

33 (3) The director shall consult with those agencies having expertise  
34 and knowledge to assess the technical and business feasibility of the  
35 project and probability of success. These agencies may include, but  
36 are not limited to, Washington State University, the University of

1 Washington, the department of ecology, the department of agriculture,  
2 and the Washington state conservation commission.

3 (4) If the total requested dollar amount of loans exceeds the  
4 amount available in the Washington bioenergy loan account created in  
5 section 5 of this act, the applications must be prioritized based upon  
6 the following criteria:

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

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

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

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

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

17 NEW SECTION. **Sec. 5.** The Washington bioenergy loan account is  
18 created in the state treasury. All receipts from appropriations made  
19 to the account and loan payments of principal and interest derived from  
20 loans made under this chapter must be deposited into the account.  
21 Moneys in the account may be spent only after appropriation.  
22 Expenditures from the account may be used only for loans for projects  
23 consistent with this chapter. Administrative costs of the department  
24 may not exceed three percent of the annual funds available for this  
25 program.

26 NEW SECTION. **Sec. 6.** The director shall report to the legislature  
27 and governor on the status of the Washington bioenergy loan program  
28 created under this chapter, on or before December 1st of the years  
29 2006, 2007, and 2009. This report must include information on the  
30 projects that have been funded, the status of these projects, and their  
31 environmental, energy savings, and job creation benefits.

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

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

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

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

10 (3) Financial and commercial information and records supplied by  
11 private persons pertaining to export services provided under chapters  
12 43.163 and 53.31 RCW, and by persons pertaining to export projects  
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by  
15 businesses or individuals during application for loans or program  
16 services provided by chapters 43.-- (sections 1 through 6, 9, and 10 of  
17 this act), 43.163, 43.160, 43.330, and 43.168 RCW, or during  
18 application for economic development loans or program services provided  
19 by any local agency;

20 (5) Financial information, business plans, examination reports, and  
21 any information produced or obtained in evaluating or examining a  
22 business and industrial development corporation organized or seeking  
23 certification under chapter 31.24 RCW;

24 (6) Financial and commercial information supplied to the state  
25 investment board by any person when the information relates to the  
26 investment of public trust or retirement funds and when disclosure  
27 would result in loss to such funds or in private loss to the providers  
28 of this information;

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

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

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

37 (10) Financial information, including but not limited to account  
38 numbers and values, and other identification numbers supplied by or on

1 behalf of a person, firm, corporation, limited liability company,  
2 partnership, or other entity related to an application for a liquor  
3 license, gambling license, or lottery retail license;

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

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

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

16 (ii) Financial or proprietary information collected from any person  
17 and provided to the department of community, trade, and economic  
18 development or the office of the governor in connection with the  
19 siting, recruitment, expansion, retention, or relocation of that  
20 person's business and until a siting decision is made, identifying  
21 information of any person supplying information under this subsection  
22 and the locations being considered for siting, relocation, or expansion  
23 of a business;

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

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

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

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

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

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

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

27 (4) Monthly, the state treasurer shall distribute the earnings  
28 credited to the treasury income account. The state treasurer shall  
29 credit the general fund with all the earnings credited to the treasury  
30 income account except:

31 (a) The following accounts and funds shall receive their  
32 proportionate share of earnings based upon each account's and fund's  
33 average daily balance for the period: The capitol building  
34 construction account, the Cedar River channel construction and  
35 operation account, the Central Washington University capital projects  
36 account, the charitable, educational, penal and reformatory  
37 institutions account, the common school construction fund, the county  
38 criminal justice assistance account, the county sales and use tax

1 equalization account, the data processing building construction  
2 account, the deferred compensation administrative account, the deferred  
3 compensation principal account, the department of retirement systems  
4 expense account, the developmental disabilities community trust  
5 account, the drinking water assistance account, the drinking water  
6 assistance administrative account, the drinking water assistance  
7 repayment account, the Eastern Washington University capital projects  
8 account, the education construction fund, the education legacy trust  
9 account, the election account, the emergency reserve fund, The  
10 Evergreen State College capital projects account, the federal forest  
11 revolving account, the freight mobility investment account, the health  
12 services account, the public health services account, the health system  
13 capacity account, the personal health services account, the state  
14 higher education construction account, the higher education  
15 construction account, the highway infrastructure account, the high-  
16 occupancy toll lanes operations account, the industrial insurance  
17 premium refund account, the judges' retirement account, the judicial  
18 retirement administrative account, the judicial retirement principal  
19 account, the local leasehold excise tax account, the local real estate  
20 excise tax account, the local sales and use tax account, the medical  
21 aid account, the mobile home park relocation fund, the multimodal  
22 transportation account, the municipal criminal justice assistance  
23 account, the municipal sales and use tax equalization account, the  
24 natural resources deposit account, the oyster reserve land account, the  
25 perpetual surveillance and maintenance account, the public employees'  
26 retirement system plan 1 account, the public employees' retirement  
27 system combined plan 2 and plan 3 account, the public facilities  
28 construction loan revolving account beginning July 1, 2004, the public  
29 health supplemental account, the public works assistance account, the  
30 Puyallup tribal settlement account, the real estate appraiser  
31 commission account, the regional transportation investment district  
32 account, the resource management cost account, the rural Washington  
33 loan fund, the site closure account, the small city pavement and  
34 sidewalk account, the special wildlife account, the state employees'  
35 insurance account, the state employees' insurance reserve account, the  
36 state investment board expense account, the state investment board  
37 commingled trust fund accounts, the supplemental pension account, the  
38 Tacoma Narrows toll bridge account, the teachers' retirement system



1 plan 1 account, the teachers' retirement system combined plan 2 and  
2 plan 3 account, the tobacco prevention and control account, the tobacco  
3 settlement account, the transportation infrastructure account, the  
4 transportation partnership account, the tuition recovery trust fund,  
5 the University of Washington bond retirement fund, the University of  
6 Washington building account, the volunteer fire fighters' and reserve  
7 officers' relief and pension principal fund, the volunteer fire  
8 fighters' and reserve officers' administrative fund, the Washington  
9 bioenergy loan account, the Washington fruit express account, the  
10 Washington judicial retirement system account, the Washington law  
11 enforcement officers' and fire fighters' system plan 1 retirement  
12 account, the Washington law enforcement officers' and fire fighters'  
13 system plan 2 retirement account, the Washington public safety  
14 employees' plan 2 retirement account, the Washington school employees'  
15 retirement system combined plan 2 and 3 account, the Washington state  
16 health insurance pool account, the Washington state patrol retirement  
17 account, the Washington State University building account, the  
18 Washington State University bond retirement fund, the water pollution  
19 control revolving fund, and the Western Washington University capital  
20 projects account. Earnings derived from investing balances of the  
21 agricultural permanent fund, the normal school permanent fund, the  
22 permanent common school fund, the scientific permanent fund, and the  
23 state university permanent fund shall be allocated to their respective  
24 beneficiary accounts. All earnings to be distributed under this  
25 subsection (4)(a) shall first be reduced by the allocation to the state  
26 treasurer's service fund pursuant to RCW 43.08.190.

27 (b) The following accounts and funds shall receive eighty percent  
28 of their proportionate share of earnings based upon each account's or  
29 fund's average daily balance for the period: The aeronautics account,  
30 the aircraft search and rescue account, the county arterial  
31 preservation account, the department of licensing services account, the  
32 essential rail assistance account, the ferry bond retirement fund, the  
33 grade crossing protective fund, the high capacity transportation  
34 account, the highway bond retirement fund, the highway safety account,  
35 the motor vehicle fund, the motorcycle safety education account, the  
36 pilotage account, the public transportation systems account, the Puget  
37 Sound capital construction account, the Puget Sound ferry operations  
38 account, the recreational vehicle account, the rural arterial trust

1 account, the safety and education account, the special category C  
2 account, the state patrol highway account, the transportation 2003  
3 account (nickel account), the transportation equipment fund, the  
4 transportation fund, the transportation improvement account, the  
5 transportation improvement board bond retirement account, and the urban  
6 arterial trust account.

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

10 NEW SECTION. **Sec. 9.** If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 10.** Sections 1 through 6 and 9 of this act  
15 expire June 30, 2016. Any moneys in the Washington bioenergy loan  
16 account on that date and any moneys received pursuant to loans made  
17 under this chapter must be deposited in the general fund.

18 NEW SECTION. **Sec. 11.** Sections 1 through 6, 9, 10, and 12 of this  
19 act constitute a new chapter in Title 43 RCW.

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

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