
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-5172.4/18 4th draft

ATTY/TYPIST: JA:amh

BRIEF DESCRIPTION: Reducing carbon pollution by investing in rural economic development and a clean energy economy.

1 AN ACT Relating to reducing carbon pollution by investing in
2 rural economic development and a clean energy economy; amending RCW
3 46.17.005, 46.17.350, 46.17.365, 19.285.030, and 19.285.040; adding
4 new sections to chapter 43.31 RCW; adding a new chapter to Title 82
5 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to
6 Title 70 RCW; creating a new section; providing an effective date;
7 and providing a contingent expiration date.

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

9 NEW SECTION. **Sec. 1.** (1) Greenhouse gas pollution, including
10 carbon, is a significant contributor to climate change, and has
11 devastating negative impacts on Washington's economy, environment,
12 natural resources, and communities. Our state is already experiencing
13 rising sea levels, depleting snowpack, increased flooding, acidifying
14 oceans, and more frequent and severe wildfires. These impacts impair
15 our prosperity and have already hurt our businesses and communities.
16 (2) Transitioning to a clean energy economy can help our
17 residents and businesses thrive without increasing carbon pollution
18 that leads to climate change. Building a vibrant and successful clean
19 energy economy can serve as an example to other regions, will put
20 Washington on the cutting edge of twenty-first century economies,

1 create new jobs, and support the health and prosperity of all
2 residents of Washington.

3 (3) Washington state is home to some of the world's most
4 innovative companies, a highly skilled workforce, and important
5 industries. As our state transitions away from fossil fuels, we must
6 do so in a way that protects these assets, and allows our businesses
7 to thrive. By launching a bold new set of investments in carbon
8 reduction infrastructure and natural resource resilience, we can
9 reduce our state's carbon emissions while preparing our economy for
10 the future. In doing so, we recognize that some industries are energy
11 dependent and trade-exposed, and thus have independent incentive to
12 be energy efficient. These industries are exempt from carbon taxation
13 in order to allow them to remain globally competitive and ensure
14 these industries and jobs remain in Washington.

15 (4) Fossil fuel combustion also is responsible for other
16 pollutants, like nitrous oxide, carbon monoxide, benzene, and others
17 that contribute to respiratory diseases like asthma and lung cancer
18 that compromise public health and shorten life expectancy. This
19 pollution burden overwhelmingly falls on low-income communities,
20 communities of color, and the vulnerable parts of our population.
21 Reducing our reliance on fossil fuels, therefore, will contribute to
22 improved air quality and better public health.

23 (5) This act establishes a tax to account for the economic and
24 environmental impacts of carbon pollution. The revenue will
25 facilitate the transition from fossil fuels to clean energy and fund
26 investments that will benefit our businesses, our families, and our
27 communities. It will also invest in adapting to the impacts of
28 climate change and protecting our rural communities and key economic
29 sectors including agriculture, shellfish, and forestry.

30 (6) Further, in general, low-income rural and urban communities
31 are disproportionately impacted by carbon pollution and are less able
32 to respond to climate change. This act provides targeted economic
33 stimulus to ensure that the job creation and health benefits of this
34 measure are focused in the communities that can most benefit from
35 these investments.

36 **Part I**
37 **Carbon Pollution Tax**

1 NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

4 (1) "Aircraft fuel" has the same meaning as provided in RCW
5 82.42.010.

6 (2) "Asset controlling supplier" means any entity that owns or
7 operates interconnected electricity generating facilities or serves
8 as an exclusive marketer for these facilities even though it does not
9 own them, and is assigned a supplier-specific identification number
10 and system emission factor by the department of ecology, in
11 consultation with the department of commerce, for the wholesale
12 electricity procured from its system and sold into Washington.

13 (3) "Carbon calculation" means a calculation made by the
14 department of ecology, in consultation with the department of
15 commerce, for purposes of determining the carbon dioxide emissions
16 from the complete combustion or oxidation of fossil fuels and, for
17 each specified source, the carbon dioxide emissions in electricity
18 for use in calculating the carbon pollution tax pursuant to section
19 102 of this act.

20 (4) "Carbon dioxide emissions content inherent in electricity"
21 means the carbon dioxide generated by the production of electricity
22 from fossil fuels.

23 (5) "Carbon dioxide equivalent" means a metric measure used to
24 compare the emissions from various greenhouse gases based on their
25 global warming potential.

26 (6) "Carbon pollution tax" means the tax created in section 102
27 of this act.

28 (7) "Coal" means a readily combustible rock of carbonaceous
29 material, including anthracite coal, bituminous coal, subbituminous
30 coal, lignite, waste coal, syncoal, and coke of any kind.

31 (8) "Department" means the department of revenue.

32 (9) "Direct access electricity customer" means a person who
33 purchases electricity for consumption from any seller other than a
34 seller registered with the department for purposes of paying taxes
35 due under chapter 82.04 or 82.16 RCW.

36 (10) "Direct access gas customer" means a person who purchases
37 natural gas for consumption from any seller other than a seller
38 registered with the department for purposes of paying taxes due under
39 chapter 82.04 or 82.16 RCW.

1 (11) "Direct service industrial customer" has the same meaning as
2 provided in RCW 82.16.0495.

3 (12) "Energy-intensive trade-exposed manufacturing facility"
4 means a manufacturing business that meets the numerical criteria
5 established by the department of commerce in section 103(3)(b) of
6 this act, or has a proper primary North American industry
7 classification system code as provided in section 103(3)(c) of this
8 act.

9 (13) "Fossil fuel" means motor vehicle fuel, special fuel, dyed
10 special fuel, aircraft fuel, natural gas, coal, and any form of
11 solid, liquid, or gaseous fuel derived from natural gas, coal,
12 petroleum, or crude oil, including without limitation still gas,
13 propane, and petroleum residuals including bunker fuel.

14 (14) "Gas distribution business" has the same meaning as provided
15 in RCW 82.16.010.

16 (15) "Greenhouse gas" means carbon dioxide (CO₂), methane (CH₄),
17 nitrogen trifluoride (NF₃), nitrous oxide (N₂O), sulfur hexafluoride
18 (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other
19 fluorinated greenhouse gases.

20 (16) "Highly impacted communities" means those areas designated
21 pursuant to section 502 of this act.

22 (17) "Light and power business" has the same meaning as provided
23 in RCW 82.16.010.

24 (18) "Motor vehicle fuel" has the same meaning as provided in RCW
25 82.38.020.

26 (19) "Natural gas" means naturally occurring mixtures of
27 hydrocarbon gases and vapors consisting principally of methane,
28 whether in gaseous or liquid form, including methane clathrate.

29 (20) "Person" has the same meaning as provided in RCW 82.04.030.

30 (21) "Sale" has the same meaning as provided in RCW 82.04.040.

31 (22) "Special fuel" has the same meaning as provided in RCW
32 82.38.020.

33 (23) "Specified source" means an electrical generation facility
34 serving Washington customers in which the taxpayer directly or
35 indirectly has full or partial ownership in the facility or unit or
36 is party to a written contract or other agreement to procure
37 electricity generated by that facility.

38 (24) "Taxpayer" means a person subject to the carbon pollution
39 tax imposed in this chapter.

1 (25) "Tribal lands" has the same meaning as "Indian country" as
2 provided in 18 U.S.C. Sec. 1151, and also includes sacred sites,
3 traditional cultural properties, burial grounds and other tribal
4 sites protected by federal or state law.

5 (26) "Unspecified source" means electricity from a source other
6 than a specified source.

7 (27)(a) "Use," "used," "using," or "put to use" means, with
8 respect to any fossil fuel other than natural gas, the consumption in
9 this state of the fossil fuel by the taxpayer or the possession or
10 storage in this state of the fossil fuel by the taxpayer preparatory
11 to subsequent consumption of the fossil fuel within this state by the
12 taxpayer.

13 (b) "Use," "used," "using," or "put to use" means, with respect
14 to natural gas, the consumption in this state of the fossil fuel by
15 the taxpayer.

16 (c) For purposes of this subsection (27), "possession" means the
17 control of fossil fuel located within this state and includes either
18 actual and/or constructive possession. "Actual possession" occurs
19 when the person with control has physical possession. "Constructive
20 possession" occurs when the person with control does not have
21 physical possession. "Control" means the power to sell or use a
22 fossil fuel or to authorize the sale or use by another.

23 (28) "Western interconnection" means the area comprising those
24 states and provinces, or portions thereof, in western Canada,
25 northern Mexico, and the western United States in which members of
26 the western electricity coordinating council, or any successor
27 thereto, operate synchronously connected transmission systems.

28 (29) "Year" means the twelve-month period commencing January 1st
29 and ending December 31st unless otherwise specified.

30 NEW SECTION. **Sec. 102.** CARBON POLLUTION TAX. (1)(a) Beginning
31 July 1, 2019, a carbon pollution tax is imposed on:

32 (i) The sale or use within this state of all fossil fuels; or
33 (ii) The generation within or import for consumption to this
34 state of electricity generated through the combustion of fossil
35 fuels.

36 (b) The measure of the carbon pollution tax is the carbon dioxide
37 emissions:

38 (i) Resulting from the complete combustion or oxidation of fossil
39 fuels sold or used by the taxpayer within this state; or

1 (ii) Inherent in electricity generated within or imported for
2 consumption to this state.

3 (c)(i) The tax rate is equal to twelve dollars per metric ton of
4 carbon dioxide.

5 (ii) Beginning July 1, 2021, the department must annually adjust
6 the previous year's tax rate by one dollar and eighty cents per
7 metric ton until reaching thirty dollars per metric ton of carbon
8 dioxide. The department must calculate tax rate adjustments under
9 this subsection (1)(c)(ii) in July of each year and publish on its
10 web site the tax rate for any year by January 1st of that year.

11 (2) For the purposes of this chapter, the carbon pollution tax is
12 imposed:

13 (a) Only once with respect to the same unit of fossil fuel or
14 electric energy;

15 (b) At the time and place of the first taxable event within this
16 state, except as otherwise provided in this section, occurring on or
17 after the effective date of this section, regardless of whether the
18 fossil fuel or electricity was previously sold, used, or consumed
19 within this state before the effective date of this section; and

20 (c) Upon the first taxable person within this state, except as
21 otherwise provided in this section. A taxable person is:

22 (i) A person required to be registered with the department under
23 RCW 82.32.030(1);

24 (ii) The state, its political subdivisions, and municipal
25 corporations; and

26 (iii) A person who maintains a place of business in this state
27 but who is not required to be registered with the department under
28 RCW 82.32.030(1).

29 (3) As provided in this section, the carbon pollution tax on the
30 sale or use of fossil fuels is imposed on the seller or user of the
31 fossil fuel.

32 (4) The carbon pollution tax on the sale or use of natural gas is
33 imposed as follows:

34 (a) Natural gas transported through the state that is not
35 produced or delivered in the state is exempt from the carbon
36 pollution tax imposed by this section. Natural gas possessed or
37 stored in this state is exempt from the carbon pollution tax imposed
38 by this section unless taxed under (b), (c), or (d) of this
39 subsection;

1 (b) For natural gas sold by a gas distribution business to a
2 retail customer in the state, the carbon pollution tax is imposed on
3 the gas distribution business upon the sale of such natural gas to
4 the retail customer;

5 (c) For natural gas sold to a light and power business for the
6 purpose of generation of electricity in the state, the carbon
7 pollution tax is imposed on the light and power business as provided
8 for in subsection (5)(a) of this section; and

9 (d) For natural gas sold to a direct access gas customer in the
10 state, the carbon pollution tax is imposed on the direct access gas
11 customer upon the consumption of such natural gas by the direct
12 access gas customer.

13 (5) The carbon pollution tax on the generation or import of
14 electricity for consumption in this state is imposed as follows:

15 (a) For electricity produced in the state, the carbon pollution
16 tax is imposed on the person required to be registered with the
17 department for purposes of paying taxes due under chapter 82.04 or
18 82.16 RCW that owns or operates the electrical generation facility
19 producing the electricity; and

20 (b) For electricity produced outside the state and ultimately
21 consumed in the state, the carbon pollution tax is imposed on the
22 first person required to be registered with the department for
23 purposes of paying taxes due under chapter 82.04 or 82.16 RCW that
24 imports such electricity to or delivers such electricity into the
25 state.

26 (6) For motor vehicle fuel and special fuel, the carbon pollution
27 tax is imposed on the seller or user of the fuel at the points of
28 taxation specified in RCW 82.38.030(9).

29 (7)(a) The carbon pollution tax does not apply to the sale or use
30 of fossil fuels or consumption of electricity upon which the tax
31 under this chapter has been imposed.

32 (b) A sale of fossil fuel takes place in this state when the
33 fossil fuel is delivered in this state to the purchaser or a person
34 designated by the purchaser, notwithstanding any contract terms
35 designating a location outside of this state as the place of sale.

36 (c) All taxable sales within this state of a fossil fuel or
37 electricity must document the amount of carbon pollution tax paid in
38 accordance with rules adopted by the department.

39 (d)(i) The carbon pollution tax liability imposed on a person
40 consistent with (a) and (b) of this subsection may be assumed by a

1 light and power business when it purchases electricity if the light
2 and power business meets the following requirements:

3 (A) A light and power business must have a clean energy
4 investment plan approved by a responsible entity.

5 (B) A light and power business must apply to the responsible
6 entity, in a manner and form acceptable to the responsible entity,
7 for approval to assume liability for the carbon pollution tax
8 pursuant to this subsection (7)(d).

9 (C) Upon approval of an application pursuant to (d)(i)(B) of this
10 subsection, the entity must issue a certificate or other
11 documentation, as prescribed by the department, authorizing the light
12 and power business to assume liability for the carbon pollution tax
13 pursuant to this subsection (7)(d).

14 (D) A light and power business that elects to assume liability
15 for the carbon pollution tax as authorized under this subsection
16 (7)(d) must present the certificate or documentation issued pursuant
17 to (d)(i)(C) of this subsection to a person selling electricity to
18 the light and power business. Acceptance of the certificate or
19 documentation presented by a light and power business under this
20 subsection (7)(d) relieves that person from paying the carbon
21 pollution tax due on such a sale. Acceptance of the certificate or
22 documentation may not be unreasonably withheld. The person selling
23 electricity must keep a copy of the certificate or documentation in
24 its records pursuant to RCW 82.32.070. If the light and power
25 business does not elect to assume the carbon pollution tax, the
26 carbon pollution tax on the sale of electricity is imposed pursuant
27 to (a) or (b) of this subsection, as applicable.

28 (ii) For the purposes of this subsection (7)(d), "responsible
29 entity" means the entity responsible for approving the clean energy
30 investment plan of a light and power business pursuant to sections
31 201 through 206 or 301 through 306 of this act, whichever is
32 applicable.

33 (8) For purposes of determining the carbon pollution tax due
34 under this chapter:

35 (a) The department must use the carbon calculation for all fossil
36 fuels sold or used within the state or inherent in electricity
37 generated or imported for consumption within this state;

38 (b) For fossil fuels, the department of ecology, in consultation
39 with the department of commerce, must adopt by rule criteria for
40 making the carbon calculation;

1 (c) For the import of electricity sourced from an asset
2 controlling supplier, including the Bonneville power administration
3 and others as approved by the department of ecology, the department
4 of ecology must calculate and publish on its web site no later than
5 December 1st of each year the system emissions factors for each asset
6 controlling supplier for the previous calendar year. Such system
7 emissions factors must be used to determine the carbon tax associated
8 with power sourced from asset controlling supplier systems for the
9 upcoming calendar year. Asset controlling suppliers are considered
10 specified sources of electricity;

11 (d) For the generation or import of electricity from an
12 unspecified source, the carbon dioxide inherent in that electricity
13 is equal to the default emission factor adopted by the department of
14 ecology, in consultation with the department of commerce, in a manner
15 consistent with the default emission factors for electricity
16 established for other markets in the western interconnection, or, if
17 the department of ecology has not adopted a default emission factor
18 by rule, 0.437 metric tons of carbon dioxide per megawatt-hour;

19 (e) For the generation or import of electricity from a specified
20 source, the carbon dioxide inherent in that electricity must be based
21 on the carbon calculation for that source established by the
22 department of ecology. The department of ecology, in consultation
23 with the department of commerce, must adopt by rule criteria for
24 making the carbon calculation for specified sources; and

25 (f) The department of ecology may require additional information
26 to existing reporting programs as necessary, in consultation with the
27 department of commerce, for determining the carbon calculation under
28 this chapter.

29 (9) For taxpayers who are also subject to any of the taxes
30 imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW, the
31 frequency of reporting and payment of the carbon pollution tax must,
32 to the extent practicable, coincide with a taxpayer's reporting
33 periods for the taxes imposed under chapter 82.04, 82.08, 82.12, or
34 82.16 RCW.

35 (10) The department must develop and make available worksheets,
36 tax tables, and guidance documents it deems necessary to calculate
37 the carbon dioxide emissions of fossil fuels or the carbon dioxide
38 emissions inherent in electricity.

1 NEW SECTION. **Sec. 103.** EXEMPTIONS AND CREDITS. (1) The carbon
2 pollution tax does not apply to:

3 (a) Fossil fuels brought into this state by means of the primary
4 fuel supply tank of a motor vehicle, vessel, locomotive, or aircraft,
5 actively supplying fuel for combustion upon entry into the state, and
6 any electricity generated by such fossil fuels;

7 (b) Fossil fuels or electricity that the state is prohibited from
8 taxing under the state Constitution or the Constitution or laws of
9 the United States;

10 (c)(i) Fossil fuels or electricity exported from this state.
11 Export from this state includes electricity transmitted through the
12 state that is not produced or consumed in the state including, but
13 not limited to, imports of electricity that are netted by exports of
14 electricity with a comparable carbon content by the same entity
15 within or for the same hour. Export to Indian country located within
16 the boundaries of this state is not considered export from this
17 state. For purposes of this subsection, "Indian country" has the same
18 meaning as provided in RCW 37.12.160.

19 (ii) An exporter of fossil fuels or electricity upon which
20 another person previously paid the carbon pollution tax is entitled
21 to a credit or refund of the tax paid, if the exporter can establish
22 to the department's satisfaction that the tax under this chapter was
23 previously paid on the exported fossil fuels or electricity. The
24 person who paid the carbon pollution tax is not entitled to an
25 exemption under this subsection (1)(c) when any other person is
26 entitled to a refund or credit under this subsection (1)(c)(ii). For
27 purposes of this subsection, "exporter" means a person who exports
28 fossil fuels or electricity from this state;

29 (d) The sale or use of coal transition power as defined in RCW
30 80.80.010;

31 (e) Diesel fuel, biodiesel fuel, or aircraft fuel when these
32 fuels are used solely for agricultural purposes by a farm fuel user,
33 as those terms are defined in RCW 82.08.865;

34 (f) Biogas, which includes renewable liquid natural gas or liquid
35 compressed natural gas made from biogas and landfill gas, biodiesel,
36 renewable diesel, and cellulosic ethanol;

37 (g) Aircraft fuel as defined in RCW 82.42.010;

38 (h) Facilities that manufacture equipment used to generate
39 electricity from eligible renewable resources as defined in RCW
40 19.285.030(21);

1 (i) The portion of fossil fuels purchased in the state and
2 combusted outside the state by interstate motor carriers and vessels
3 used primarily in interstate or foreign commerce. The department must
4 provide a methodology by rule to apportion fossil fuels consumed
5 inside the state of Washington by interstate motor carriers and
6 vessels used primarily in interstate or foreign commerce; and

7 (j) Activities or property of Indian tribes and individual
8 Indians that are exempt from state taxation as a matter of federal
9 law or state law, whether by statute, rule, or compact.

10 (2)(a) For any electricity and fossil fuels subject to the carbon
11 pollution tax imposed by section 102 of this act that are also
12 subject to a comparable carbon pollution tax or charge on carbon
13 content imposed by another jurisdiction, including the federal
14 government or allowances required to be purchased by another
15 jurisdiction, the entity may take a credit against the tax imposed
16 under this chapter by the amount of the comparable pollution tax or
17 charge paid to the other jurisdiction up to the amount of tax owed
18 under this chapter, provided that the taxpayer claiming the credit
19 provides evidence acceptable to the department that the equivalent
20 tax has been paid.

21 (b) For the purposes of this section, a comparable carbon
22 pollution tax or charge means a tax or charge that is not generally
23 imposed on other activities or privileges that is:

24 (i) Imposed on:

25 (A) The sale, use, possession, transfer, or consumption of fossil
26 fuels; or

27 (B) The sale, consumption, or generation of electricity produced
28 through the combustion of fossil fuels; and

29 (ii) Measured in terms of greenhouse gas emissions by the
30 greenhouse gas emissions resulting from the complete combustion or
31 oxidation of such fossil fuels or by the greenhouse gases inherent in
32 such electricity.

33 (3)(a) The carbon pollution tax imposed in section 102 of this
34 act does not apply to fossil fuels and electricity sold to or used
35 on-site for manufacturing processes by an energy-intensive trade-
36 exposed facility.

37 (b) The department of commerce will establish objective numerical
38 criteria for both energy intensity and trade exposure for the purpose
39 of identifying energy-intensive trade-exposed manufacturing
40 facilities. The criteria will take into consideration approaches used

1 by other jurisdictions with existing carbon reduction or carbon
2 pricing programs, and the impact of the carbon pollution tax on
3 manufacturing activity, including manufacturers with a 2017 North
4 American industry classification system code 31-33 as developed by
5 the office of management and budget. A manufacturing business that
6 can demonstrate to the department of commerce that its facility or
7 facilities meet the criteria must be issued a certificate denoting
8 energy-intensive trade-exposed exempt status for the purpose of
9 exempting appropriate on-site manufacturing processes.

10 (c) Notwithstanding the criteria established in (b) of this
11 subsection, the department of commerce must issue a certificate
12 denoting energy-intensive trade-exposed exempt status to:

13 (i) Any facility engaged in an activity described in RCW
14 82.04.260(12) or 82.16.010(5); or

15 (ii) A facility engaged in an activity described with a proper
16 primary North American industry classification system code (2017):

17 112310: Chicken egg production;

18 112320: Broilers and other meat type chicken production;

19 112330: Turkey production;

20 112340: Poultry hatcheries;

21 112390: Other poultry production;

22 311211: Flour milling;

23 311221: Wet corn milling;

24 311224: Soybean and other oilseed processing;

25 311225: Fats and oils refining and blending;

26 311230: Breakfast cereal manufacturing;

27 311411: Frozen fruit, juice, and vegetable manufacturing;

28 311412: Frozen specialty food manufacturing;

29 311421: Fruit and vegetable canning;

30 311422: Specialty canning;

31 311423: Dried and dehydrated food manufacturing;

32 311511: Fluid milk manufacturing;

33 311512: Creamery butter manufacturing;

34 311513: Cheese manufacturing;

35 311514: Dry, condensed, and evaporated dairy product
36 manufacturing;

37 311520: Ice cream and frozen dessert manufacturing;

38 311611: Animal (except poultry) processing;

39 311612: Meat processed from carcasses;

40 311613: Rendering and meat by-product processing;

1 311615: Poultry processing;
2 311710: Seafood product preparation and packaging;
3 311812: Commercial bakeries;
4 311821: Cookie and cracker manufacturing;
5 311824: Flour mixes and dough manufacturing from purchased flour;
6 311830: Tortilla manufacturing;
7 311911: Roasted nuts and peanut butter manufacturing;
8 311919: Other snack food manufacturing;
9 311930: Flavoring syrup and concentrate manufacturing;
10 311941: Mayonnaise, dressing, and other prepared sauce
11 manufacturing;
12 311942: Spice and extract manufacturing;
13 311991: Perishable prepared food manufacturing;
14 311999: All other miscellaneous food manufacturing;
15 312112: Bottled water manufacturing;
16 321212: Softwood veneer and plywood manufacturing;
17 321213: Sawmills;
18 322110: Pulp mills;
19 322121: Paper (except newsprint) mills;
20 322122: Newsprint mills;
21 322130: Paperboard mills;
22 324110: Petroleum refineries;
23 325188: All other basic inorganic chemical manufacturing;
24 325193: Biodiesel manufacturing;
25 325199: All other basic organic chemical manufacturing;
26 325311: Nitrogenous fertilizer manufacturing;
27 327211: Flat glass manufacturing;
28 327213: Glass container manufacturing;
29 327310: Cement manufacturing;
30 327410: Lime manufacturing;
31 327420: Gypsum product manufacturing;
32 331110: Iron and steel mills;
33 331312: Primary aluminum production;
34 331313: Aluminum refining and primary aluminum production;
35 331314: Secondary smelting and alloying of aluminum;
36 331315: Aluminum sheet, plate, and foil manufacturing;
37 331318: Other aluminum rolling, drawing, and extruding;
38 334413: Semiconductor and related device manufacturing;
39 336411: Aircraft manufacturing;
40 336412: Aircraft engine and engine parts manufacturing;

1 336413: Other aircraft parts and auxiliary equipment
2 manufacturing;

3 336414: Guided missile and space vehicle manufacturing;

4 336415: Guided missile and space vehicle propulsion unit and
5 propulsion unit parts manufacturing; and

6 336419: Other guided missile and space vehicle parts and
7 auxiliary equipment manufacturing.

8 (4) A credit is authorized against the tax otherwise due under
9 this chapter. The credit amount may be up to one hundred percent of
10 the taxes owed under this chapter by a light and power business or a
11 gas distribution business that chooses to claim a credit pursuant to
12 sections 202 and 301 of this act.

13 (5) An energy-intensive trade-exposed facility exempt from tax
14 under subsection (3) of this section may apply to the department for
15 a refund of taxes included in the cost of fossil fuels and
16 electricity sold to or used on-site at the facility.

17 (6) Any person may apply to the department for a refund of carbon
18 pollution taxes included in the price of fossil fuels or electricity
19 purchased by the person if the person or activity is otherwise exempt
20 from the tax.

21 NEW SECTION. **Sec. 104.** RULE MAKING AND OTHER ADMINISTRATIVE
22 AUTHORITY. (1) The provisions of chapter 82.32 RCW apply to this
23 chapter.

24 (2) The department, department of ecology, and the department of
25 commerce may adopt rules as they deem necessary to administer this
26 chapter.

27 (3) The department of commerce must convene a stakeholder work
28 group to examine the efficient and consistent integration of carbon
29 pricing in electricity markets within the state and transactions with
30 markets outside the state, including the market operated by the
31 California independent system operator. To assist in its examination
32 of the issues identified in this subsection, as well as any other
33 issues pertinent to its review, the work group must, at a minimum,
34 consist of light and power businesses, gas distribution businesses,
35 the Bonneville power administration, and other agencies. The work
36 group must prepare a report to the legislature of its findings and
37 recommendations to improve the carbon transparency and market
38 liquidity in electricity markets and submit the report, in compliance
39 with RCW 43.01.036, by no later than December 1, 2020. The department

1 and the department of ecology must provide necessary data and other
2 support to the department of commerce.

3 (4) The department must provide information on its web site
4 regarding the impacts of the carbon pollution tax under this chapter
5 on the price of electricity, natural gas, and vehicle fuels by
6 sector.

7 NEW SECTION. **Sec. 105.** REPORT BY THE DEPARTMENT OF COMMERCE.

8 (1) On or before December 31, 2020, and each year thereafter, and in
9 compliance with RCW 43.01.036, the department of commerce, with
10 support from the department of revenue, must submit a report to the
11 joint committee on climate programs oversight under section 801 of
12 this act. The initial report must include recommendations for
13 establishing a process to audit account uses and allow for public
14 input. Each annual report must contain specific recommendations for
15 modifications or improvements to this act to ensure the goals of this
16 act are being met in addition to the following with respect to the
17 annual period ending the December 31st immediately preceding the
18 reporting date:

19 (a) The total carbon pollution tax collected during the reporting
20 period and a list of the taxpayers and the amount of carbon pollution
21 tax paid by those taxpayers. The department must provide the
22 information required under this subsection (1)(a), which is not
23 confidential tax information under RCW 82.32.330;

24 (b) Estimated costs incurred by the department, the department of
25 commerce, the department of ecology, and the Washington State
26 University extension energy program directly associated with
27 administration of the carbon pollution tax, shown both in dollar
28 amounts and as a percentage of the total amount of carbon pollution
29 tax revenues collected. The department of ecology, the department of
30 commerce, and Washington State University extension energy program
31 must report their estimated administrative costs under this
32 subsection to the department of commerce each year at least one month
33 before the deadline for the report required under this section;

34 (c) The estimated overall net revenue gain or loss calculated by
35 comparison of this subsection and subsection (2) of this section in
36 dollar amounts and the estimated costs determined under subsection
37 (2) of this section as a percentage of carbon pollution tax revenues
38 collected;

1 (d) The impact on the economic health of Washington state,
2 including verifiable data on emissions leakage and any job loss since
3 the implementation of the carbon pollution tax under section 102 of
4 this act;

5 (e) An analysis of whether the point of taxation is appropriate
6 under section 102 of this act;

7 (f) A summary of the investments made through its administration
8 of the energy transformation account created in section 401 of this
9 act and the rural economic development account created in section 701
10 of this act. The summary must include amounts invested in each
11 program area, project descriptions, names of grant recipients, an
12 estimate of the greenhouse gas emissions reductions achieved or
13 anticipated via the investments, and other pertinent information or
14 information as periodically requested by the legislature;

15 (g) A summary of the progress made by utilities implementing
16 their plans under the clean energy investment program created in
17 parts II and III of this act. The summary must include aggregate
18 totals of anticipated greenhouse gas reductions called for by plans
19 and progress made toward achieving these reductions; an accounting of
20 funds spent and average cost per ton of verified greenhouse gas
21 reductions achieved through program investments; and a review of the
22 mitigation of increased gas or electric costs to qualifying low-
23 income customers and recommendations on whether consumer-owned energy
24 utilities have the resources to mitigate these costs; and

25 (h) An analysis on the impact of section 102 and parts II and III
26 of this act on the utility rates as it affects individuals of varying
27 income levels, ethnic backgrounds, and racial backgrounds.

28 (2) On or before December 1, 2026, the department of commerce, in
29 consultation with the department of ecology, must provide specific
30 recommendations to the joint committee on climate programs oversight
31 under section 801 of this act on whether or not the carbon pollution
32 tax rate under section 102 of this act will need to be adjusted
33 upward or downward or will be sufficient to meet the net cumulative
34 reduction of greenhouse gas emissions of twenty-five percent below
35 1990 levels by the year 2035.

36 NEW SECTION. **Sec. 106.** TECHNICAL ASSISTANCE. Upon request of
37 the department, the department of commerce, the department of
38 ecology, and the Washington State University extension energy program

1 must provide technical assistance to the department as may be
2 necessary for the department to effectively administer this chapter.

3 NEW SECTION. **Sec. 107.** CARBON POLLUTION REDUCTION ACCOUNT. The
4 carbon pollution reduction account is created in the state treasury.
5 All receipts from the carbon pollution tax under section 102 of this
6 act, and other moneys directed to the account by the legislature,
7 must be deposited into the account. Moneys in the account may only be
8 spent after appropriation. Moneys in the account must be first
9 appropriated to the department of revenue and other appropriate
10 agencies for the administration of chapter . . . , Laws of 2018 (this
11 act). Expenditures from the account must be distributed by the state
12 treasurer as follows:

13 (1) Fifty percent of the moneys to the energy transformation
14 account created in section 401 of this act;

15 (2) Twenty percent of the moneys to the water and natural
16 resources resilience account created in section 601 of this act;

17 (3) Fifteen percent of the moneys for the transition assistance
18 account created in section 501 of this act;

19 (4) Fifteen percent of the moneys for the rural economic
20 development account created in section 701 of this act.

21 NEW SECTION. **Sec. 108.** TRIBAL COMPACTS. (1) The governor may
22 enter into an agreement with any federally recognized Indian tribe
23 located on a reservation within this state regarding carbon pollution
24 taxes included in the price of fuel delivered to a retail station
25 wholly owned and operated by a tribe, tribal enterprise, or tribal
26 member licensed by the tribe to operate a retail station located on
27 reservation or trust property. The agreement may provide mutually
28 agreeable means to address any tribal immunities or any preemption of
29 the carbon pollution tax.

30 (2) The provisions of this section do not repeal existing state/
31 tribal fuel tax agreements or consent decrees in existence upon the
32 effective date of this section.

33 (3) If a new agreement is negotiated, the agreement must:

34 (a) Require that the tribe or the tribal retailer acquire all
35 fuel only from persons or companies operating lawfully in accordance
36 with this chapter as a fuel distributor, supplier, or blender, or
37 from a tribal distributor, supplier, or blender lawfully doing
38 business according to all applicable laws;

1 (b) Provide that the tribe will expend carbon pollution tax
2 proceeds or equivalent amounts on: Reducing greenhouse gas emissions
3 or increasing the resilience of tribal lands to the impacts of
4 climate change;

5 (c) Include provisions for audits or other means of ensuring
6 compliance to certify the number of gallons of fuel purchased by the
7 tribe for resale at tribal retail stations, and the use of carbon
8 pollution tax proceeds or their equivalent for the purposes
9 identified in (b) of this subsection. Compliance reports must be
10 delivered to the director of the department of licensing.

11 (4) Information from the tribe or tribal retailers received by
12 the state or open to state review under the terms of an agreement are
13 deemed personal information under RCW 42.56.230(4)(b) and are exempt
14 from public inspection and copying.

15 (5) The governor may delegate the power to negotiate carbon
16 pollution tax agreements to the department of licensing.

17 (6) The department of licensing must include in its annual report
18 to the legislature on the status of fuel tax agreements with tribes
19 the status of carbon pollution tax agreements with tribes as well as
20 any negotiations on such agreements with tribes.

21 **Part II**

22 **Clean Energy Investment Fund for Investor-Owned Energy Utilities**

23 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
24 section apply throughout this chapter unless the context clearly
25 requires otherwise.

26 (1) "Commission" means the utilities and transportation
27 commission.

28 (2) "Consumer-owned energy utility" means any consumer-owned gas
29 distribution business or consumer-owned light and power business.

30 (3) "Consumer-owned gas distribution business" means any gas
31 distribution business not subject to regulation by the commission of
32 the rates, tolls, rentals, contracts or charges, or service rendered,
33 or the adequacy or sufficiency of the facilities, equipment,
34 instrumentalities, or buildings, or the reasonableness of rules or
35 regulations made, furnished, used, supplied, or in force affecting
36 any gas plant owned and operated by such gas distribution business.

37 (4) "Consumer-owned light and power business" means any light and
38 power business not subject to regulation by the commission of the

1 rates, tolls, rentals, contracts or charges, or service rendered, or
2 the adequacy or sufficiency of the facilities, equipment,
3 instrumentalities, or buildings, or the reasonableness of rules or
4 regulations made, furnished, used, supplied, or in force affecting
5 any electric plant owned and operated by such light and power
6 business.

7 (5) "Department" means the department of commerce.

8 (6) "Gas distribution business" has the same meaning as provided
9 in RCW 82.16.010.

10 (7) "Investor-owned energy utility" means any investor-owned gas
11 distribution business or investor-owned light and power business.

12 (8) "Investor-owned gas distribution business" means any gas
13 distribution business subject to regulation by the commission of the
14 rates, tolls, rentals, contracts or charges, or service rendered, or
15 the adequacy or sufficiency of the facilities, equipment,
16 instrumentalities, or buildings, or the reasonableness of rules or
17 regulations made, furnished, used, supplied, or in force affecting
18 any gas plant owned and operated by such gas distribution business.

19 (9) "Investor-owned light and power business" means any light and
20 power business subject to regulation by the commission of the rates,
21 tolls, rentals, contracts or charges, or service rendered, or the
22 adequacy or sufficiency of the facilities, equipment,
23 instrumentalities, or buildings, or the reasonableness of rules or
24 regulations made, furnished, used, supplied, or in force affecting
25 any electric plant owned and operated by such light and power
26 business.

27 (10) "Light and power business" has the same meaning as provided
28 in RCW 82.16.010.

29 (11) "Low income" means an annual income, adjusted for household
30 size, that is at or below the greater of: (a) Eighty percent of area
31 median income; or (b) two hundred percent of the federal poverty
32 level.

33 NEW SECTION. **Sec. 202.** CREDITS FOR CLEAN ENERGY INVESTMENTS OF
34 INVESTOR-OWNED ENERGY UTILITIES. (1) Except as provided in subsection
35 (2) of this section, beginning July 1, 2019, each investor-owned
36 energy utility may claim a credit against the carbon pollution tax
37 imposed in section 102 of this act for clean energy investments
38 approved pursuant to this chapter, not to exceed one hundred percent

1 of the taxes owed under section 102 of this act in the same calendar
2 year.

3 (2) For electricity produced by a generating facility that burns
4 coal as the primary fuel source and the electricity is not otherwise
5 exempt from the carbon pollution tax imposed in section 102 of this
6 act, the department of revenue will adopt a schedule for each
7 facility to calculate the credits such that beginning January 1,
8 2020, the credit decreases on a pro rata basis annually until
9 reaching zero percent in 2036.

10 (3) To be eligible for the credit under this section for clean
11 energy investment, an investor-owned energy utility must, as of the
12 date the credit is claimed, have received approval by the commission
13 of a clean energy investment plan pursuant to section 205 of this
14 act. Remaining carbon pollution tax owed under section 102 of this
15 act, if any, must be remitted to the department of revenue and
16 deposited in the carbon pollution reduction account created in
17 section 107 of this act.

18 (4) Each investor-owned energy utility claiming a credit pursuant
19 to this section must establish and maintain a separate clean energy
20 investment account into which it must deposit amounts equal to the
21 credit taken under this section. Moneys in the clean energy
22 investment account must be deposited in an interest-bearing account
23 in a financial institution as defined by RCW 30A.22.040 that is
24 separate from other accounts and that credits all interest earned on
25 the funds to that account. Moneys in the clean energy investment
26 account may only be expended for the purposes identified in this
27 chapter.

28 (5) An investor-owned energy utility may not earn a rate of
29 return from the portion of investments paid for with moneys from the
30 clean energy investment account.

31 (6) Moneys in the separate clean energy investment account are
32 considered gross operating revenue for the purpose of RCW 80.24.010,
33 and may not be considered gross income for the purposes of chapters
34 82.04 and 82.16 RCW.

35 NEW SECTION. **Sec. 203.** TECHNICAL STANDARDS COMMITTEE CREATED.

36 (1) The commission must create a technical standards committee for
37 the purpose of advising the commission and other state agencies, the
38 legislature, utilities, and local governments on utility reinvestment
39 of moneys credited pursuant to section 202 of this act. The technical

1 standards committee must develop standards and guidelines used by the
2 commission to evaluate, quantify, and verify greenhouse gas emissions
3 reductions proposed by utility plans pursuant to section 205 of this
4 act. The duties of the technical standards committee include, but are
5 not limited to:

6 (a) Establishing standard protocols for verification and
7 evaluation of greenhouse gas emissions reductions from utility
8 investments;

9 (b) Developing common planning assumptions for use in utility
10 clean energy investment plans;

11 (c) Developing a standard reporting format to be adopted by the
12 commission for all investments and activities supported by the clean
13 energy investment accounts; and

14 (d) Other duties consistent with the purpose of this section, as
15 required by the commission.

16 (2) The technical standards committee established in this section
17 constitutes a class one group under RCW 43.03.220. Expenses for the
18 technical standards committee are an appropriate administrative
19 expense for the purpose of section 205(7)(b)(xi) of this act. Staff
20 support must be provided by the commission.

21 (3) The commission may elect to work with the department under
22 section 302 of this act to create one joint technical standards
23 committee for the purpose of advising on utility reinvestment of
24 moneys credited pursuant to sections 202 and 301 of this act.

25 NEW SECTION. **Sec. 204.** WASHINGTON CLEAN ENERGY INVESTMENT
26 PROGRAMS ESTABLISHED FOR INVESTOR-OWNED ENERGY UTILITIES—RULE MAKING.
27 By July 1, 2019, the commission must adopt rules concerning the
28 process, timelines, reporting, and documentation required to ensure
29 the proper implementation of this chapter. Such rules must also
30 establish requirements for review, approval, performance standards,
31 and independent monitoring and evaluation of clean energy investment
32 plans of investor-owned energy utilities. The department of commerce
33 and the commission must, to the extent practicable, adopt rules that
34 are similar enough to ensure coordinated and consistent
35 implementation of this chapter for consumer-owned and investor-owned
36 energy utilities.

37 NEW SECTION. **Sec. 205.** CLEAN ENERGY INVESTMENT PLANS FOR
38 INVESTOR-OWNED ENERGY UTILITIES. (1) To be eligible for the tax
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1 credit under section 202 of this act, an investor-owned energy
2 utility must develop and maintain an approved clean energy investment
3 plan, which identifies approved funding for clean energy investments
4 over a ten-year period, pursuant to subsection (5) of this section.
5 The clean energy investment plan must eliminate any tax obligation
6 imposed by this act associated with electricity.

7 (2) When developing and updating its clean energy investment
8 plan, an investor-owned energy utility must solicit public input
9 through public processes under the oversight of the commission.

10 (3) Beginning July 1, 2019, an investor-owned energy utility
11 seeking a credit under section 202 of this act must submit:

12 (a) A clean energy investment plan;

13 (b) A summary of the public input received during development of
14 the plan; and

15 (c) A schedule for independent evaluation of activities financed
16 through the clean energy investment plan, including verification of
17 carbon emissions reductions. The reasonable costs of such independent
18 evaluations may be included in a utility's clean energy investment
19 plan and paid for from a utility's clean energy investment account.

20 (4) An investor-owned energy utility's clean energy investment
21 plan may use methods and calculations that deviate from the common
22 protocols and planning assumptions recommended by the technical
23 standards committee when approved by the commission.

24 (5) Each clean energy investment plan must include the following:

25 (a) A demonstration that the portfolio of funded activities will
26 achieve significant reductions in carbon dioxide emissions at a
27 reasonable cost over the shortest reasonable time frame;

28 (b) An estimate, based on protocols developed by the technical
29 standards committee, of the cost per ton of emissions reductions for
30 the portfolio of projects in the clean energy investment plan;

31 (c) A demonstration that expenditures in the clean energy
32 investment plan will be additional to expenditures necessary to meet
33 other emissions reduction, energy conservation, low-income programs,
34 or renewable energy requirements in the absence of this act;

35 (d) Sufficient funding, as determined by the commission, to
36 mitigate all increases in gas or electric costs to qualifying low-
37 income customers as a result of the carbon pollution tax imposed in
38 section 102 of this act. Such moneys must be additional to other
39 funding for low-income energy assistance; and

1 (e) A demonstration that all funded activities within the clean
2 energy investment plan were developed using the cumulative impact
3 analysis in section 502 of this act and that expenditures prioritize
4 highly impacted communities.

5 (6) Each clean energy investment plan may include the following:

6 (a) A customer education and outreach program to promote
7 widespread participation by consumers and businesses; and

8 (b) Up to ten percent of the expenditures in the clean energy
9 investment accounts pursuant to this section may be dedicated for
10 research and development by the investor-owned energy utility that
11 will promote energy conservation, or the deployment of zero-emission
12 energy resources.

13 (7)(a) A clean energy investment plan must include programs for
14 investments or expenditures that are incremental to investments or
15 expenditures required by existing regulations on the effective date
16 of this section; and

17 (i) Reduce greenhouse gas emissions of the investor-owned energy
18 utility; or

19 (ii) Advance market transformation, educate consumers, develop
20 new low carbon fuels such as renewable natural gas, increase
21 participation in programs that incentivize consumers to choose low
22 carbon alternatives, or increase carbon sequestration.

23 (b) Eligible investments may include contributions in aid of
24 construction or expenditures for the following:

25 (i) Additional conservation in excess of the target established
26 under RCW 19.285.040(1), other state obligations, or other obligation
27 established by the commission in effect on the effective date of this
28 section;

29 (ii) Market transformation for energy efficiency products;

30 (iii) Eligible renewable resources as defined by RCW 19.285.030,
31 in excess of the target established under RCW 19.285.040(2) in effect
32 on the effective date of this section;

33 (iv) Low-income weatherization;

34 (v) Measures to support electrification of the transportation
35 sector including, but not limited to:

36 (A) Equipment on an electrical company's transmission and
37 distribution system to accommodate electric vehicle connections, and
38 smart grid systems, that enable electronic interaction between the
39 company and charging systems, and facilitate company utilization of
40 vehicle batteries for system needs;

- 1 (B) Incentives for car dealers to sell alternative vehicles;
- 2 (C) Incentives for property owners to install charging equipment
3 for alternative vehicles; and
- 4 (D) Incentives for the electrification of vehicle fleets;
- 5 (vi) Investment in clean distributed energy resources and grid
6 modernization to facilitate distributed resources and improved grid
7 resiliency;
- 8 (vii) Research and development that will promote energy
9 conservation, or the deployment of zero-emission energy resources;
- 10 (viii) Investments in renewable natural gas production, including
11 equipment to collect or condition biogas, or equipment used solely
12 for the purpose of delivering biogas for consumption;
- 13 (ix) Incentives for small businesses to support energy efficiency
14 and the replacement of equipment;
- 15 (x) Contributions to self-directed investments in the following
16 measures to serve the sites of large industrial gas and electrical
17 customers; conservation; new renewable energy resources; behind-the-
18 meter technology that facilitates demand response cooperation to
19 reduce peak loads; infrastructure to support electrification of
20 transportation needs and heating loads; or renewable natural gas
21 production, including gas conditioning equipment for biogas; and
- 22 (xi) The reasonable costs of administration of the carbon
23 pollution tax under section 102 of this act and the clean energy
24 investment program, as determined by the commission.
- 25 (8) Funds from a clean energy investment account may be expended
26 by an investor-owned utility to replace all or some of the debt
27 financing portion of capital projects identified in the utility's
28 approved clean energy investment plan, if the commission determines
29 that such treatment would reduce the overall cost of the project to
30 customers, and is otherwise consistent with the purposes of this
31 section.
- 32 (9) Investments in new infrastructure or facilities to process or
33 liquefy fossil fuels are not eligible for inclusion in a clean energy
34 investment plan.

35 NEW SECTION. **Sec. 206.** CLEAN ENERGY INVESTMENT PROGRAM
36 EXPENDITURE MONITORING, AUDITING, AND OVERSIGHT FOR INVESTOR-OWNED
37 ENERGY UTILITIES. (1) Upon approval of a clean energy investment
38 plan, an investor-owned energy utility must expend moneys from its

1 clean energy investment account in accordance with the clean energy
2 investment plan approved by the commission.

3 (2) In order to maintain eligibility for the tax credit under
4 section 202 of this act and to retain authority to expend money from
5 a clean energy investment account, an investor-owned energy utility
6 must submit and receive approval of an updated clean energy
7 investment plan every two years, and submit annual reports to the
8 commission, including:

9 (a) The status of projects approved in the previous clean energy
10 investment plan;

11 (b) Demonstration that the plan has met performance standards
12 established by the commission by order;

13 (c) An accounting of verified emissions reductions, and the cost
14 per ton of emissions reductions compared to estimates of the cost per
15 ton in emissions reductions contained in the clean energy investment
16 plan; and

17 (d) An updated estimate of future emissions reductions and the
18 estimated cost per ton.

19 (3) If the commission determines that the plan or any project in
20 the plan did not meet performance standards, the commission may
21 require the utility to remit remaining tax moneys dedicated for the
22 nonperforming plan or project to the department of revenue.

23 (4) The commission must annually provide the department of
24 revenue a report summarizing who is entitled to the credit, over what
25 timeline, any required adjustments to credit previously issued, and
26 any further information required to assist the department of revenue
27 in administering the credit.

28 Part III

29 Clean Energy Investment Fund for Consumer-Owned Energy Utilities

30 NEW SECTION. **Sec. 301.** CARBON POLLUTION TAX CREDIT. (1)
31 Beginning July 1, 2019, each consumer-owned energy utility may claim
32 a credit against the carbon pollution tax imposed in section 102 of
33 this act for clean energy investments approved pursuant to this
34 chapter, not to exceed one hundred percent of the taxes owed under
35 section 102 of this act in the same calendar year.

36 (2) To be eligible for the credit under this section for clean
37 energy investment, a consumer-owned energy utility must, as of the
38 date the credit is claimed, have a plan, approved by the governing

1 body of a consumer-owned energy utility, to reinvest an equivalent
2 amount of revenues collected from customers during that year, the
3 preceding year, or any of the three subsequent years. Remaining
4 carbon pollution tax amounts owing must be remitted to the department
5 of revenue and deposited in the carbon pollution reduction account
6 created in section 107 of this act.

7 (3) Each consumer-owned energy utility claiming a credit pursuant
8 to this section must establish and maintain a separate clean energy
9 investment account into which it must deposit amounts equal to the
10 credit taken under this section. Moneys in this account must be kept
11 separate from other accounts, and may only be expended for the
12 purposes identified in this chapter. Interest accrued on this account
13 must be expended only for purposes identified in this chapter.

14 (4) Moneys retained in the separate clean energy investment
15 account are not considered gross income for the purpose of chapter
16 82.16 RCW.

17 NEW SECTION. **Sec. 302.** TECHNICAL ADVISORY COMMITTEE CREATED.

18 (1) The department must create a broadly representative technical
19 advisory committee for the purpose of advising the department, other
20 state agencies, the legislature, utilities, and local governments on
21 consumer-owned energy utility reinvestment of moneys credited
22 pursuant to section 301 of this act. The advisory committee will
23 advise on guidelines developed or adopted by the department to
24 evaluate, quantify, and verify greenhouse gas emissions reductions
25 proposed by utility plans pursuant to section 304 of this act. The
26 duties of the technical advisory committee include, but are not
27 limited to:

28 (a) Advising on standard protocols for verification and
29 evaluation of greenhouse gas emissions reductions from utility
30 investments;

31 (b) Recommending common planning assumptions for use in utility
32 clean energy investment plans;

33 (c) Advising on a standard reporting format to be adopted by the
34 department for all investments and activities supported by the clean
35 energy investment accounts; and

36 (d) Other duties consistent with the purpose of this section, as
37 required by the department.

38 (2) The technical advisory committee established in this section
39 constitutes a class one group under RCW 43.03.220. Expenses for the

1 technical advisory committee are an appropriate administrative
2 expense for the purpose of section 304(6)(n) of this act. Staff
3 support must be provided by the department.

4 (3) The department may elect to work with the commission under
5 section 203 of this act to create one joint technical standards
6 committee for the purpose of advising on utility reinvestment of
7 moneys credited pursuant to sections 202 and 301 of this act.

8 NEW SECTION. **Sec. 303.** WASHINGTON CLEAN ENERGY INVESTMENT
9 PROGRAMS ESTABLISHED—RULE MAKING. By July 1, 2019, the department
10 must adopt rules concerning only the process, timelines, reporting,
11 documentation, and performance metrics required to ensure the proper
12 implementation of this chapter. Such rules may include rules
13 associated with utility development, implementation, and evaluation
14 of clean energy investment plans. The department and the commission
15 must, to the extent practicable, adopt rules that are similar enough
16 to ensure coordinated and consistent implementation of this chapter
17 for consumer-owned and investor-owned energy utilities.

18 NEW SECTION. **Sec. 304.** CLEAN ENERGY INVESTMENT PLANS. (1) To be
19 eligible for the tax credit under section 301 of this act, a
20 consumer-owned energy utility must develop and maintain a clean
21 energy investment plan that is approved by its governing body. The
22 clean energy investment plan must seek to eliminate any tax
23 obligation imposed by this act associated with electricity.

24 (2) When developing and updating its clean energy investment
25 plan, a consumer-owned energy utility must solicit public input
26 through public processes under the oversight of its governing body.

27 (3) Each clean energy investment plan must include:

28 (a) A summary of the public input received during development of
29 the plan; and

30 (b) A schedule for independent evaluation of activities financed
31 through the clean energy investment plan, including verification of
32 carbon emissions reductions. The reasonable costs of such independent
33 evaluations may be included in a utility's clean energy investment
34 plan and paid for from a utility's clean energy investment account.

35 (4) A consumer-owned energy utility's clean energy investment
36 plan may use methods and calculations that deviate from the common
37 protocols and planning assumptions recommended by the technical
38 advisory committee when approved by the governing body.

- 1 (5) A clean energy investment plan must include:
- 2 (a) Programs for investments or expenditures that:
- 3 (i) Are incremental to investments or expenditures required by
- 4 existing regulations on the effective date of this section; and
- 5 (ii)(A) Reduce carbon dioxide emissions of the utility; or
- 6 (B) Advance market transformation, educate consumers, develop new
- 7 low carbon fuels such as renewable natural gas, and increase
- 8 participation in programs that enable consumers to choose low carbon
- 9 alternatives;
- 10 (b) A demonstration that the portfolio of funded activities can
- 11 reasonably be expected to achieve reductions in greenhouse gas
- 12 emissions;
- 13 (c) An estimate, based on protocols developed by the technical
- 14 advisory committee or other protocol as authorized under subsection
- 15 (4) of this section, of the metric tons of emissions reductions and
- 16 the cost per metric ton of emissions reductions for the portfolio of
- 17 projects in the clean energy investment plan;
- 18 (d) A demonstration that expenditures in the clean energy
- 19 investment plan will be additional to expenditures necessary to meet
- 20 other emissions reductions, energy conservation, or renewable energy
- 21 requirements not to exceed an average cost per metric ton of
- 22 greenhouse gases abated at three hundred percent of the carbon tax
- 23 rate or to be determined by the department as appropriate;
- 24 (e) A customer education and outreach program;
- 25 (f) Sufficient funding, as determined by the department, to
- 26 mitigate all increases in gas or electric costs to qualifying low-
- 27 income customers as a result of the carbon pollution tax imposed in
- 28 section 102 of this act. Such moneys must be additional to other
- 29 funding for low-income energy assistance; and
- 30 (g) A demonstration that all funded activities within the clean
- 31 energy investment plan were developed using the cumulative impact
- 32 analysis in section 502 of this act and that expenditures prioritize
- 33 highly impacted communities.
- 34 (6) A clean energy investment plan may only include the following
- 35 types of investments or expenditures:
- 36 (a) Additional conservation in excess of the target established
- 37 under RCW 19.285.040(1), or other state obligations;
- 38 (b) Market transformation for energy efficiency products;
- 39 (c) Eligible renewable resources as defined by RCW 19.285.030, in
- 40 excess of the target established under RCW 19.285.040(2);

- 1 (d) Low-income weatherization;
- 2 (e) Measures to support electrification of the transportation
3 sector including, but not limited to:
- 4 (i) Equipment on an electrical company's transmission and
5 distribution system to accommodate electric vehicle connections, and
6 smart grid systems, that enable electronic interaction between the
7 company and charging systems, and facilitate company utilization of
8 vehicle batteries for system needs;
- 9 (ii) Incentives for car dealers to sell alternative vehicles;
- 10 (iii) Incentives for property owners to install charging
11 equipment for alternative vehicles; and
- 12 (iv) Incentives for the electrification of vehicle fleets;
- 13 (f) Investment in clean distributed energy resources and grid
14 modernization to facilitate distributed resources and improved grid
15 resiliency;
- 16 (g) Research and development that will promote energy
17 conservation, or the deployment of zero-emission energy resources;
- 18 (h) Investments in renewable natural gas production, including
19 gas conditioning equipment for biogas;
- 20 (i) Investments in the following measures to serve the sites of
21 large industrial gas and electrical customers: Conservation; new
22 renewable energy resources; behind-the-meter technology that
23 facilitates demand response cooperation to reduce peak loads;
24 infrastructure to support electrification of transportation needs and
25 heating loads; or renewable natural gas production, including gas
26 conditioning equipment for biogas;
- 27 (j) Investments in zero-carbon emission resources, including
28 installing generation capacity at levies, irrigation canals, and
29 existing unpowered dams that comply with all federal and state
30 permitting requirements;
- 31 (k) Investments that lower net emissions through fuel switching;
- 32 (l) Incentives for small businesses to support energy efficiency
33 and the replacement of equipment;
- 34 (m) Other measures determined by the governing body to meet the
35 requirements of subsection (5) of this section; and
- 36 (n) The reasonable costs of administration of the clean energy
37 investment program, as determined by the department.

38 (7) In order to maintain eligibility for the tax credit under
39 section 301 of this act and to continue to retain authority to expend
40 money from the utility's clean energy investment account, a consumer-

1 owned energy utility must submit and receive approval from the
2 governing body of the consumer-owned energy utility of an updated
3 clean energy investment plan every two years.

4 NEW SECTION. **Sec. 305.** AGGREGATION OF THE CARBON POLLUTION TAX
5 CREDIT AND JOINT DEVELOPMENT OF CLEAN ENERGY INVESTMENT PLANS. (1) A
6 consumer-owned energy utility may enter into an agreement with a
7 joint operating agency organized under chapter 43.52 RCW on or before
8 January 1, 2017, to aggregate their claims against the carbon
9 pollution tax imposed in section 102 of this act and to develop and
10 implement a joint clean energy investment plan. Implementation of a
11 joint clean energy investment plan may not begin until the governing
12 bodies of all member utilities have approved the plan through a
13 public process. The purpose of this section is to facilitate broad,
14 equitable, and efficient use of the carbon pollution tax credit.

15 (2) A consumer-owned energy utility that is not a member of a
16 joint operating agency may enter into an agreement with a nonprofit
17 organization to aggregate their claims against the carbon pollution
18 tax imposed in section 102 of this act and to develop and implement a
19 joint clean energy investment plan. Implementation of a joint clean
20 energy investment plan may not begin until the governing bodies of
21 all participating utilities have approved the plan through a public
22 process. The purpose of this section is to facilitate broad,
23 equitable, and efficient use of the carbon pollution tax credit.

24 (3) Each utility that enters into an agreement authorized in
25 subsection (1) or (2) of this section must empower the joint
26 operating agency or nonprofit organization to, on their behalf, claim
27 the credit against the carbon pollution tax imposed in section 102 of
28 this act. The joint operating agency or nonprofit organization must
29 establish and maintain a separate clean energy investment account and
30 deposit into that account amounts equal to the credits taken under
31 this section. Moneys in this account must be kept separate from other
32 accounts, and may only be expended for the purposes identified in
33 this chapter.

34 NEW SECTION. **Sec. 306.** CLEAN ENERGY INVESTMENT PROGRAM
35 EXPENDITURE MONITORING AND OVERSIGHT. (1) A consumer-owned energy
36 utility must submit annual reports to the department including, but
37 not limited to:

1 (a) The status of projects approved in the previous clean energy
2 investment plan; and

3 (b) Using the performance metrics established by the department:

4 (i) An accounting of greenhouse gas emissions reductions achieved
5 and the cost per metric ton of emissions reductions compared to
6 estimates of the cost per metric ton in emissions reductions
7 contained in the clean energy investment plan; and

8 (ii) An updated estimate of future greenhouse gas emissions
9 reductions and the estimated cost per metric ton.

10 (2) The state auditor is responsible for auditing compliance with
11 the approved plan for consumer-owned energy utilities that are
12 subject to the jurisdiction of the state auditor and the attorney
13 general is responsible for enforcing that compliance. An independent
14 auditor selected by a consumer-owned energy utility that is not
15 subject to the jurisdiction of the state auditor is responsible for
16 auditing compliance with the approved plan and the attorney general
17 is responsible for enforcing that compliance.

18 (3) If the department determines that the plan or any project in
19 the plan did not meet performance metrics, the department must notify
20 the department of revenue. The department of revenue may require the
21 utility to remit remaining tax moneys dedicated for the nonperforming
22 plan or project.

23 **Part IV**

24 **Energy Transformation Account Funds**

25 NEW SECTION. **Sec. 401.** A new section is added to chapter 43.31
26 RCW to read as follows:

27 ENERGY TRANSFORMATION ACCOUNT. (1) The energy transformation
28 account is created in the state treasury. The account must receive
29 moneys distributed to the account from the carbon pollution reduction
30 account created in section 107 of this act as well as other moneys
31 directed to the account by the legislature. Moneys in the account
32 must be used for projects and incentive programs that yield
33 verifiable reductions in carbon pollution in excess of current
34 practices, and may only be spent after appropriation. On a biennial
35 basis a minimum of ten percent of the expenditures under this section
36 must be for projects and activities that directly benefit highly
37 impacted communities designated under section 502 of this act.

1 (2) The department must solicit proposals and award grants for
2 projects and incentive programs that reduce greenhouse gas emissions
3 in Washington state or reduce emissions directly connected to energy
4 use and other activity in Washington state.

5 (a) Grant awards must be aligned to a strategy, which when
6 combined with the utility clean energy investments plans in sections
7 205 and 304 of this act, are anticipated to achieve a net cumulative
8 reduction of greenhouse gas emissions of twenty-five percent below
9 1990 levels by the year 2035 within the amounts as appropriated.

10 (b)(i) The department of commerce must consider the
11 recommendation of the Washington State University extension energy
12 program in section 405 of this act in determining the award amount
13 offered for a given project and the appropriate process or method for
14 awarding proposals in that program area.

15 (ii) The award amounts must reflect the impact of the carbon
16 pollution tax in section 102 of this act, and the availability of
17 other public incentives or credits to determine the minimum level
18 necessary to catalyze investment of each project type but avoid
19 windfall profits in projects.

20 (iii) Award amounts from the energy transformation account may
21 not exceed one hundred dollars in 2017 dollars per ton of carbon
22 dioxide equivalent or reduced emissions of greenhouse gases; however
23 the total project cost per ton of reduced emissions may exceed that
24 amount provided additional funding from another source.

25 (3) The department must consult with the department of ecology
26 and the Washington State University extension energy program in the
27 design and operation of the fund and must follow the guidelines and
28 obligations set forth in the implementation plan created in section
29 405 of this act.

30 (4) Priority must be given to the following:

31 (a) Projects and activities that provide benefits to low-income
32 communities, communities of color, and communities of indigenous
33 peoples provided the projects achieve equivalent net emissions
34 reductions and are cost-competitive compared to other proposals;

35 (b) Consideration for procuring and using materials and content
36 that have lower carbon emissions associated with their transportation
37 and manufacturing, as determined through the best available reporting
38 and assessment tools;

39 (c) Support for high quality labor standards, apprenticeship and
40 preapprenticeship utilization and preferred entry standards,

1 community workforce agreements with priority local hire, procurement
2 from women and minority-owned businesses, procurement from and
3 contract with entities that have a history of complying with federal
4 and state wage and hour laws and regulations, and other related labor
5 standards;

6 (d) Applications from entities subject to the carbon pollution
7 tax under section 102 of this act who are not eligible to receive
8 credits under sections 202 or 301 of this act;

9 (e) Applications from consumer-owned energy utilities with
10 retained credit amounts of less than five million dollars annually
11 for comparable incentives for utility customers who otherwise would
12 not have access to the programs, services, and investments offered in
13 a clean energy investment plan as provided in sections 205 and 304 of
14 this act; and

15 (f) Projects with a high leverage ratio of nonenergy
16 transformation account funds to energy transformation account funds,
17 excluding funding sourced from utility credits as provided in
18 sections 205 and 304 of this act.

19 (5)(a) Projects and incentive programs must meet all of the
20 following criteria to be eligible for funding. Emissions reductions
21 from projects and incentive programs must be:

22 (i) Real, specific, identifiable, and quantifiable;

23 (ii) Permanent: The department will look to other jurisdictions
24 in setting this standard and will make a reasonable determination on
25 length of time recognizing the advantages of near-term reductions and
26 the potential for future technology to mitigate the long-term release
27 of greenhouse gas emissions into the atmosphere;

28 (iii) Enforceable by the state of Washington;

29 (iv) Verifiable; and

30 (v) Not eligible for funding, if an emissions reduction is
31 required by another statute, rule, or other legal requirement, or is
32 approved under a clean energy investment plan as provided in sections
33 205 and 304 of this act, or can be reasonably assumed to occur absent
34 additional funding in the near future.

35 (b) Funding may be provided for incremental carbon reductions
36 from projects which have already secured funding, but can furnish
37 more carbon reductions with additional resources.

38 (6) Emissions reductions resulting in part or in whole from the
39 policies listed in (a) through (d) of this subsection (6) are
40 eligible under this program:

1 (a) Commute trip reduction programs as established through RCW
2 70.94.527 under WAC 173-442-160(3);

3 (b) Carbon dioxide emissions from the industrial combustion of
4 biomass in the form of fuel wood, wood waste, wood by-products, and
5 wood residuals are carbon neutral and result in zero CO₂ emissions as
6 defined under RCW 70.235.030(3);

7 (c) Washington's carbon dioxide mitigation standard for fossil-
8 fueled electric generation facilities, through an energy facility
9 site evaluation council site certificate or by chapter 80.70 RCW; and

10 (d) The acquisition of conservation and energy efficiency in
11 excess of the targets required by the energy independence act under
12 RCW 19.285.040.

13 (7) The department must consider projects and incentive programs
14 for the following activities:

15 (a) Industrial energy efficiency, including projects that
16 increase the energy efficiency or reduce the greenhouse gas emissions
17 at manufacturing facilities. Examples include projects to implement
18 combined heat and power, district energy, or on-site renewables or to
19 upgrade existing equipment such as boilers to more efficient models
20 and to switch to less carbon intensive fuel sources. Projects that
21 reduce process emissions may also be considered;

22 (b) Clean transportation, including projects and programs that:
23 (i) Exceed workplace targets for commute trip reduction under the
24 authority of chapter 70.94 RCW; accelerate uptake of renewable fuels
25 and electrification in transit and other vehicle fleets; promote
26 advanced-technology transportation networks that achieve greater
27 safety and energy efficiency; create electric vehicle charging or
28 hydrogen refueling infrastructure; and increase equitable transit-
29 oriented development; and (ii) implement biomethane or other gaseous
30 or liquid biofuels for transportation that result in reduced
31 greenhouse gas emissions;

32 (c) Energy efficiency and electrification for existing buildings,
33 including projects that improve energy efficiency and utilize demand
34 side management of electricity. A priority must be accorded to
35 projects otherwise eligible and not receiving funding from
36 investments pursuant to part III of this act;

37 (d) Agricultural and working lands emissions, including projects
38 and programs that achieve energy efficiency and emission reductions
39 in the agricultural sector including fertilizer management, soil
40 management, bioenergy, and biogas;

1 (e) Other technologies not explicitly covered by the program in
2 (a) through (d) of this subsection, such as proposals that diversify
3 opportunities for addressing peak loads such as storage and demand
4 response or advance market transformation, educate consumers, develop
5 new low carbon fuels such as renewable natural gas, increase
6 participation in programs, or that incentivize consumers to choose
7 low carbon alternatives; and

8 (f) Decarbonization of aviation fuels, including projects and
9 programs that accelerate the development of sustainable aviation fuel
10 production facilities; reduce the cost differential between low
11 carbon aviation fuels and fossil aviation fuels; promote greater
12 coordination between regional sustainable aviation fuel production
13 feedstock suppliers and producers; and increases sustainable aviation
14 fuel access and integration into existing fueling infrastructure and
15 pipelines.

16 (8) Recipients of funding for projects must submit to the
17 department a progress report at a date or dates to be determined by
18 the department. The progress report must include the following in
19 addition to any other information the department may require:

20 (a) A summary of the investments made and technology or other
21 changes installed and deployed; and

22 (b) Verification of the avoided greenhouse gas emissions since
23 the date of the signed contract or the last report from a qualified
24 third party, as identified by the department of commerce. The
25 qualified third party must report on:

26 (i) Whether the project was built or implemented according to the
27 proposed design and any protocols or methodologies that were
28 referenced in the proposal, as approved in the funding contract;

29 (ii) A verification plan that details the methods used to
30 evaluate the project;

31 (iii) Their review of the recipient's accounting of current and
32 projected emissions reductions;

33 (iv) The site visits conducted by verifiers; and

34 (v) Any additional data as the department identifies by rule to
35 sufficiently evaluate the project and to provide the highest level of
36 integrity and verification for the emissions reductions.

37 (9) The department must design project funding contracts, monitor
38 project implementation, and track contract performance, to actively
39 assist the project proponent in securing the expected project
40 outcomes. The department may suspend or terminate funding when

1 projects do not achieve projected reductions as provided in the
2 funding agreement and, in cases of gross misuse of funds, may require
3 a return of grant funding.

4 (10) Amounts must be appropriated to the department from the
5 account for the department's and other agencies' costs to administer
6 the projects and programs in this section.

7 (11) The department may adopt rules necessary to implement this
8 section.

9 (12) Public entities, including but not limited to state
10 agencies, municipal corporations, and federally recognized Indian
11 tribes, and private entities, both not-for-profit and for-profit, are
12 eligible to receive energy transformation account funds authorized by
13 this section.

14 (13) The department must develop an electronic database available
15 to the public to track projects and incentive programs receiving
16 funding under this section. Projects will be ranked and sortable
17 based on quantitative performance metrics, including the avoided cost
18 of a ton of carbon dioxide.

19 NEW SECTION. **Sec. 402.** SEQUESTRATION OF CARBON. (1) Funds
20 appropriated from the account created in section 401 of this act may
21 be used for the following carbon sequestration activities using
22 procedures and criteria developed jointly by the department of
23 natural resources and the department of agriculture, in consultation
24 with Indian tribes, and other appropriate state agencies:

25 (a) Sequestration of carbon in aquatic marine and freshwater
26 natural resources. The department of natural resources will award
27 grants for blue carbon projects, such as wetland and seagrass
28 restoration projects, that result in aquatic carbon sequestration
29 outcomes and also provide multiple benefits for coastal and wetland
30 habitat restoration;

31 (b) Sequestration of carbon in agricultural lands and soils. The
32 department of agriculture will award grants for projects to increase
33 soil sequestration and reduce emissions from the loss and disturbance
34 of soils and conversion of grassland and cropland soils to urban
35 development;

36 (c) Sequestration of carbon in terrestrial, riparian, and aquatic
37 habitats. The department of natural resources will award grants for
38 projects and activities that protect and prevent the loss of

1 ecosystems that provide fish and wildlife habitat and carbon
2 sequestration values;

3 (d) The establishment of a working forest conservation easement
4 program to be administered by the department of natural resources.
5 The procedures and criteria must include, at a minimum, a mechanism
6 for ranking project applicants that allows for the prioritization of
7 projects that maximize the amount of carbon sequestered by the
8 program. The department of natural resources must consult with Indian
9 tribes in developing the procedures and criteria for the program. The
10 criteria for the ranking system must consider scientifically based,
11 landscape scale forest ecosystem carbon sequestration calculations,
12 and unique regional needs to determine the maximum life-cycle carbon
13 sequestration capacity of the combination of carbon stored in wood
14 from a managed forest and carbon in the forest, including
15 consideration of carbon sequestered in resulting wood building
16 materials. The working forest conservation easement program must be
17 designed to maximize carbon sequestration in working forests, to
18 ensure a sustainable supply of timber, to ensure the ecological
19 longevity of working forests, and to provide long-term, sustainable
20 jobs in rural communities. If it maximizes carbon sequestration
21 potential, the program may prioritize the acquisition of easements
22 for forest practices for which there is a comparatively high
23 probability that contiguous forestland acreage will eventually be
24 converted to nonforestry uses, otherwise sold in smaller acreage
25 parcels, or its timber stock liquidated in the near term. It may also
26 prioritize projects that provide compensation for agreements that
27 sequester carbon on lands owned by small forest landowners as defined
28 in RCW 76.09.450. Projects on state trust lands and other state
29 forestlands are eligible for funding under this program. Procedures
30 and criteria for the program must also provide sufficient flexibility
31 to serve as a source of matching funds from other sources and a
32 portion of individual grant awards may support long-term stewardship
33 for lands conserved under this program.

34 (2) The projects funded under this section must prioritize and
35 rank projects considering the comparative need of the applicants, to
36 satisfy a diversity of potential ecological benefits, and to achieve
37 carbon sequestration. Associated benefits that must also be
38 considered include improving landscape scale ecological functions to
39 protect water, soils, and provide improved fish and wildlife habitat.

1 NEW SECTION. **Sec. 403.** A new section is added to chapter 43.31
2 RCW to read as follows:

3 CLEAN TRANSPORTATION ACCOUNT. Annually, thirty percent of the
4 moneys from the energy transformation account under section 401 of
5 this act must be deposited by the state treasurer into the clean
6 energy account, hereby created as a subaccount in the multimodal
7 transportation account. Moneys in the account may only be spent after
8 appropriation. Of the funds in the account:

9 (1) Eighty-five percent of the moneys must be provided to offset
10 some or all of the state fiscal impacts of the following activities:

11 (a) The alternative fuel vehicle tax exemption pursuant to RCW
12 82.08.809 and 82.12.809;

13 (b) The alternative fuel commercial vehicle tax credit pursuant
14 to RCW 82.16.0496;

15 (c) Tax credits provided for biodiesel feedstock pursuant to RCW
16 82.08.0205 and 82.12.0205;

17 (d) Expenditures from the clean energy account under section 601,
18 chapter . . . (Substitute Senate Bill No. 6080), Laws of 2018; and

19 (e) Funding for projects that can demonstrate reduced single-
20 occupant vehicle trips and increased transit ridership, including
21 park and rides, increased transit service, regional mobility grants,
22 rural mobility grants, transit priority infrastructure projects,
23 transit pass subsidies, and the commute trip reduction act; and

24 (2) Fifteen percent of the moneys to support the electrification
25 of transportation in rural communities pursuant to section 404 of
26 this act.

27 NEW SECTION. **Sec. 404.** A new section is added to chapter 43.31
28 RCW to read as follows:

29 RURAL ELECTRIFICATION PROJECTS. (1) The department of commerce
30 must administer a grant program designed to support the
31 electrification of transportation in rural communities with a legacy
32 of nonfossil fuel generated electric power. Eligible grant recipients
33 may be public entities, including municipal corporations, school
34 districts, public transit benefit areas, consumer-owned utilities,
35 federally recognized Indian tribes, and private entities, both not-
36 for-profit and for-profit.

37 (2) Grants must be awarded in counties with a population of less
38 than two hundred fifty thousand based on 2010 census data for
39 electrification projects served by a consumer-owned utility with an

1 electric resources portfolio that is composed of at least ninety
2 percent renewable resources as defined in RCW 19.285.030.

3 (3) Moneys received by an entity pursuant to this subsection must
4 be spent on the development and implementation of the following
5 greenhouse gas reducing activities in their respective county:

6 (a) The electrification of transportation in all industry
7 sectors; to include but not be limited to the conversion of passenger
8 and commercial vehicles, short-haul agricultural, private and public
9 fleets, including transit fleets, and school buses.

10 (b) Programs or investments to support energy efficiency and
11 conservation measures, including but not limited to projects or
12 research designed to increase the efficiency and production
13 capability of hydroelectric project generation, demand response and
14 enhanced energy efficiency, and measures beyond the conservation
15 targets required in RCW 19.285.040(1).

16 (4) The department of commerce must set potential annual award
17 amounts for each eligible county based on available funds. Potential
18 award amounts must be set at an amount equal to the percentage of the
19 population of each eligible county in proportion to the population of
20 all eligible counties, based on 2010 census data.

21 (5) The department must prioritize applications which demonstrate
22 strong community partnerships and leverage the participation and
23 investment of private businesses. A consumer-owned energy utility
24 receiving funds must follow the process and procedures of a clean
25 energy investment plan as provided in section 304 of this act
26 concerning expenditures, monitoring, auditing, and oversight for
27 consumer-owned utilities. Receiving moneys pursuant to this
28 subsection does not preclude submitting proposals or receiving
29 additional grants under the energy transformation account in section
30 401 of this act.

31 (6) Moneys not expended according to potential awards pursuant to
32 subsection (4) of this section must first be made available to other
33 eligible entities on a competitive grant basis. Any remaining funds
34 must be transferred to the energy transformation account created in
35 section 401 of this act.

36 NEW SECTION. **Sec. 405.** A new section is added to chapter 43.31
37 RCW to read as follows:

38 IMPLEMENTATION PLAN FOR THE ENERGY TRANSFORMATION ACCOUNT. (1)
39 The department must, by June 30, 2019, develop an implementation plan

1 for the investment of the energy transformation account. This
2 planning and preparation must include:

3 (a) Analysis, to be implemented in partnership with the
4 Washington State University extension energy program, to further
5 determine overall carbon pollution abatement opportunities in
6 Washington. The analysis may include the development of a marginal
7 abatement cost curve for Washington that may be used by the
8 department to recommend appropriate award amounts per metric ton of
9 carbon dioxide equivalent of greenhouse gas emissions reductions for
10 a variety of clean energy, efficiency, transportation
11 electrification, and other project portfolio types. By March 1, 2021,
12 and by March 1st of each odd-numbered year thereafter, the Washington
13 State University extension energy program and the department of
14 commerce must update the recommended amounts per metric ton of
15 emissions reductions for the following two-year period;

16 (b) Preparation of robust monitoring and evaluation systems to
17 ensure that the effects and cost-effectiveness of grants are
18 rigorously assessed and that such assessments are used over time to
19 inform and strengthen the grant-making process;

20 (c) Assessment and development of efficient and transparent
21 grant-making strategies designed to ensure program objectives are met
22 and taxpayer interests are protected including, but not limited to,
23 leveraging investments through partnerships, reverse auctions, and
24 pay-for-performance mechanisms in which funding is released upon
25 emissions reductions verifications and the development of incentive
26 programs;

27 (d) Outreach and education to engage eligible recipients for
28 grant funding and to prepare them to develop and submit grant
29 applications for priority projects; and

30 (e) Assessment of the relationship between priority areas of the
31 energy transformation account and the carbon reduction policies and
32 plans being made by key sectors in the state, including the state's
33 aviation sector. In the last five years, aviation fuel consumption in
34 Washington has grown more than twenty percent, and is projected to
35 continue to grow in step with population growth and economic
36 development. Airport operators in the state have set aggressive goals
37 to reduce the carbon emissions associated with their operations,
38 while also helping to support development of a sustainable fuels
39 supply chain in a manner that would support rural economic
40 development. The department should address these activities in its

1 implementation plan, and seek to ensure that the state's investments
2 through the energy transformation account support a sustainable
3 future for the aviation sector in Washington state.

4 (2) The department must implement a performance management
5 system, complete an independent audit every two years, and report the
6 results of each assessment to the joint committee on climate programs
7 oversight created in section 801 of this act and to the appropriate
8 committees of the legislature.

9 **Part V**

10 **Transition Assistance**

11 NEW SECTION. **Sec. 501.** TRANSITION ASSISTANCE ACCOUNT. (1) The
12 legislature finds that increased energy expenses will have a
13 disproportionate impact upon the finances of low-income households
14 engaging in life-sustaining activities including but not limited to
15 heating, cooling, and transportation. The legislature therefore
16 creates the transition assistance account to provide a financially
17 equitable transition to a clean energy economy by providing economic,
18 financial, and public health supports, programs, services, and
19 assistance to low-income households.

20 (2) The transition assistance account is created in the state
21 treasury. The account must receive moneys distributed to the account
22 from the carbon pollution reduction account created in section 107 of
23 this act as well as other moneys directed to the account by the
24 legislature. Moneys in the account may only be used for the purposes
25 described in this section and sections 503 and 504 of this act, and
26 may only be spent after appropriation.

27 NEW SECTION. **Sec. 502.** (1) By December 31, 2018, for the
28 purposes of mitigating harm from climate change and dangerous air
29 pollutants that impact human health or the environment and are
30 regulated under the federal clean air act or chapter 70.94 RCW, the
31 department of health must conduct or adopt a cumulative impact
32 analysis to designate the communities highly impacted by fossil fuel
33 pollution and climate change in Washington.

34 (2) The cumulative impact analysis must map, rank, and designate
35 a percentile of census tracts as highly impacted communities based on
36 an index of criteria, including:

1 (a) Vulnerable population characteristics including, but not
2 limited to, socioeconomic factors, like unemployment, housing and
3 transportation burden, and linguistic isolation, and sensitivity,
4 such as low birth weight and hospitalizations;

5 (b) Environmental burden characteristics including, but not
6 limited to, exposures to air, water, and toxics and environmental
7 effects such as toxic sites, hazardous waste, and climate impacts;
8 and

9 (c) Census tracts that are wholly or partly "Indian country," as
10 that term is defined in 25 U.S.C. Sec. 1151, in effect on the
11 effective date of this section.

12 (3) The department of health must conduct meaningful consultation
13 with vulnerable communities in Washington and consult the University
14 of Washington department of environmental and occupational health
15 sciences in developing the analysis, or adopt an analysis that
16 included this consultation.

17 (4) The cumulative impact analysis may integrate with and build
18 upon other population tracking resources used by the department of
19 health and analysis done by the University of Washington department
20 of environmental and occupational health sciences.

21 (5) By March 1, 2023, and every two years thereafter, the
22 department of health, under advisement from the environmental justice
23 panel, must update the designation of highly impacted communities
24 pursuant to this section. By March 1, 2025, and every four years
25 thereafter, the department of health must review and consider
26 revisions to the cumulative impacts methodology for
27 designating highly impacted communities to reflect best practices.

28 NEW SECTION. **Sec. 503.** ENERGY TRANSITION ASSISTANCE TO LOW-
29 INCOME HOUSEHOLDS. (1) Using funds appropriated from the account
30 created in section 501 of this act, the department of commerce must
31 provide for an equitable transition to a clean energy economy by
32 providing funding to assist low-income households during that
33 transition with increased energy prices that will have a
34 disproportionate impact upon such households and to provide access to
35 clean energy and low carbon housing, transportation options, and
36 technologies to those with greater barriers and where pollution is
37 concentrated. For the purposes of this section, the term "low income"
38 means at or below eighty percent of area median income or two hundred
39 percent of the federal poverty level.

1 (2) Funding must be prioritized to mitigate any additional energy
2 and transportation costs borne by low-income persons as a direct
3 result of this act and not fully mitigated by utilities plans in
4 sections 201 through 306 of this act and the reduced vehicle fees
5 under sections 506 through 508 of this act. Funding must also be
6 prioritized to provide assistance to displaced fossil fuel-related
7 industries workers as provided under section 504 of this act.
8 Remaining funds must be used to reduce carbon pollution and reduce
9 vulnerable population characteristics or environmental burdens in
10 highly impacted communities designated by the department of health
11 under section 502 of this act.

12 (3) Transition assistance under this chapter may include direct
13 financial assistance in the form of a grant, subsidy, rebate, or
14 other similar financial benefit or product including:

15 (a) Through expansion of or increases to existing programs and
16 authorizations administered by the department of social and health
17 services;

18 (b) Expansion or increases to existing regional community health
19 programs administered by the health care authority; or

20 (c) New programs that efficiently enable direct financial
21 assistance.

22 (4) The assistance may include but is not limited to programs
23 such as energy bill pay subsidies, energy efficiency and
24 weatherization assistance and services, public health programs and
25 services, affordable transportation services and options, affordable
26 housing, improved community services, and reductions in vehicle fees
27 as provided in sections 506, 507, and 508 of this act.

28 (5) The department must form a transition assistance advisory
29 group comprised of appropriate state agencies, local governments,
30 Indian tribes, social service agencies, workers, representatives of
31 vulnerable populations in highly impacted communities, and low-income
32 and community advocacy organizations to develop an implementation
33 plan that selects the most efficient and financially equitable
34 delivery of transition assistance to low-income households across the
35 state. The department must consult with and take into strong
36 consideration the recommendations of the advisory group, as well as
37 the views of the economic and environmental justice oversight panel
38 created under section 805 of this act. The advisory group may consist
39 of a subcommittee of the panel created under section 805 of this act.
40 The implementation plan together with recommendations for

1 appropriations and recommended legislative action must be provided to
2 the joint committee on climate programs oversight created in section
3 801 of this act and to the governor and appropriate committees of the
4 senate and house of representatives not later than December 31, 2018.

5 NEW SECTION. **Sec. 504.** ENERGY TRANSITION ASSISTANCE TO
6 DISPLACED WORKERS. (1) Using funds appropriated from the account
7 created in section 501 of this act, the department of commerce, with
8 the assistance of the employment security department and in
9 consultation with fossil fuel-related businesses, labor
10 organizations, and the panel created in section 805 of this act, must
11 develop a program and provide assistance to eligible displaced fossil
12 fuel-related industries workers.

13 (2) The assistance provided for in subsection (1) of this section
14 may include, but is not limited to:

15 (a) Wage, pension, and health benefits replacement for up to two
16 years; the replacement assistance must be based on the average of the
17 worker's previous two years' wages received, pension contributions
18 made by the employer for the worker's benefit, and the cost to the
19 employer of the worker's health insurance benefits while the worker
20 was working in the fossil fuel-related industry;

21 (b) Notwithstanding the benefits in (a) of this subsection,
22 displaced workers with more than five years of employment in the
23 industry are eligible for up to two years of wage insurance;

24 (c) For a worker who is within five years of eligibility for a
25 union pension or social security, the period of time the replacement
26 assistance described in (a) of this subsection may be paid continues
27 until the worker is eligible for the union pension or full social
28 security benefits, whichever is later;

29 (d) Training and education costs not to exceed the average cost
30 of two years tuition and fees at Washington state's community and
31 technical colleges;

32 (e) Peer counseling services;

33 (f) Enhanced job placement services; and

34 (g) Relocation expenses and assistance.

35 (3) The definitions in this subsection apply throughout this
36 section unless the context clearly requires otherwise.

37 (a) "Eligible displaced fossil fuel-related industries worker"
38 means a fossil fuel-related industries worker who:

1 (i)(A) Has been terminated or received notice of termination from
2 employment and is unlikely to return to employment in the
3 individual's principal occupation or previous industry because of a
4 diminishing demand for the individual's skills in that occupation or
5 industry; or

6 (B) Is self-employed and has been displaced from the individual's
7 business because of the diminishing demand for the business'
8 services; and

9 (ii) Was working at a fossil fuel-related industries facility
10 when at least one of the following situations occurs with respect to
11 the facility:

12 (A) Any permanent fossil fuel facility or major portion thereof
13 is permanently closed or curtailed, or closed or curtailed for more
14 than six months;

15 (B) A facility reduces production by more than three percent
16 relative to its average production over the previous three years; or

17 (C) A facility's production is replaced by an increase in fossil
18 fuels imported into the state from foreign or domestic sources.

19 (b) "Fossil fuel-related industries" means petroleum refining,
20 natural gas distribution, oil and gas pipeline construction and
21 transportation, petroleum bulk stations and terminals, and fossil
22 fuel-based electric power generation in Washington state.

23 (c) "Fossil fuel-related industries worker" means a full-time
24 worker who is covered under a collective bargaining agreement, and is
25 a nonsupervisory worker; or is a full-time independent contractor
26 working in the fossil fuel-related industries.

27 NEW SECTION. **Sec. 505.** EDUCATION PROGRAMS. Using funds
28 appropriated from the account created in section 501 of this act, the
29 office of the superintendent of public instruction may provide
30 education programs and teacher professional development opportunities
31 at public schools to expand awareness of and increase preparedness
32 for the environmental, social, and economic impacts of climate change
33 and strategies to reduce carbon pollution, and to prepare all
34 students for employment opportunities in the clean energy economy.

35 NEW SECTION. **Sec. 506.** REPORTING. The department of commerce
36 must provide reports on assistance provided to low-income persons
37 under section 503 of this act and to displaced fossil fuel-related
38 industry workers under section 504 of this act to the joint committee

1 on climate programs oversight created under section 801 of this act
2 at such intervals as the committee requests.

3 **Sec. 507.** RCW 46.17.005 and 2010 c 161 s 501 are each amended to
4 read as follows:

5 (1)(a) A person who applies for a vehicle registration or for any
6 other right to operate a vehicle on the highways of this state
7 (~~shall~~) must pay a three dollar filing fee in addition to any other
8 fees and taxes required by law.

9 (b) Subsection (1)(a) of this section does not apply to a person
10 with an income at or below two hundred percent of the federal poverty
11 line. On the last day of January, April, July, and October of each
12 year, the state treasurer, based upon information provided by the
13 department, must transfer from the transition assistance account
14 created in section 501 of this act for distribution under RCW
15 46.68.400 a sum equal to the dollar amount that would otherwise have
16 been distributed under subsection (3) of this section during the
17 prior calendar quarter but for the exemption provided in this
18 subsection (1)(b).

19 (2) A person who applies for a certificate of title (~~shall~~)
20 must pay a four dollar filing fee in addition to any other fees and
21 taxes required by law.

22 (3) The filing fees established in this section must be
23 distributed under RCW 46.68.400.

24 **Sec. 508.** RCW 46.17.350 and 2014 c 30 s 2 are each amended to
25 read as follows:

26 (1) Except as provided in subsection (2) of this section, before
27 accepting an application for a vehicle registration, the department,
28 county auditor or other agent, or subagent appointed by the director
29 (~~shall~~) must require the applicant, unless specifically exempt, to
30 pay the following vehicle license fee by vehicle type:

31	VEHICLE TYPE	INITIAL	RENEWAL	DISTRIBUTED
32		FEE	FEE	UNDER
33	(a) Auto stage, six seats or	\$ 30.00	\$ 30.00	RCW 46.68.030
34	less			
35	(b) Camper	\$ 4.90	\$ 3.50	RCW 46.68.030
36	(c) Commercial trailer	\$ 34.00	\$ 30.00	RCW 46.68.035

1	(d) For hire vehicle, six	\$ 30.00	\$ 30.00	RCW 46.68.030
2	seats or less			
3	(e) Mobile home (if	\$ 30.00	\$ 30.00	RCW 46.68.030
4	registered)			
5	(f) Moped	\$ 30.00	\$ 30.00	RCW 46.68.030
6	(g) Motor home	\$ 30.00	\$ 30.00	RCW 46.68.030
7	(h) Motorcycle	\$ 30.00	\$ 30.00	RCW 46.68.030
8	(i) Off-road vehicle	\$ 18.00	\$ 18.00	RCW 46.68.045
9	(j) Passenger car	\$ 30.00	\$ 30.00	RCW 46.68.030
10	(k) Private use single-axle	\$ 15.00	\$ 15.00	RCW 46.68.035
11	trailer			
12	(l) Snowmobile	\$ 50.00	\$ 50.00	RCW 46.68.350
13	(m) Snowmobile, vintage	\$ 12.00	\$ 12.00	RCW 46.68.350
14	(n) Sport utility vehicle	\$ 30.00	\$ 30.00	RCW 46.68.030
15	(o) Tow truck	\$ 30.00	\$ 30.00	RCW 46.68.030
16	(p) Trailer, over 2000	\$ 30.00	\$ 30.00	RCW 46.68.030
17	pounds			
18	(q) Travel trailer	\$ 30.00	\$ 30.00	RCW 46.68.030
19	(r) Wheeled all-terrain	\$ 12.00	\$ 12.00	RCW 46.09.540
20	vehicle, on-road use			
21	(s) Wheeled all-terrain	\$ 18.00	\$ 18.00	RCW 46.09.510
22	vehicle, off-road use			

23 (2) Subsection (1)(a), (d), (e), (h), (j), (n), and (o) of this
24 section do not apply to an applicant with an income at or below two
25 hundred percent of the federal poverty line. On the last day of
26 January, April, July, and October of each year, the state treasurer,
27 based upon information provided by the department, must transfer from
28 the transition assistance account created in section 501 of this act
29 for distribution under RCW 46.68.030 a sum equal to the dollar amount
30 that would otherwise have been distributed under subsection (1) of
31 this section during the prior calendar quarter but for the exemption
32 provided in this subsection (2).

33 (3) The vehicle license fee required in subsection (1) of this
34 section is in addition to the filing fee required under RCW
35 46.17.005, and any other fee or tax required by law.

1 **Sec. 509.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
2 amended to read as follows:

3 (1) Except as provided in subsection (2) of this section, a
4 person applying for a motor vehicle registration and paying the
5 vehicle license fee required in RCW 46.17.350(1) (a), (d), (e), (h),
6 (j), (n), and (o) (~~shall~~) must pay a motor vehicle weight fee in
7 addition to all other fees and taxes required by law.

8 (a) For vehicle registrations that are due or become due before
9 July 1, 2016, the motor vehicle weight fee:

10 (i) Must be based on the motor vehicle scale weight;

11 (ii) Is the difference determined by subtracting the vehicle
12 license fee required in RCW 46.17.350 from the license fee in
13 Schedule B of RCW 46.17.355, plus two dollars; and

14 (iii) Must be distributed under RCW 46.68.415.

15 (b) For vehicle registrations that are due or become due on or
16 after July 1, 2016, the motor vehicle weight fee:

17 (i) Must be based on the motor vehicle scale weight as follows:

WEIGHT	FEE
4,000 pounds	\$ 25.00
6,000 pounds	\$ 45.00
8,000 pounds	\$ 65.00
16,000 pounds and over	\$ 72.00;

23 (ii) If the resultant motor vehicle scale weight is not listed in
24 the table provided in (b)(i) of this subsection, must be increased to
25 the next highest weight; and

26 (iii) Must be distributed under RCW 46.68.415 unless prior to
27 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
28 subsection occur, in which case the portion of the revenue that is
29 the result of the fee increased in this subsection must be
30 distributed to the connecting Washington account created under RCW
31 46.68.395.

32 (A) Any state agency files a notice of rule making under chapter
33 34.05 RCW for a rule regarding a fuel standard based upon or defined
34 by the carbon intensity of fuel, including a low carbon fuel standard
35 or clean fuel standard.

36 (B) Any state agency otherwise enacts, adopts, orders, or in any
37 way implements a fuel standard based upon or defined by the carbon

1 intensity of fuel, including a low carbon fuel standard or clean fuel
2 standard.

3 (C) Nothing in this subsection acknowledges, establishes, or
4 creates legal authority for the department of ecology or any other
5 state agency to enact, adopt, order, or in any way implement a fuel
6 standard based upon or defined by the carbon intensity of fuel,
7 including a low carbon fuel standard or clean fuel standard.

8 (2) Subsection (1) of this section does not apply to a person
9 with an income at or below two hundred percent of the federal poverty
10 line, but only if the person's motor vehicle falls under the 4,000
11 pounds or 6,000 pounds fee schedule in subsection (1)(b)(i) of this
12 section. On the last day of January, April, July, and October of each
13 year, the state treasurer, based upon information provided by the
14 department, must transfer from the transition assistance account
15 created in section 501 of this act for distribution under subsection
16 (1)(b)(iii) of this section a sum equal to the dollar amount that
17 would otherwise have been distributed under subsection (1)(b)(iii) of
18 this section during the prior calendar quarter but for the exemption
19 provided in this subsection (2).

20 (3) A person applying for a motor home vehicle registration
21 (~~shall~~) must, in lieu of the motor vehicle weight fee required in
22 subsection (1) of this section, pay a motor home vehicle weight fee
23 of seventy-five dollars in addition to all other fees and taxes
24 required by law. The motor home vehicle weight fee must be
25 distributed under RCW 46.68.415.

26 (~~(3)~~) (4) Beginning July 1, 2022, in addition to the motor
27 vehicle weight fee as provided in subsection (1) of this section, the
28 department, county auditor or other agent, or subagent appointed by
29 the director must require an applicant to pay an additional weight
30 fee of ten dollars, which must be distributed to the multimodal
31 transportation account under RCW 47.66.070 unless prior to July 1,
32 2023, the actions described in (a) or (b) of this subsection occur,
33 in which case the portion of the revenue that is the result of the
34 fee increased in this subsection must be distributed to the
35 connecting Washington account created under RCW 46.68.395.

36 (a) Any state agency files a notice of rule making under chapter
37 34.05 RCW for a rule regarding a fuel standard based upon or defined
38 by the carbon intensity of fuel, including a low carbon fuel standard
39 or clean fuel standard.

1 (b) Any state agency otherwise enacts, adopts, orders, or in any
2 way implements a fuel standard based upon or defined by the carbon
3 intensity of fuel, including a low carbon fuel standard or clean fuel
4 standard.

5 (c) Nothing in this subsection acknowledges, establishes, or
6 creates legal authority for the department of ecology or any other
7 state agency to enact, adopt, order, or in any way implement a fuel
8 standard based upon or defined by the carbon intensity of fuel,
9 including a low carbon fuel standard or clean fuel standard.

10 ((4)) (5) The department ((shall)) must:

11 (a) Rely on motor vehicle empty scale weights provided by vehicle
12 manufacturers, or other sources defined by the department, to
13 determine the weight of each motor vehicle; and

14 (b) Adopt rules for determining weight for vehicles without
15 manufacturer empty scale weights.

16 **Part VI**
17 **Climate Resilience**

18 NEW SECTION. **Sec. 601.** WATER AND NATURAL RESOURCES RESILIENCE
19 ACCOUNT. (1) The water and natural resources resilience account is
20 created in the state treasury. The account must receive moneys
21 distributed to the account from the carbon pollution reduction
22 account created in section 107 of this act as well as other moneys
23 directed to the account by the legislature. Moneys in the account may
24 only be used for the purposes described in sections 602 and 603 of
25 this act. Within this account on a biennial basis, fifty percent of
26 the funding appropriated from the account must be provided for the
27 purposes set forth in section 602 of this act. The remaining moneys
28 must be deposited to two subaccounts hereby created in the state
29 treasury as follows:

30 (a) Twenty-five percent to the fire prevention and suppression
31 account; and

32 (b) Seventy-five percent to the forest resilience account.

33 (2) Moneys in the account may not be used for projects that would
34 violate tribal rights or result in long-term damage to critical
35 habitat or ecological functions. Instead, investments under this
36 account must result in long-term environmental benefit and increased
37 resiliency to the impacts of climate change.

1 (3) The departments of ecology and natural resources must prepare
2 such progress reports as required by the joint committee on climate
3 programs oversight created under section 801 of this act, and prepare
4 information as necessary to inform the government-to-government
5 consultation with Indian tribes required under section 802 of this
6 act.

7 NEW SECTION. **Sec. 602.** WATER-RELATED PROJECTS AND ACTIVITIES.

8 (1) From funds appropriated by the legislature from the account
9 created in section 601 of this act, the department of ecology may
10 provide grants and loans for water-related projects and activities
11 described in this section. The department may not sign contracts or
12 financially obligate funds from the account created in section 601 of
13 this act before the legislature has appropriated funds for a specific
14 list of project and activities. The department must develop an
15 implementation plan for such expenditures using extensive public
16 involvement and considering the best available science on climate
17 risks, resilience, and risk management. The department must consult
18 with appropriate state agencies in developing the plan and making
19 funding decisions, and must also consult with the climate impacts
20 group at the University of Washington in developing the
21 implementation plan and funding criteria. On a biennial basis, a
22 minimum of ten percent of the expenditures under this section must be
23 for projects and activities that directly benefit highly impacted
24 communities designated under section 502 of this act.

25 (2) The department may fund projects and activities that include
26 but are not limited to:

27 (a) Project-specific planning, design, and construction projects
28 that reduce stormwater impacts from existing infrastructure and
29 development. Grants must be made available to public and private
30 entities for projects that reduce stormwater impacts from existing
31 infrastructure and development, where there is a substantial water
32 quality benefit and the project is not required by court order or
33 required as a condition of a local or state permit;

34 (b) Reducing the risk of flooding by restoring natural floodplain
35 ecological functions, protecting against damage caused by floods, and
36 protecting or restoring naturally functioning areas where floods
37 occur, including modeling of projected flood risks;

1 (c) Improving the availability and reliability of water supplies
2 for instream and out-of-stream uses, including groundwater mapping
3 and modeling;

4 (d) Construction by the department of transportation of fish
5 barrier correction projects at state highways required by the
6 injunction entered in *United States v. Washington (Civ No CV9213RSM)*.
7 Where the department determines that the amounts appropriated exceed
8 the current biennial appropriation necessary to meet the overall
9 timeline for compliance with the injunction, the department may
10 provide funding for fish barrier correction projects on state or
11 local roadways, with the highest priority for funding to be accorded
12 to projects with the greatest restoration of fish habitat access. In
13 making awards for projects not subject to the injunction, the
14 department must obtain the recommendations of the fish passage
15 barrier removal board created in RCW 77.95.160;

16 (e) Projects to prepare for sea level rise and to restore and
17 protect estuaries, fisheries, marine shoreline and inland habitats,
18 including anadromous fish passage and habitat projects with a fair
19 allocation of funding to all geographic regions of the state, and
20 including small forest landowner fish passage barrier projects
21 authorized under RCW 76.09.420; and

22 (f) Increasing the ability to adapt to and remediate the impacts
23 of ocean acidification. This may include the activities of the
24 Kenneth K. Chew center for shellfish research and restoration. The
25 department must consult with the recreation and conservation office,
26 and the climate impacts group and ocean acidification center at the
27 University of Washington in developing the implementation for
28 investments under this subsection (2)(f).

29 (3) The department must provide information about the projects
30 when the government-to-government consultation with Indian tribes is
31 conducted under section 802 of this act.

32 (4) The department must adopt rigorous performance-based criteria
33 and objectives for funding decisions, and incorporate project
34 implementation monitoring and evaluation requirements into the
35 projects. Examples of numeric performance criteria include the
36 quantity of offstream water supplies made available or more secure
37 during drought, the number of rivers and streams meeting minimum flow
38 standards, miles of river and stream habitat made available through
39 passage barrier removals, and the number of municipal stormwater
40 discharges meeting state and federal standards.

1 (5) The department must utilize the cumulative impact analysis in
2 section 502 of this act when developing the implementation plan and
3 prioritize funding and investments to benefit highly impacted
4 communities.

5 (6) The department must require annual progress reports by all
6 recipients of funding under this section, and provide summaries of
7 those reports and assessment of achievement of the performance-based
8 criteria and objectives to the joint committee on climate programs
9 oversight created under section 801 of this act at such intervals as
10 the committee requests.

11 (7) The department must establish a citizen advisory group to
12 provide input on the development of project funding criteria and
13 project funding decisions, and must seek input from the panel created
14 under section 805 of this act.

15 NEW SECTION. **Sec. 603.** NATURAL RESOURCES-RELATED PROJECTS AND
16 ACTIVITIES. (1) From funds appropriated by the legislature from the
17 account created in section 601 of this act, the department of natural
18 resources may provide grants and loans for natural resources-related
19 projects and activities described in this section. The department
20 must develop an implementation plan for such expenditures using
21 extensive public involvement and considering the best available
22 science on climate risks, resilience, and risk management. The
23 department must consult with appropriate state agencies in developing
24 the plan and making funding decisions and must also consult with the
25 climate impacts group at the University of Washington in developing
26 the implementation plan and funding criteria.

27 (2) Funds appropriated by the legislature from the forest
28 resilience account must be used to improve forest and natural lands
29 health and resilience to the impacts of climate change. The projects
30 and activities that may be funded include but are not limited to
31 thinning or prescribed fires, with priority given to projects
32 prioritized subject to RCW 76.06.200 and 79.10.530 across any
33 combination of local, state, federal, tribal, and private ownerships.
34 The department must consider the benefits of supporting cross-
35 laminated timber and other mass timber technologies in its funding
36 decisions. The department may utilize the forest health advisory
37 committee established in RCW 76.06.200 for input on forest health
38 projects funded under this section.

1 (3) The department of natural resources in partnership with the
2 board for community and technical colleges will develop a center of
3 excellence to research and promote renewable forest products and
4 research to improve forest health and reduce fire risk.

5 (4) Funds appropriated by the legislature from the fire
6 prevention and suppression account may be used to undertake agency
7 activities and provide grants that go beyond existing state efforts
8 for:

9 (a) Wildland fire prevention;

10 (b) Projects and activities that reduce the risk of wildland
11 fires to communities and improve their ability to adapt to wildfires;
12 and

13 (c) Supporting fire prevention, suppression, and recovery for
14 tribal communities impacted and potentially impacted by wildfires.

15 (5) The department must adopt rigorous performance-based criteria
16 and objectives for funding decisions, and incorporate project
17 implementation monitoring and evaluation requirements into the
18 projects. Examples of numeric performance criteria include the number
19 of acres thinned or otherwise treated to improve forest health, acres
20 of forest for which wildland fire prevention measures have been
21 implemented, and the number of communities in the wildland urban
22 interface for which wildfire resilience and defense measures have
23 been implemented.

24 (6) The department must utilize the cumulative impact analysis in
25 section 502 of this act and ensure expenditures prioritize highly
26 impacted communities.

27 (7) The department must require annual progress reports by all
28 recipients of funding under this section, and must also periodically
29 summarize the department's activities. It must submit those reports
30 and an assessment of the achievement of the performance-based
31 criteria and objectives to the joint committee on climate programs
32 oversight created under section 801 of this act at such intervals as
33 the committee requests.

34 (8) The department may not provide funding to projects that would
35 violate tribal rights or result in significant long-term damage to
36 critical habitat or ecological functions. The department must provide
37 information about the projects when the government-to-government
38 consultation with Indian tribes is conducted under section 802 of
39 this act.

1 (9) The department must seek input from the panel created under
2 section 805 of this act in the development of the funding program and
3 in the review and selection of projects to be funded under this
4 section. The department may also obtain input from existing advisory
5 groups, including the forest health and wildland fire advisory
6 committees created under RCW 76.06.200 and 76.04.179.

7 **Part VII**

8 **Rural Economic Development Account**

9 NEW SECTION. **Sec. 701.** A new section is added to chapter 43.31
10 RCW to read as follows:

11 **RURAL ECONOMIC DEVELOPMENT ACCOUNT.** (1) The rural economic
12 development account is created in the state treasury. The account
13 must receive moneys distributed to the account from the carbon
14 pollution reduction account created in section 107 of this act as
15 well as other moneys directed to the account by the legislature.
16 Moneys in the account may only be used for the purposes described in
17 this section, and may only be spent after appropriation.

18 (2) Using funds appropriated from the account, the department
19 must provide assistance to rural communities. The assistance may
20 include support for low carbon innovation and entrepreneurship,
21 providing for increased affordable transportation options and
22 services, partnerships and investments that enhance rural economic
23 and natural resource resilience related to reducing greenhouse gas
24 emissions, and encouraging telecommuting by funding the expansion of
25 broadband and telecommunication services as provided under section
26 702 of this act.

27 (3) The department must develop a grant application process to
28 competitively select small businesses as defined under RCW
29 19.85.020(3) to receive grant awards to assist with projects eligible
30 for funding under the energy transformation account in section 401 of
31 this act. The department must consult with the economic and
32 environmental justice oversight panel in section 805 of this act when
33 designing and awarding grants under this subsection.

34 (4)(a) The state board for community and technical colleges must
35 use funds deposited into this account to establish two clean energy
36 centers for excellence in the state community and technical college
37 system located in rural counties, with one center each devoted to:

38 (i) Renewable energy integration and generation; and

1 (ii) Smart grid technology and the next generation of hydropower
2 resources.

3 (b) The centers must work with industry to ensure their program
4 offerings are aligned with local employer needs. In addition, the
5 state's energy research institutions must facilitate research and
6 development, help attract investment in clean energy, and promote
7 clean energy jobs across a range of sectors.

8 (5) The department may adopt rules necessary to implement this
9 section.

10 NEW SECTION. **Sec. 702.** RURAL BROADBAND. The legislature intends
11 that the sum of thirty million dollars, or as much thereof as may be
12 necessary, be appropriated for the fiscal year ending June 30, 2020,
13 from the rural economic development account to the department of
14 commerce for the purpose of providing local governments, communities,
15 public and private entities, federally recognized tribes, and
16 consumer-owned and investor-owned energy utilities to develop
17 strategies and plans for deployment of broadband infrastructure and
18 access to broadband services to unserved and underserved areas of the
19 state.

20 **Part VIII**

21 **Oversight of Climate Programs**

22 NEW SECTION. **Sec. 801.** JOINT COMMITTEE ON CLIMATE PROGRAMS
23 OVERSIGHT. (1) The joint committee on climate programs oversight is
24 created. The committee must consist of:

25 (a) The governor or the governor's designee;

26 (b) The commissioner of public lands or the commissioner's
27 designee;

28 (c) The state auditor or the auditor's designee;

29 (d) Two members of the senate, appointed by the president of the
30 senate, one from each major political party; and

31 (e) Two members of the house of representatives, appointed by the
32 speaker, one from each major political party.

33 (2) The committee must select a chair from among its members. The
34 committee must have staff support from the senate and house of
35 representatives. All state agencies must provide information and
36 assistance as requested by the committee in order to perform its
37 responsibilities.

1 (3) The committee is responsible for ongoing review of the
2 implementation of the carbon pollution tax and funding from the
3 revenues of that tax to ensure the fairest, most efficient, and
4 timely achievement of objectives in this act regarding greenhouse gas
5 emissions reductions, transition assistance, jobs development, and
6 climate resilience. The committee's responsibilities include but are
7 not limited to:

8 (a) Reviewing the report by the department of commerce under
9 section 105 of this act;

10 (b) Reviewing the plans for implementing the funding programs
11 authorized in sections 401, 501, 601, and 701 of this act;

12 (c) Reviewing the criteria for funding allocations and project
13 award decisions;

14 (d) Reviewing project and activity funding decisions as well as
15 summary reports and information regarding implementing projects; and

16 (e) Providing recommendations for standards by which to measure
17 emissions reductions outcomes from investments of funds under
18 sections 205 and 304 of this act.

19 (4) The committee may contract for independent evaluative
20 expertise in its review of the performance of the carbon pollution
21 tax and funding programs in meeting this act's objectives regarding
22 greenhouse gas emissions reductions, transition assistance, job
23 creation, rural economic development, and climate resilience.

24 (5) Beginning July 1, 2019, the committee must meet at least
25 quarterly.

26 (6) The committee has no appropriation authority.

27 NEW SECTION. **Sec. 802.** GOVERNMENT-TO-GOVERNMENT CONSULTATION.

28 To ensure mutual respect for the rights, interests, and obligations
29 of each sovereign Indian tribe, the governor must develop a framework
30 for government-to-government consultation with Indian tribes
31 consistent with the centennial accord, chapter 43.376 RCW, and
32 applicable tribal policies. The consultation must ensure meaningful
33 tribal involvement in the implementation of this act, including rule
34 making, programmatic, and project level decisions. Within this
35 framework, the governor at least once each year must invite all
36 federally recognized Indian tribes with reserved rights within the
37 geographical boundaries of the state to meet in government-to-
38 government consultation. The governor must also invite the joint
39 committee on climate programs oversight to the meeting. The purpose

1 of the meeting is to share information, views, tribal knowledge and
2 science, and recommendations regarding the progress of implementing
3 the carbon pollution tax and providing funding from revenues of the
4 tax to reduce emissions, to strengthen climate resilience in
5 communities throughout the state, to strengthen climate resilience in
6 the water and natural resources shared by all citizens in the state,
7 and to ensure a just transition to a clean energy economy.

8 NEW SECTION. **Sec. 803.** INDIAN TRIBE CONSULTATION. (1) In order
9 to achieve the goals set forth in this act, any state agency
10 receiving carbon tax revenue must consult with Indian tribes on all
11 decisions that may affect Indian tribes' rights and interests in
12 their tribal lands. Such consultation must occur pursuant to chapter
13 43.376 RCW and must be independent of any public participation
14 process required by state law, or by a state agency, and regardless
15 of whether the agency receives a request for consultation from an
16 Indian tribe. A consultation framework must be developed in
17 coordination with tribal governments that includes best practices,
18 protocols for communication, and collaboration with Indian tribes.

19 (2) No project that impacts tribal lands may be funded prior to
20 meaningful consultation with affected Indian tribes. For projects
21 that directly impact tribal lands, the goal of the consultation
22 process is to obtain free, prior and informed consent for the
23 project, and at the end of such consultation, the Indian tribe's
24 government will provide the community climate advisory board created
25 in section 804 of this act with a written resolution providing
26 consent or withholding consent. If any project that impacts tribal
27 lands is funded under this act without consultation with Indian
28 tribes, an affected Indian tribe may request that all further action
29 on the project cease until consultation with any directly impacted
30 Indian tribe is completed.

31 NEW SECTION. **Sec. 804.** COMMUNITY CLIMATE ADVISORY BOARD. (1)
32 The community climate advisory board is established within the
33 executive office of the governor. The purpose of the board is to
34 oversee implementation of this act toward reducing pollution and
35 facilitating the transition to a clean energy economy equitably,
36 sustainably, and efficiently.

37 (2)(a) The board must have twenty-one voting members. Voting
38 members of the board must be appointed by the governor. The board

1 must include, at a minimum, representatives from tribal, local
2 government, business, environmental, labor, land conservation, and
3 public health organizations. At least one-third of the appointees
4 must be members of the panel established in section 805 of this act.
5 The board may also appoint representatives from public agencies as
6 nonvoting board members.

7 (b) The governor must appoint members of the board by January 1,
8 2019. Any member appointed by the governor may be removed by the
9 governor for cause. The governor must appoint board members to
10 achieve a board membership with balanced representation by geography,
11 gender, and ethnicity.

12 (3) The board has the following powers and duties:

13 (a) Providing advice and recommendations to the governor, the
14 legislature, the oversight committee created in section 801 of this
15 act, and state agencies regarding the implementation of this act,
16 including evaluating biannually the tax imposed pursuant to section
17 102 of this act;

18 (b) Monitoring the implementation of this act to ensure it
19 furthers the intent and purposes of this act and does not lead to
20 inequitable environmental or economic impacts, including but not
21 limited to leakage of emissions related to energy-intensive trade-
22 exposed manufacturing facilities; and

23 (c) Reporting periodically to the legislature, the governor, and
24 the oversight committee created in section 801 of this act on such
25 matters.

26 (4) Members of the board who are not state employees are entitled
27 to reimbursement for expenses related to the work of the board as a
28 class one group under RCW 43.03.220.

29 NEW SECTION. **Sec. 805.** ECONOMIC AND ENVIRONMENTAL JUSTICE
30 OVERSIGHT PANEL. (1) An economic and environmental justice oversight
31 panel is established as a subcommittee of the advisory board created
32 in section 804 of this act. The board will appoint the panel members
33 consistent with this section, and the panel will coordinate its work
34 with the governor's office, the department of commerce, the
35 department of health, and other state departments or divisions as the
36 governor may determine. The membership of the panel must consist of
37 at least nine persons, based on the nomination of statewide
38 organizations that represent the following interests:

1 (a) Five or more members, representing vulnerable populations and
2 residing in highly impacted communities, as identified in section 502
3 of this act;

4 (b) Two members representing union labor with expertise in
5 economic dislocation, clean energy economy, or energy-intensive
6 trade-exposed facilities; and

7 (c) Two members representing tribal governments.

8 (2) The purpose of the panel is to:

9 (a) Provide a forum for analysis of whether the policies adopted
10 in this act lead to improvements within highly impacted communities.
11 This subcommittee must also advise the board created in section 804
12 of this act in the performance of its responsibilities;

13 (b) Make recommendations on the cumulative impact analysis and
14 highly impacted communities designation required by section 502 of
15 this act;

16 (c) Make recommendations on the investment allocations authorized
17 by parts II through VII of this act, including its evaluation of the
18 projected performance of the investments to meet the criteria and
19 objectives developed in specific implementation plans;

20 (d) Evaluate the level of funding provided to assist low-income
21 individuals and displaced workers under part V of this act and the
22 funding of projects and activities located within or benefiting
23 highly impacted communities designated under section 502 of this act;
24 and

25 (e) Provide recommendations to implementation agencies for
26 meaningful consultation with vulnerable populations.

27 **Part IX**
28 **Preemption**

29 NEW SECTION. **Sec. 901.** (1) No state agency may adopt or enforce
30 a statewide program that sets a greenhouse gas emissions cap or
31 charge except as provided in this chapter.

32 (2) As of the effective date of this section, chapter 173-442 WAC
33 (the clean air rule) and associated amendments to chapter 173-441 WAC
34 previously adopted by the department of ecology may not be enforced
35 by the department of ecology. Nothing in this subsection
36 acknowledges, establishes, or creates legal authority for the
37 department of ecology or any other state agency to enact, adopt,
38 order, or in any way implement a rule or policy establishing a

1 statewide limit, cap, or standard to control the amount of greenhouse
2 gas emissions occurring during a period of time.

3 NEW SECTION. **Sec. 902.** (1) The carbon pollution tax levied in
4 section 102 of this act is in lieu of any carbon tax upon the sale or
5 use within this state of all fossil fuels, including fossil fuels
6 used in generating electricity and the retail sale or consumption
7 within this state of electricity generated through the combustion of
8 fossil fuels. No city, town, county, township, or other subdivision
9 or municipal corporation of the state may levy or collect any
10 comparable carbon tax or charge upon the sale or use within this
11 state of all fossil fuels, including fossil fuels used in generating
12 electricity and the retail sale or consumption within this state of
13 electricity generated through the combustion of fossil fuels.

14 (2) No city, town, county, township, or other subdivision or
15 municipal corporation of the state may levy any tax of any kind
16 whatsoever on amounts received by any person with respect to a carbon
17 pollution tax liability imposed under the provisions of the carbon
18 pollution tax act. This restriction is not imposed upon federally
19 recognized Indian tribes and this section places no restriction on
20 the ability of such tribes to institute a comparable tribal tax
21 within tribal lands.

22 **Part X**

23 **Incremental Electricity**

24 **Sec. 1001.** RCW 19.285.030 and 2017 c 315 s 1 are each amended to
25 read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Attorney general" means the Washington state office of the
29 attorney general.

30 (2) "Auditor" means: (a) The Washington state auditor's office or
31 its designee for qualifying utilities under its jurisdiction that are
32 not investor-owned utilities; or (b) an independent auditor selected
33 by a qualifying utility that is not under the jurisdiction of the
34 state auditor and is not an investor-owned utility.

35 (3)(a) "Biomass energy" includes: (i) Organic by-products of
36 pulping and the wood manufacturing process; (ii) animal manure; (iii)
37 solid organic fuels from wood; (iv) forest or field residues; (v)

1 untreated wooden demolition or construction debris; (vi) food waste
2 and food processing residuals; (vii) liquors derived from algae;
3 (viii) dedicated energy crops; and (ix) yard waste.

4 (b) "Biomass energy" does not include: (i) Wood pieces that have
5 been treated with chemical preservatives such as creosote,
6 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old
7 growth forests; or (iii) municipal solid waste.

8 (4) "Coal transition power" has the same meaning as defined in
9 RCW 80.80.010.

10 (5) "Commission" means the Washington state utilities and
11 transportation commission.

12 (6) "Conservation" means any reduction in electric power
13 consumption resulting from increases in the efficiency of energy use,
14 production, or distribution.

15 (7) "Cost-effective" has the same meaning as defined in RCW
16 80.52.030.

17 (8) "Council" means the Washington state apprenticeship and
18 training council within the department of labor and industries.

19 (9) "Customer" means a person or entity that purchases
20 electricity for ultimate consumption and not for resale.

21 (10) "Department" means the department of commerce or its
22 successor.

23 (11) "Distributed generation" means an eligible renewable
24 resource where the generation facility or any integrated cluster of
25 such facilities has a generating capacity of not more than five
26 megawatts.

27 (12) "Eligible renewable resource" means:

28 (a) Electricity from a generation facility powered by a renewable
29 resource other than freshwater that commences operation after March
30 31, 1999, where: (i) The facility is located in the Pacific
31 Northwest; or (ii) the electricity from the facility is delivered
32 into Washington state on a real-time basis without shaping, storage,
33 or integration services;

34 (b) Incremental electricity produced as a result of efficiency
35 improvements completed after March 31, 1999, to hydroelectric
36 generation projects owned by a qualifying utility and located in the
37 Pacific Northwest where the additional generation does not result in
38 new water diversions or impoundments;

39 (c) Hydroelectric generation from a project completed after March
40 31, 1999, where the generation facility is located in irrigation

1 pipes, irrigation canals, water pipes whose primary purpose is for
2 conveyance of water for municipal use, and wastewater pipes located
3 in Washington where the generation does not result in new water
4 diversions or impoundments;

5 (d) Qualified biomass energy;

6 (e) For a qualifying utility that serves customers in other
7 states, electricity from a generation facility powered by a renewable
8 resource other than freshwater that commences operation after March
9 31, 1999, where: (i) The facility is located within a state in which
10 the qualifying utility serves retail electrical customers; and (ii)
11 the qualifying utility owns the facility in whole or in part or has a
12 long-term contract with the facility of at least twelve months or
13 more; ((~~or~~))

14 (f)(i) Incremental electricity produced as a result of a capital
15 investment completed after January 1, 2010, that increases, relative
16 to a baseline level of generation prior to the capital investment,
17 the amount of electricity generated in a facility that generates
18 qualified biomass energy as defined under subsection (18)(c)(ii) of
19 this section and that commenced operation before March 31, 1999.

20 (ii) Beginning January 1, 2007, the facility must demonstrate its
21 baseline level of generation over a three-year period prior to the
22 capital investment in order to calculate the amount of incremental
23 electricity produced.

24 (iii) The facility must demonstrate that the incremental
25 electricity resulted from the capital investment, which does not
26 include expenditures on operation and maintenance in the normal
27 course of business, through direct or calculated measurement;

28 (g) That portion of incremental electricity produced as a result
29 of efficiency improvements completed after March 31, 1999,
30 attributable to a qualifying utility's share of the electricity
31 output from hydroelectric generation projects whose energy output is
32 marketed by the Bonneville power administration where the additional
33 generation does not result in new water diversions or impoundments;
34 or

35 (h) The environmental attributes, including renewable energy
36 credits, from (g) of this subsection transferred to investor-owned
37 utilities pursuant to the Bonneville power administration's
38 residential exchange program.

39 (13) "Investor-owned utility" has the same meaning as defined in
40 RCW 19.29A.010.

1 (14) "Load" means the amount of kilowatt-hours of electricity
2 delivered in the most recently completed year by a qualifying utility
3 to its Washington retail customers.

4 (15)(a) "Nonpower attributes" means all environmentally related
5 characteristics, exclusive of energy, capacity reliability, and other
6 electrical power service attributes, that are associated with the
7 generation of electricity from a renewable resource, including but
8 not limited to the facility's fuel type, geographic location,
9 vintage, qualification as an eligible renewable resource, and avoided
10 emissions of pollutants to the air, soil, or water, and avoided
11 emissions of carbon dioxide and other greenhouse gases.

12 (b) "Nonpower attributes" does not include any aspects, claims,
13 characteristics, and benefits associated with the on-site capture and
14 destruction of methane or other greenhouse gases at a facility
15 through a digester system, landfill gas collection system, or other
16 mechanism, which may be separately marketable as greenhouse gas
17 emission reduction credits, offsets, or similar tradable commodities.
18 However, these separate avoided emissions may not result in or
19 otherwise have the effect of attributing greenhouse gas emissions to
20 the electricity.

21 (16) "Pacific Northwest" has the same meaning as defined for the
22 Bonneville power administration in section 3 of the Pacific Northwest
23 electric power planning and conservation act (94 Stat. 2698; 16
24 U.S.C. Sec. 839a).

25 (17) "Public facility" has the same meaning as defined in RCW
26 39.35C.010.

27 (18) "Qualified biomass energy" means electricity produced from a
28 biomass energy facility that: (a) Commenced operation before March
29 31, 1999; (b) contributes to the qualifying utility's load; and (c)
30 is owned either by: (i) A qualifying utility; or (ii) an industrial
31 facility that is directly interconnected with electricity facilities
32 that are owned by a qualifying utility and capable of carrying
33 electricity at transmission voltage.

34 (19) "Qualifying utility" means an electric utility, as the term
35 "electric utility" is defined in RCW 19.29A.010, that serves more
36 than twenty-five thousand customers in the state of Washington. The
37 number of customers served may be based on data reported by a utility
38 in form 861, "annual electric utility report," filed with the energy
39 information administration, United States department of energy.

1 (20) "Renewable energy credit" means a tradable certificate of
2 proof, except as provided in RCW 19.285.040(2)(m), of at least one
3 megawatt-hour of an eligible renewable resource where, except as
4 provided in subsection (12)(h) of this section, the generation
5 facility is not powered by freshwater. The certificate includes all
6 of the nonpower attributes associated with that one megawatt-hour of
7 electricity, and the certificate is verified by a renewable energy
8 credit tracking system selected by the department.

9 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar
10 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
11 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
12 fuel as defined in RCW 82.29A.135 that is not derived from crops
13 raised on land cleared from old growth or first-growth forests where
14 the clearing occurred after December 7, 2006; or (i) biomass energy.

15 (22) "Rule" means rules adopted by an agency or other entity of
16 Washington state government to carry out the intent and purposes of
17 this chapter.

18 (23) "Year" means the twelve-month period commencing January 1st
19 and ending December 31st.

20 **Sec. 1002.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to
21 read as follows:

22 (1) Each qualifying utility (~~shall~~) must pursue all available
23 conservation that is cost-effective, reliable, and feasible.

24 (a) By January 1, 2010, using methodologies consistent with those
25 used by the Pacific Northwest electric power and conservation
26 planning council in the most recently published regional power plan
27 as it existed on June 12, 2014, or a subsequent date as may be
28 provided by the department or the commission by rule, each qualifying
29 utility (~~shall~~) must identify its achievable cost-effective
30 conservation potential through 2019. Nothing in the rule adopted
31 under this subsection precludes a qualifying utility from using its
32 utility specific conservation measures, values, and assumptions in
33 identifying its achievable cost-effective conservation potential. At
34 least every two years thereafter, the qualifying utility (~~shall~~)
35 must review and update this assessment for the subsequent ten-year
36 period.

37 (b) Beginning January 2010, each qualifying utility (~~shall~~)
38 must establish and make publicly available a biennial acquisition
39 target for cost-effective conservation consistent with its

1 identification of achievable opportunities in (a) of this subsection,
2 and meet that target during the subsequent two-year period. At a
3 minimum, each biennial target must be no lower than the qualifying
4 utility's pro rata share for that two-year period of its cost-
5 effective conservation potential for the subsequent ten-year period.

6 (c)(i) Except as provided in (c)(ii) and (iii) of this
7 subsection, beginning on January 1, 2014, cost-effective conservation
8 achieved by a qualifying utility in excess of its biennial
9 acquisition target may be used to help meet the immediately
10 subsequent two biennial acquisition targets, such that no more than
11 twenty percent of any biennial target may be met with excess
12 conservation savings.

13 (ii) Beginning January 1, 2014, a qualifying utility may use
14 single large facility conservation savings in excess of its biennial
15 target to meet up to an additional five percent of the immediately
16 subsequent two biennial acquisition targets, such that no more than
17 twenty-five percent of any biennial target may be met with excess
18 conservation savings allowed under all of the provisions of this
19 section combined. For the purposes of this subsection (1)(c)(ii),
20 "single large facility conservation savings" means cost-effective
21 conservation savings achieved in a single biennial period at the
22 premises of a single customer of a qualifying utility whose annual
23 electricity consumption prior to the conservation savings exceeded
24 five average megawatts.

25 (iii) Beginning January 1, 2012, and until December 31, 2017, a
26 qualifying utility with an industrial facility located in a county
27 with a population between ninety-five thousand and one hundred
28 fifteen thousand that is directly interconnected with electricity
29 facilities that are capable of carrying electricity at transmission
30 voltage((τ)) may use cost-effective conservation from that industrial
31 facility in excess of its biennial acquisition target to help meet
32 the immediately subsequent two biennial acquisition targets, such
33 that no more than twenty-five percent of any biennial target may be
34 met with excess conservation savings allowed under all of the
35 provisions of this section combined.

36 (d) In meeting its conservation targets, a qualifying utility may
37 count high-efficiency cogeneration owned and used by a retail
38 electric customer to meet its own needs. High-efficiency cogeneration
39 is the sequential production of electricity and useful thermal energy
40 from a common fuel source, where, under normal operating conditions,

1 the facility has a useful thermal energy output of no less than
2 thirty-three percent of the total energy output. The reduction in
3 load due to high-efficiency cogeneration (~~shall~~) must be: (i)
4 Calculated as the ratio of the fuel chargeable to power heat rate of
5 the cogeneration facility compared to the heat rate on a new and
6 clean basis of a best-commercially available technology
7 combined-cycle natural gas-fired combustion turbine; and (ii) counted
8 towards meeting the biennial conservation target in the same manner
9 as other conservation savings.

10 (e) The commission may determine if a conservation program
11 implemented by an investor-owned utility is cost-effective based on
12 the commission's policies and practice.

13 (f) The commission may rely on its standard practice for review
14 and approval of investor-owned utility conservation targets.

15 (2)(a) Except as provided in (j) and (l) of this subsection, each
16 qualifying utility (~~shall~~) must use eligible renewable resources or
17 acquire equivalent renewable energy credits, or any combination of
18 them, to meet the following annual targets:

19 (i) At least three percent of its load by January 1, 2012, and
20 each year thereafter through December 31, 2015;

21 (ii) At least nine percent of its load by January 1, 2016, and
22 each year thereafter through December 31, 2019; and

23 (iii) At least fifteen percent of its load by January 1, 2020,
24 and each year thereafter.

25 (b) A qualifying utility may count distributed generation at
26 double the facility's electrical output if the utility: (i) Owns or
27 has contracted for the distributed generation and the associated
28 renewable energy credits; or (ii) has contracted to purchase the
29 associated renewable energy credits.

30 (c) In meeting the annual targets in (a) of this subsection, a
31 qualifying utility (~~shall~~) must calculate its annual load based on
32 the average of the utility's load for the previous two years.

33 (d) A qualifying utility (~~shall be~~) is considered in compliance
34 with an annual target in (a) of this subsection if: (i) The utility's
35 weather-adjusted load for the previous three years on average did not
36 increase over that time period; (ii) after December 7, 2006, the
37 utility did not commence or renew ownership or incremental purchases
38 of electricity from resources other than coal transition power or
39 renewable resources other than on a daily spot price basis and the
40 electricity is not offset by equivalent renewable energy credits; and

1 (iii) the utility invested at least one percent of its total annual
2 retail revenue requirement that year on eligible renewable resources,
3 renewable energy credits, or a combination of both.

4 (e) The requirements of this section may be met for any given
5 year with renewable energy credits produced during that year, the
6 preceding year, or the subsequent year. Each renewable energy credit
7 may be used only once to meet the requirements of this section.

8 (f) In complying with the targets established in (a) of this
9 subsection, a qualifying utility may not count:

10 (i) Eligible renewable resources or distributed generation where
11 the associated renewable energy credits are owned by a separate
12 entity; or

13 (ii) Eligible renewable resources or renewable energy credits
14 obtained for and used in an optional pricing program such as the
15 program established in RCW 19.29A.090.

16 (g) Where fossil and combustible renewable resources are cofired
17 in one generating unit located in the Pacific Northwest where the
18 cofiring commenced after March 31, 1999, the unit (~~shall be~~) is
19 considered to produce eligible renewable resources in direct
20 proportion to the percentage of the total heat value represented by
21 the heat value of the renewable resources.

22 (h)(i) A qualifying utility that acquires an eligible renewable
23 resource or renewable energy credit may count that acquisition at one
24 and two-tenths times its base value:

25 (A) Where the eligible renewable resource comes from a facility
26 that commenced operation after December 31, 2005; and

27 (B) Where the developer of the facility used apprenticeship
28 programs approved by the council during facility construction.

29 (ii) The council (~~shall~~) must establish minimum levels of labor
30 hours to be met through apprenticeship programs to qualify for this
31 extra credit.

32 (i) A qualifying utility (~~shall be~~) is considered in compliance
33 with an annual target in (a) of this subsection if events beyond the
34 reasonable control of the utility that could not have been reasonably
35 anticipated or ameliorated prevented it from meeting the renewable
36 energy target. Such events include weather-related damage, mechanical
37 failure, strikes, lockouts, and actions of a governmental authority
38 that adversely affect the generation, transmission, or distribution
39 of an eligible renewable resource under contract to a qualifying
40 utility.

1 (j)(i) Beginning January 1, 2016, only a qualifying utility that
2 owns or is directly interconnected to a qualified biomass energy
3 facility may use qualified biomass energy to meet its compliance
4 obligation under this subsection.

5 (ii) A qualifying utility may no longer use electricity and
6 associated renewable energy credits from a qualified biomass energy
7 facility if the associated industrial pulping or wood manufacturing
8 facility ceases operation other than for purposes of maintenance or
9 upgrade.

10 (k) An industrial facility that hosts a qualified biomass energy
11 facility may only transfer or sell renewable energy credits
12 associated with qualified biomass energy generated at its facility to
13 the qualifying utility with which it is directly interconnected with
14 facilities owned by such a qualifying utility and that are capable of
15 carrying electricity at transmission voltage. The qualifying utility
16 may only use an amount of renewable energy credits associated with
17 qualified biomass energy that are equivalent to the proportionate
18 amount of its annual targets under (a)(ii) and (iii) of this
19 subsection that was created by the load of the industrial facility. A
20 qualifying utility that owns a qualified biomass energy facility may
21 not transfer or sell renewable energy credits associated with
22 qualified biomass energy to another person, entity, or qualifying
23 utility.

24 (l) Beginning January 1, 2019, a qualifying utility may use
25 eligible renewable resources as identified under RCW 19.285.030(12)
26 (g) and (h) to meet its compliance obligation under this subsection
27 (2). A qualifying utility may not transfer or sell these eligible
28 renewable resources to another utility for compliance purposes under
29 this chapter.

30 (m) Renewable energy credits allocated under RCW
31 19.285.030(12)(h) may not be transferred or sold to another
32 qualifying utility for compliance under this chapter.

33 (3) Utilities that become qualifying utilities after December 31,
34 2006, (~~shall~~) must meet the requirements in this section on a time
35 frame comparable in length to that provided for qualifying utilities
36 as of December 7, 2006.

37 **Part XI**

38 **Miscellaneous Provisions**

1 NEW SECTION. **Sec. 1101.** The provisions of RCW 82.32.805 and
2 82.32.808 do not apply to this act.

3 NEW SECTION. **Sec. 1102.** Part I of this act constitutes a new
4 chapter in Title 82 RCW.

5 NEW SECTION. **Sec. 1103.** Sections 402, 501 through 506, and 702
6 of this act and parts II, III, VIII, and IX of this act constitute a
7 new chapter in Title 43 RCW.

8 NEW SECTION. **Sec. 1104.** Part VI of this act constitutes a new
9 chapter in Title 70 RCW.

10 NEW SECTION. **Sec. 1105.** 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. 1106.** Section 102 of this act takes effect
15 July 1, 2019.

16 NEW SECTION. **Sec. 1107.** CONTINGENT EXPIRATION DATE. (1)(a) This
17 act expires on the earlier of the date that any of the following
18 statutes, rules, or measures takes effect:

19 (i) Any statewide law that places a charge, tax, or cap on the
20 level of carbon emissions within the state; or

21 (ii) A statewide initiative measure by the people that creates a
22 charge, tax, or cap upon the emission of greenhouse gases that is
23 imposed broadly upon those persons subject to the state carbon
24 pollution tax imposed under section 102 of this act.

25 (b) For the purposes of this section, "cap" means a statewide
26 aggregate emission limit that applies to one or more economic sectors
27 and that requires the designated entities responsible for emissions
28 within those sectors to keep their cumulative emissions at or below
29 the level of the aggregate limit.

30 (2) The department must provide written notice of the expiration
31 date of this act to affected parties, the chief clerk of the house of

1 representatives, the secretary of the senate, the office of the code
2 reviser, and others as deemed appropriate by the department.

--- END ---