FINAL BILL REPORT
ESSB 5447

C 232 L 23
Synopsis as Enacted

Brief Description: Promoting the alternative jet fuel industry in Washington.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Billig, King, Nguyen, MacEwen, Mullet, Wellman, Gildon, Keiser, Shewmake, Lovick, Boehnke, Warnick, Randall, Conway, Dhingra, Dozier, Liias, Lovelett, Saldaña, Stanford, Van De Wege and Wagoner).

Senate Committee on Environment, Energy & Technology
Senate Committee on Ways & Means
House Committee on Environment & Energy
House Committee on Finance

Background: Work Group Report. In 2021, the Legislature reestablished the Sustainable Aviation Biofuels Work Group. It was convened by the Washington State University Office of Clean Technology, now the Office of National Laboratory Partnerships, and provided a report, including pertinent recommendations, to the Governor and Legislature on December 1, 2022.

Clean Fuels Program. The Legislature enacted the Clean Fuels Program in 2021 and directed the Department of Ecology (Ecology) to implement the program no later than January 1, 2023. The rules adopted must reduce greenhouse gas emissions attributable to each unit of the fuels to 20 percent below 2017 levels by 2038, based on a statutory schedule. Transportation fuels exported from the state are not subject to the greenhouse gas emissions reduction requirements of the program.

Statewide Office of Renewable Fuels. In 2022, the Statewide Office of Renewable Fuels (office) was established within the Department of Commerce to leverage, support, and integrate with other state agencies to carry out specified statutory duties such as driving job creation, improving economic vitality, and supporting the transition to clean energy. The office must meet specified requirements such as coordinating with certain entities and assessing opportunities for and barriers to deployment of renewable fuels and green

---

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.

electrolytic hydrogen in hard to decarbonize sectors of the state economy.

Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent—businesses with taxable income of less than $1 million—and 1.75 percent—businesses with taxable income of $1 million or more—for services and activities not classified elsewhere. Several preferential rates also apply to specific business activities.

Tax Preferences. State law provides for a range of tax preferences that confer reduced tax liability for a designated class of taxpayer. Tax preferences include tax credits, deductions, exemptions, preferential tax rates, and deferrals. Washington has over 700 tax preferences. Legislation that establishes or expands a tax preference must include a tax preference performance statement that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Summary: Carbon Intensity Pathways. By no later than December 31, 2023, Ecology must allow one or more carbon intensity pathways for alternative jet fuel. Ecology must:

- allow biomethane to be claimed as feedstock for renewable diesel and alternative jet fuel consistent with that allowable for compressed natural gas, liquified natural gas, liquified compressed natural gas, or hydrogen production; and
- notify the Department of Revenue (DOR) within 30 days when one or more facilities capable of producing a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year are operating in the state.

Work Group. Washington State University must convene an Alternative Jet Fuels Work Group (work group) to further the development of alternative jet fuels as a productive industry in the state. Membership includes legislators and sectors involved in alternative jet fuel research, development, production, and utilization. The work group must provide a report including pertinent recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2024, and December 1st of every even-numbered year until December 1, 2028. The work group expires January 1, 2029.

Statewide Office of Renewable Fuels. In addition to current statutory purposes, the office must further the development and use of alternative jet fuels as a productive industry in the state. When carrying out its duties, the office must also consider alternative jet fuels, review certain tax and regulatory incentives, and collaborate with the work group.

Report. To assess the potential cobenefits of alternative jet fuel for Washington's communities, by December 1, 2024, and each December 1st of each year until JLARC completes its report on the tax preferences established in this act, the University of Washington's Department of Environmental and Occupational Health, in collaboration with Washington State University, must calculate emissions of ultrafine and fine particulate matter and sulfur oxides from the use of alternative jet fuel compared to conventional fossil jet fuels, including potential regional air quality benefits of any reductions. The emissions calculations must be conducted for alternative jet fuel used from an international airport owned by a port district in a county with a population greater than 1,500,000.

Tax Incentives. The manufacturing and wholesaling of alternative jet fuel is subject to a preferential B&O tax rate of 0.275 percent. The preferential tax rate begins after DOR receives notification from Ecology that there are one or more facilities operating in the state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel per year. The preferential tax rate lasts for ten years.

A B&O and public utilities tax (PUT) credit is available for certain sales and purchases of alternative jet fuel. The amount of the credit is one dollar per gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel. The credit amount increases by $0.02 for each additional 1 percent reduction in carbon dioxide equivalent emissions beyond 50 percent. The credit may not exceed $2 per gallon of alternative jet fuel.

Eligibility for the credit for sales of alternative jet fuel is limited to businesses located in a qualifying county or a businesses' designated alternative jet fuel blender located in Washington. Qualifying county is a county that has a population less than 650,000.

Credits may only be earned on purchases of alternative jet fuel for flights departing in Washington.

Contract pricing for sales of alternative jet fuel between a person claiming the credit and the final consumer must be adjusted to reflect the per gallon credit.

The credit is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional jet fuel when the fuels are blended or used in a jet fuel mixture.

Credits against the B&O tax for sales of alternative jet fuel may only be claimed on alternative jet fuel manufacturing and wholesaling activities that would otherwise qualify for the new preferential B&O tax rate. Credits earned against the B&O or public utility tax for purchases of alternative fuel may be claimed against any B&O tax liability.

Credits may not be earned until DOR receives notification from Ecology that there are one or more facilities operating in this state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel per year. Credits may be earned for ten years. A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent year but may not be carried over for any calendar year thereafter.

Credits may not be earned until Ecology, in consultation with the Department of Archeology and Historic Preservation, verifies that persons applying for a tax credit are not engaged in the manufacturing of alternative jet fuel at a location listed by the Department of Archeology and Historic Preservation as a historic cemetery or tribal burial grounds.

The preferential tax rate and tax credits are subject to review by JLARC. The automatic ten-year expiration for tax preferences does not apply to this act.

Votes on Final Passage:

Senate	46	2	
House	96	0	(House amended)
Senate	48	1	(Senate concurred)

Effective: July 1, 2023
July 23, 2023 (Sections 8, 13, 14)
July 1, 2024 (Sections 9 through 12)