SENATE BILL REPORT
SB 5735

As Reported by Senate Committee On:
Environment, Water & Energy, February 24, 2009

Title: An act relating to reducing greenhouse gas emissions.

Brief Description: Reducing greenhouse gas emissions.

Sponsors: Senators Rockefeller, Hargrove, Jacobsen, Ranker, Fraser, Keiser, Jarrett, Franklin, Shin, Kohl-Welles, Regala, McAuliffe and Kline; by request of Governor Gregoire.

Brief History:
Committee Activity: Environment, Water & Energy: 2/03/09, 2/10/09, 2/24/09 [DPS-WM, DNP].

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: That Substitute Senate Bill No. 5735 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser, Hatfield, Marr and Ranker.

Minority Report: Do not pass.
Signed by Senators Honeyford, Ranking Minority Member; Delvin, Holmquist, Morton and Sheldon.

Staff: William Bridges (786-7416)

Background: Cap and Trade. In general terms, a cap-and-trade program is a market-based mechanism to reduce air pollution. First, a cap is set on an air pollutant. Entities are then given or sold "allowances" to emit the pollutant. Entities with unused allowances are allowed to sell their surpluses to entities that have overspent their allowances. Sometimes, a cap-and-trade program allows the use of "offsets," which are emission cuts outside the cap but are nonetheless treated like an allowance.

A U.S. cap-and-trade program was established for sulfur dioxide in 1990. In 2005, the European Union enacted a cap-and-trade program for CO2 emissions called the European Union Emission Trading System. In the U.S., the first mandatory cap-and-trade program for

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

CO_2 emissions is the Regional Greenhouse Gas Initiative (RGGI), an effort of ten northeastern states that auctioned its first allowances last fall.

Western Climate Initiative (WCI). In 2007 the governors of Arizona, California, New Mexico, Oregon, and Washington formed the WCI. They were later joined by Montana and Utah, and the Canadian provinces of British Columbia, Manitoba, Ontario, and Quebec. Other U.S. and Mexican states have joined as observers.

The WCI has recommended the implementation of a cap-and-trade program as part of a comprehensive regional effort to reduce greenhouse gas (GHG) emissions by 15 percent below 2005 levels by 2020.

Washington's GHG Emission Reduction Targets. In 2008 the Legislature set the following GHG reduction targets for the state:

- by 2020 reduce overall GHG emissions in the state to 1990 levels;
- by 2035 reduce overall GHG emissions in the state to 25 percent below 1990 levels; and
- by 2050 reduce overall GHG emissions in the state to 50 percent below 1990 levels, or 70 percent below the state's expected GHG emissions that year.

The Legislature also required the Department of Ecology (DOE), in coordination with the WCI, to develop a design for a regional multisector market-based system to limit and reduce GHG emissions. The design was presented to the Legislature in December 2008, and its concepts are addressed in this bill.

Summary of Bill (Recommended Substitute): Reaffirming the State's GHG Emission Reduction Targets. The Legislature reaffirms the state's GHG targets established in 2008.

Making Additional Findings. Various findings are made; for example, the Legislature finds that the state's current energy-efficiency policies and the recent economic downturn obviate the need to adopt new regulatory emission limits at this time.

Expressing the Legislature's Intent. The Legislature intends, among other things, to adopt statewide emission planning targets and to identify additional complementary measures to maximize the state's emission reductions.

Establishing an Emissions Reduction Policy. Policies are specified for the state's position on any regional or national multi-sector, market-based approach to regulating GHG emissions; for example, a prohibition against the auctioning of allowances and a requirement that residential and commercial fuel be regulated outside a cap-and-trade program.

Designing Voluntary Emission Targets. DOE must design voluntary annual statewide emission targets beginning with calendar year 2009. Additional sector-specific targets may be adopted but only for assisting emission sources in tracking their emissions and obtaining recognition for early reductions.

DOE must report the design to the Legislature by December 1, 2009. The design may not be implemented until approved by the Legislature.

Designing a Voluntary Emissions Reduction Registry. DOE must design a Washington emission reduction registry for the sole purpose of assisting persons in achieving recognition for emission reductions. The design must include the following: (1) protocols for reporting and measuring emissions and emission reductions; (2) criteria for adjusting reductions due to changes in business location, or other factors; (3) protocols for recognizing offsets; and (4) certifications for emission reductions, including enhanced certifications for those entities which equal or exceed their percentage of the statewide reduction targets. The design may include protocols for reporting and measuring reductions for previous emissions and emission reductions, but may not register reductions taking place prior to January 1, 2000. Beginning January 1, 2011, DOE may include in the registry the voluntary reporting by persons sponsoring offset projects or purchasing offset credits.

DOE must report the design to the Legislature by December 1, 2009. The design may not be implemented until approved by the Legislature.

Establishing Voluntary Offset Credits. DOE must establish criteria for recognizing, tracking, and retiring voluntary offset credits. Offset credits must be recognized for the following: (1) offset projects that may be used to report equivalent emission reductions in the emission reduction registry; and (2) offset projects sponsored in this state that may be offered in emerging carbon markets. In developing the criteria for offset projects, priority must be given to offset projects within the forestry, agriculture, and waste management sectors.

Developing a Policy for Forestry Offsets. DOE, in consultation with the Forest Practices Board, the Department of Natural Resources (DNR), and the Forest Carbon Working Group, must develop the state's policy for forestry offset projects in Washington. The final policy must be completed by December 31, 2009, unless DOE notifies the agencies and working group that the policy is needed sooner. The policy must include a number of elements, including guidelines for carbon accounting in managed forests.

Requiring a Design and Economic Analysis of Emission Reduction Programs. By December 31, 2010, DOE must report to the Legislature on how the state may participate in a regional or national emissions reduction program. The report must analyze various elements of a regional or national emission reductions program, such as auction designs and measures to ensure functional and efficient markets. The report must also incorporate an analysis of the economic impact of an emissions reduction program on the state's consumers, businesses, and citizens. The economic analysis must be conducted by the Forecasting Office of the Office of Financial Management, in consultation with the Governor's Council of Economic Advisors.

Authorizing DOE to Monitor Efforts to Form a Regional Administrative Organization. The Director of DOE is authorized to monitor and discuss with representatives of other WCI jurisdictions their efforts to form an organization that may carry out regional administrative functions, such as the coordination of regional auctions of allowances and the tracking of emissions.

Requiring Recommendations on Agricultural Offset Projects. DOE, in consultation with Washington State University and the state Department of Agriculture, must reestablish the agriculture carbon working group to develop recommendations for agricultural offset projects within Washington. A report on the progress of the agriculture carbon working group must be submitted to the Legislature by July 1, 2010.

Requiring Other Recommendations and Reports to the Legislature. The following recommendations must be delivered to the Legislature: (1) by December 1, 2009, DOE must provide recommendations on increasing state assistance and prioritizing financial, regulatory, and other incentives for those emission sources receiving enhanced certification; (2) by December 1, 2010, DOE must recommend policies that may accelerate emissions reductions in the state, which may delay the need for a multi-sector regulatory program; and (3) by December 31, 2010, DOE, after consulting with the Forest Practices Board, DNR, and the Forest Carbon Working Group, must deliver legislation to implement a financial incentives program for forestry and forest products.

Creating the Voluntary Climate Emissions Reduction Incentives Account. An appropriated account is created for all federal funds provided to the state for developing and promoting renewable energy, for the reduction of GHG emissions, and for any other monies directed to the account by the Legislature. First priority for expenditures from the account is for technical and financial assistance to persons reporting emissions reductions and receiving enhanced certifications. Expenditures from the account may also be used for activities and programs that achieve emission reductions and carbon sequestration in agriculture, forestry, waste management, and other sectors.

EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Substitute): The state's GHG emission reduction targets are reaffirmed. Additional findings are made, a new intent section is added, and an emissions reduction policy is declared. Voluntary emission targets and an emission reduction registry are to be designed. Criteria for voluntary offset credits are to be developed. A design and economic analysis of emission reduction programs is required. Recommendations on agricultural offset projects are to be developed. Various recommendations and reports to the Legislature are to be made. The voluntary Climate Emissions Reduction Incentives Account is created.

Appropriation: None.

Fiscal Note: Available on Original Bill.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The Legislature established the GHG targets last session and the challenge now is to decide how to effectively and efficiently meet those targets. The state exported $16 billion for fossil fuels; that money could have stayed in the state for the development of renewable energy. Washington's involvement with the WCI is important to influence the Congressional debate on a national cap-and-trade program. The business-as-usual reliance on voluntary action is not good enough – emitters need to be held accountable for any claimed reductions. With green building legislation, clean car legislation, and a GHG emissions performance law, the Washington Legislature has been an environmental leader the last several years. This bill needs to continue that legacy and to meet the mandated reduction targets. Cap-and-trade is not new; it has worked for SO2 and it is being applied to CO2 in Europe and in the Northeastern U.S. Cap-and-trade is the only program that can assure Washington will meet the mandated targets. The costs of not acting on cap-and-trade are high: rising firefighting costs, reduced stream flows, rising health-care costs, and agricultural loses. The current economic recession will end and something must be in place in 2012 if the state is to reach its reduction targets. The Governor may delay the program for up to one year if the recession continues past 2012. King County is already participating in the Chicago Climate Exchange. The country needs a structural change; we can no longer rely on cheap oil. The old economy is not hiring and the new economy is. The bill recognizes hydro by reallocating allowances out of a 1 percent common pool. Allowances should be auctioned and not distributed according to historic emissions.

CON: Businesses are struggling in the current economic recession and a cap-and-trade program would be very expensive, costing billions and jeopardizing thousands of jobs. A single national program is best. Many of the Washington companies operate in a world economy, and these companies would be at a competitive disadvantage if they had to incorporate allowance costs into their products. Many of these companies would either move to a nonWCI state or go out of business. A regional cap-and-trade would discourage investments in Washington. The effects of a regional cap-and-trade program are hard to model, so companies will have a difficult time making investment decisions. The bill delegates too much authority to DOE, and it does not protect Washington's unique hydro system. Market oversight provisions need to be determined before launching into a cap-and-trade program. The bill does not address the effect of low-water years on the hydro system, which could require utilities to rely on coal power and expensive allowances. When it comes to protecting Washington's hydro system, it is time that Washington dictate to the WCI and not the other way around. Why would the Legislature consider destroying Washington's economy in an attempt to impress the federal government? When mills close, the state's carbon footprint rises because the foreign products that are imported are produced with dirtier power. New Zealand has been unsuccessful in setting up a cap-and-trade program and that uncertainty has led to deforestation. The bill does not recognize previous efficiency efforts by companies. The bill is a blank canvas for DOE, and DOE has no duty to follow the recommendations of any of the work groups. The California experience with climate change efforts shows they underestimated the costs to their economy.

Persons Testifying: PRO: Senator Rockefeller, prime sponsor; Genesee Adkins, City of Seattle; Paul Birkeland, William Brent, Randi Gladwell, citizens from Seattle; Jessica Finn Coven, Climate Solutions; Bob Doppett, Climate Leadership Institute; Matt Kuharic, King County; Jay Manning, DOE; Ethan Schaffer, Bainbridge Graduate Institute; Clifford Traisman, Washington Conservation Voters and Washington Environmental Council.

CON: Cali Daly, NW Food Processors Association; Kyle Davis, PacifiCorp; Mark Doumit, WFPA; Nancy Hiteshue, Washington Roundtable; Bart Kale, Nucor Steel; Kent Lopez, Washington Rural Electric Cooperatives; Llewelln Mathews, NWPPA; Dave McEntee, Simpson Investments; Mike Mosman, Port Blakely Tree Farms; Grant Nelson, AWB; Steve

Smith, Cardinal Glass; Tamara Smilanich, citizen from Seattle; Collins Sprague, Avista; Bill Turlay, citizen from Vancouver; Dave Warren, Washington PUD Association.

Signed in, Unable to Testify & Submitted Written Testimony: PRO: William Brent, Webber Shandwick, citizens; Dick Ewing, Farm Bureau, Winthrop.

CON: Wes McCart, Stevens County Farm Bureau.

OTHER: Amber Gunn, Evergreen Freedom Foundation.