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## Sons of Kyoto: Greenhouse Gas Legislation in the States Updated: September 27, 2004

### Overview:

In 2004, the American Legislative Exchange Council has found 109 bills in 27 states that seek to directly regulate greenhouse gas emissions. Sixty-one of these bills were introduced in the 2004 legislative session, and an additional forty-eight bills were carried over from the 2003 session.

Washington state and Wisconsin have introduced bills to prohibit the regulation of greenhouse gases. The Washington bill died and Wisconsin's bill was amended. The enacted version creates a higher standard for state agencies to meet if they propose regulating emissions the EPA does not classify as a pollutant, or pose more stringent standards than the EPA.

Legislative activity increased in 2003 to almost 100 bills compared to the 2001-2002 sessions, when a combined total of 60 bills were introduced. Due to the election year, the 2004 session is shortened in many states and six states do not have regularly scheduled sessions in odd years.

The American Legislative Exchange Council (ALEC) is a non-partisan organization of over 2400 state legislators. ALEC members are dedicated to the principles of individual liberty, limited government, and free markets.

### Legislative Activity In Depth:

The coastal states have been the most active in trying to cap power plant and vehicle emissions, while the interior states have focused on carbon sequestration programs. In addition to these regulatory bills, initiatives for taxpayer subsidies of alternative energy and renewable fuels are multiplying in the states as back-door approaches to eliminate carbon-based fuels from the nation's energy mix.

Fourteen bills have been introduced to regulate stationary emissions of greenhouse gases, and one has passed. Most of these bills target electric power plants, but some extend to all types of stationary sources including manufacturing emissions.

Washington state enacted a law to make gaining permits for building new power plants and upgrading older facilities conditional on mitigating any greenhouse gas emissions. Oregon enacted a similar law in 1997. Both of these two states produce close to 80% of their electricity from hydropower and use very little coal, making it easier and cheaper to adopt this type of measure.

Seventeen bills have focused on vehicle or "mobile" emissions. Many of these bills simply adopt California's emissions standards and/or its low-emission vehicle program. California adopted a carbon dioxide emission standard for vehicle fleets in 2002. The California law is vague: it directs the state Air Resources Board to adopt a standard that will achieve the "maximum feasible and cost-effective reduction." Two of the introduced bills have passed this year, both in Connecticut.

Renewable portfolio standards (RPS) have been the preferred method to force consumers away from fossil fuel electricity, and comprise the majority of bill introductions. These standards require utilities to generate a specified percentage of their electricity from renewable sources. Many also set up renewable credit trading schemes to help utilities meet the standard. Sixteen states have renewable portfolio standards and two states have created voluntary portfolio goals. Maryland and Rhode Island passed RPS bills this year.

Renewable fuels cost more than conventional fossil fuels, leading to an increasing number of amendments to RPS bills and existing laws creating exemptions and caveats to the standards. California and Nevada utilities are already having trouble meeting standards established in those states.

The remaining bills are a mixture of emissions registries, study authorizations, and resolutions encouraging the regulation of greenhouse gases. Registries are of concern because they set up complicated accounting processes and a bureaucracy to record emissions of a non-pollutant.

### The Cost of Regulation:

Many of these bills site public health and environmental concerns like asthma, air quality, and visibility as the driving impetus behind regulating carbon dioxide emissions. However, not one of these conditions is related to carbon dioxide emissions. State initiatives to regulate emissions will unquestionably increase the cost of energy and manufactured goods for residents, while failing to achieve any meaningful environmental or health benefits.

An Energy Information Administration 2003 analysis of a federal bill to reduce stationary and mobile greenhouse gas emissions estimated the cost at \$507 billion dollars. The price of gasoline was projected to increase 27 percent and the price of electricity 46 percent. Increased energy

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emissions in the northeastern states estimates a rise in electricity prices of 23-39%, and gas prices 44-62% by 2020. Job losses would be substantial: under different scenarios the northeastern states could lose anywhere from 98,000-218,000 jobs by 2020.

Another study by the Heartland Institute estimated that state-level programs would be 10 times as expensive as a federal program and cost each state an average of \$10,000 per household.

#### 2004 Legislative Summary:

**Total Bills: 109**

**New Introductions in 2004: 61 Bills**

**Carried Over: 48 Bills**

**Number of States: 27 States**

#### Passed: 15

- Bills Passed: 15
- o AK HB 196 – carbon sequestration study bill
- o CT HB 119 – Adopts California LEV requirements.
- o CT SB 218 – directs the state fleet to purchase "best achievable mileage per lbs. of CO2."
- o CT SB 595 – Creates registry and goal of reducing emissions.
- o GA SB 356 – Voluntary carbon sequestration registry.
- o HI SB 2474 – Creates a mandatory RPS of 20% by 2020.
- o ME 1429b – Makes Maine's RPS more stringent.
- o MD HB 1308/SB 869 – Portfolio bill of 7.5% by 2019 and credit trading system.
- o NM SB 43 – Portfolio bill.
- o RI HB 7375 – (Same as SB 2082) RPS bill of 16% by 2020 and reporting pollutant emissions on customer bills.
- o RI SB 2082 – (Same as HB 7375) Creates an RPS of 16% by 2020 and requires reporting pollutant emissions on customer bills.
- o WA HB 3141 – Stationary bill.
- o WV SB 197 – Misc. finance bill to direct funds to carbon sequestration study.
- o WY SB 61 – Misc. sequestration and emission reduction study bill.

#### Active: 22

- In Original House: 18
- Bills Passed in One House, Active in 2nd: 4

#### Dead: 72

- Died by vote in Committee: 6
- Vetoed: 1
- Session Adjourned: 61
- Carried over to 2005: 1

#### Proposed Legislation: 109 bills

- Anti-GHG Regulation: 2\* (not included in above totals)
- Stationary Emissions Bills: 14
- Mobile Emissions Bills: 21
- Renewable Portfolio Standard Bills: 47
- Carbon Sequestration Bills: 3
- GHG Registry Bills: 12
- Misc. Bills: 12

#### Other Initiatives:

Sept. 17, 2004 the California Air Resources Board approved its draft plan for reducing greenhouse gas emissions from vehicles starting in model year 2009. It calls for reducing emissions 30% below 2002 levels by 2016. Final recommendations are to be reported by 2005.

June 22, 2004, attorneys general in 12 states (CA, CT, IL, ME, MA, NJ, NM, NY, OR, RI, VT, WA) and 14 environmental groups filed a legal brief in the suit against EPA to force regulation of carbon dioxide under the Clean Air Act. The states filed multiple suits to the Appeals Court of DC last fall, after the EPA rejected a petition by ICTA to regulate CO2. The suits have been rolled into one case; oral arguments will be heard next spring.

On May 6, 2004 Massachusetts Gov. Mitt Romney released the states climate action plan. It calls for the reduction of greenhouse gas emissions to 1990 levels by 2010 and an additional 10% by 2020. Containing 72 specific suggestions, the plan is supposed to reduce pollution, cut energy demands, and nurture employment growth for the state.

On March 9, 2004 Connecticut's governor unrolled a GHG reduction plan designed to meet the agreement signed by the New England Governors/Eastern Canadian Premiers organization. The plan includes a renewable portfolio standard, vehicle emission standards starting model year 2007, green buildings, and energy efficiency standards.

On July 24, 2003 New York's Governor Pataki announced a regional program to curb emissions of carbon dioxide from power plants. Nine out of ten invited states have agreed to the plan (CT, VT, NH, DE, ME, NJ, MA, and RI); Maryland and Pennsylvania have abstained. The group is to issue

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