
SENATE BILL 5127

State of Washington

65th Legislature

2017 Regular Session

By Senators Braun and Ranker; by request of Office of Financial Management

1 AN ACT Relating to establishing a carbon pollution tax and
2 investment program to reduce greenhouse gas emissions, facilitate the
3 transition to a clean energy economy, and invest in K-12 education
4 and other vital public services; amending RCW 82.32.045 and
5 82.04.4451; adding a new chapter to Title 82 RCW; adding a new
6 chapter to Title 43 RCW; creating new sections; providing an
7 effective date; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. The legislature finds
10 that establishing a carbon pollution tax will allow Washington state
11 to incentivize reductions in greenhouse gas emissions necessary to
12 achieve pollution limits set by the legislature in 2008. The
13 legislature further finds the revenue generated by the carbon
14 pollution tax will enable the state to increase funding for K-12
15 education and other vital public services while also making critical
16 investments in the state's water infrastructure, forest health, and
17 energy systems. It is the intent of this act to provide for these
18 investments as well as additional investments in low-income support
19 programs, workforce transition, and small business tax relief to
20 minimize price impacts from the carbon pollution tax on households
21 and small businesses.

1 (11) "Natural gas" means naturally occurring mixtures of
2 hydrocarbon gases and vapors consisting principally of methane,
3 whether in gaseous or liquid form, including methane clathrate.

4 (12) "Person" has the same meaning as provided in RCW 82.04.030.

5 (13) "Petroleum product" has the same meaning as provided in RCW
6 82.23A.010.

7 (14) "Sale" has the same meaning as provided in RCW 82.04.040.

8 (15) "Special fuel" has the same meaning as provided in RCW
9 82.38.020 and includes fuel that is sold or used to propel vessels.

10 (16) "Taxpayer" means a person subject to the tax imposed in this
11 chapter.

12 (17)(a) "Use," "used," "using," or "put to use" means, with
13 respect to any fossil fuel, the consumption in this state of the
14 fossil fuel by the taxpayer or the possession or storage in this
15 state of the fossil fuel by the taxpayer preparatory to subsequent
16 consumption of the fossil fuel within this state by the taxpayer.

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

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

26 NEW SECTION. **Sec. 102.** CARBON POLLUTION TAX. (1)(a) A carbon
27 pollution tax is imposed on:

28 (i) The sale or use within this state of all fossil fuels,
29 including fossil fuels used in generating electricity; or

30 (ii) The sale or consumption within this state of electricity
31 generated through the combustion of fossil fuels.

32 (b) The measure of the carbon pollution tax is the carbon dioxide
33 emissions:

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

36 (ii) inherent in electricity consumed within this state by the
37 taxpayer.

38 (c)(i) The tax rate is equal to: Twenty-five dollars per metric
39 ton of carbon dioxide as of May 1, 2018; and

1 (ii) For subsequent years, beginning January 1, 2019, the
2 department must adjust the previous year's tax rate by the rate of
3 inflation, as measured using the consumer price index for the most
4 recent year for which data is available, if the rate of inflation is
5 greater than zero, plus three and one-half percent. The department
6 must round the tax rate to the nearest cent. The department must
7 publish on its web site the tax rate for any year by January 1st of
8 that year.

9 (2) For the purposes of this chapter:

10 (a) The carbon pollution tax is imposed only once with respect to
11 the same fossil fuel or electricity, at the time and place of the
12 first taxable event within this state, and upon the first taxable
13 person within this state. The carbon pollution tax does not apply to
14 the sale or consumption within this state of electricity generated
15 using fossil fuels upon which the tax under this chapter has been
16 imposed;

17 (b) The carbon pollution tax applies only to:

18 (i) Persons who are required to be registered with the department
19 under RCW 82.32.030(1);

20 (ii) The state, its political subdivisions, and municipal
21 corporations; and

22 (iii) Persons who maintain a place of business in this state but
23 who are not required to be registered with the department under RCW
24 82.32.030(1);

25 (c) A sale of fossil fuel takes place in this state when the
26 fossil fuel is delivered in this state to the purchaser or a person
27 designated by the purchaser, notwithstanding any contract terms
28 designating a location outside of this state as the place of sale;
29 and

30 (d) Each sale within this state of a fossil fuel or electricity,
31 other than a sale of electricity to consumers who are not direct
32 service industrial customers, must indicate on the invoice or other
33 document of sale the amount of carbon pollution tax paid or to be
34 paid with respect to the fossil fuel or electricity and the rate of
35 such tax paid or to be paid, who paid or is liable to pay the tax,
36 and any other information as may be prescribed by the department by
37 rule. If a purchaser of fossil fuels or electricity sold within this
38 state fails to obtain an invoice or document of sale that complies
39 with this subsection (2)(d), the department may collect the carbon
40 pollution tax from the purchaser.

1 (3) For purposes of determining the tax due under this chapter:

2 (a) The department must use the carbon calculation for all fossil
3 fuels sold or used within the state or inherent in electricity sold
4 or consumed within this state.

5 (b) For the sale or consumption of electricity where the source
6 of fossil fuels used to generate the electricity is unknown or
7 unspecified, the carbon dioxide inherent in that electricity is one
8 metric ton of carbon dioxide equivalent per megawatt-hour.

9 (4) For taxpayers who are also subject to any of the taxes
10 imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW, the
11 frequency of reporting and payment of the carbon pollution tax must,
12 to the extent practicable, coincide with a taxpayer's reporting
13 periods for the taxes imposed under chapter 82.04, 82.08, 82.12, or
14 82.16 RCW.

15 (5) The carbon pollution tax on the sale or use of fossil fuels
16 is on the seller or user of the fossil fuel.

17 (6)(a) The carbon pollution tax on the sale or consumption of
18 electricity is on the:

19 (i) Seller of the electricity if the seller is required to be
20 registered with the department for purposes of paying taxes due under
21 chapter 82.04 or 82.16 RCW; or

22 (ii) Direct service industrial customer if the direct service
23 industrial customer purchased the electricity from a seller who is
24 not required to be registered with the department for purposes of
25 paying taxes due under chapter 82.04 or 82.16 RCW.

26 (b) The carbon pollution tax on the sale or consumption within
27 this state of electricity generated by fossil fuels does not apply to
28 any consumer of electricity other than a direct service industrial
29 customer.

30 (7) The department must develop and make available worksheets,
31 tax tables, and guidance documents necessary to calculate the carbon
32 dioxide emissions of fossil fuels or the carbon dioxide emissions
33 inherent in electricity.

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

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

1 (b) Fossil fuels or electricity that the state is prohibited from
2 taxing under the state Constitution or the Constitution or laws of
3 the United States;

4 (c)(i) Fossil fuels or electricity exported from this state.
5 Export to Indian country located within the boundaries of this state
6 is not considered export outside this state. For purposes of this
7 subsection (1)(c)(i), "Indian country" has the same meaning as
8 provided in RCW 37.12.160.

9 (ii) An exporter of fossil fuels or electricity upon which
10 another person previously paid the carbon pollution tax or for which
11 allowances were purchased in a state-administered greenhouse gas
12 emissions trading program is entitled to a credit or refund of the
13 tax paid, if the exporter can establish to the department's
14 satisfaction that the tax under this chapter was previously paid on
15 the exported fossil fuels or electricity. The person who paid the
16 carbon pollution tax is not entitled to an exemption under this
17 subsection (1)(c) when some other person is entitled to a refund or
18 credit under this subsection (1)(c)(ii). For purposes of this
19 subsection (1)(c)(ii), "exporter" means a person who exports fossil
20 fuels or electricity from this state;

21 (d) Fossil fuels or electricity sold to or used by a light and
22 power business, as defined in RCW 82.16.010, for coal transition
23 power as defined in RCW 80.80.010(5); or

24 (e) Diesel fuel, biodiesel fuel, or aircraft fuel when these
25 fuels are used solely for agricultural purposes by a farm fuel user,
26 as those terms are defined in RCW 82.08.865.

27 (2) If a person pays the carbon pollution tax, or a comparable
28 carbon pollution tax imposed by another state, on fossil fuels that
29 are consumed in the generation of electricity sold for consumption in
30 this state, or purchases allowances for those fossil fuels through a
31 state-administered greenhouse gas emissions trading program, the
32 electricity so generated will not be subject to the tax imposed under
33 this chapter provided that the department receives evidence, pursuant
34 to rules adopted by the department, that the tax has been paid by the
35 person using the fossil fuels to generate electricity. The exemption
36 provided in this subsection is limited to the total amount of
37 comparable carbon pollution tax imposed by another state.

38 (3) Credit is allowed against the cost of the purchase of
39 allowances in a state-administered greenhouse gas emissions trading
40 system or the carbon pollution tax for any comparable carbon

1 pollution tax legally due and paid by the taxpayer or other person to
2 another state with respect to the same fossil fuel or electricity.
3 The amount of the credit may not exceed the lesser of the total
4 amount of comparable carbon pollution tax imposed by another state or
5 the tax liability arising under this chapter with respect to that
6 fossil fuel or electricity.

7 (4) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Allowance" means an instrument that permits an entity to
10 emit one metric ton of carbon dioxide equivalent in a state-
11 administered greenhouse gas emissions trading system recognized by
12 the department of commerce.

13 (b) "Comparable carbon pollution tax" means a tax that is:

14 (i) Imposed on the sale, use, possession, transfer, or
15 consumption of fossil fuels, or the sale, consumption, or generation
16 of electricity produced through the combustion of fossil fuels, and
17 that is not generally imposed on other activities or privileges; and

18 (ii) Measured by the carbon dioxide emissions resulting from the
19 complete combustion or oxidation of such fossil fuels, or the carbon
20 dioxide inherent in such electricity, in terms of carbon dioxide
21 emissions.

22 (c) "State" means (i) the state of Washington, (ii) a state of
23 the United States other than Washington, or any political subdivision
24 of such other state, (iii) the District of Columbia, and (iv) any
25 foreign country or political subdivision thereof.

26 NEW SECTION. **Sec. 104.** RULE-MAKING AND OTHER ADMINISTRATIVE
27 AUTHORITY. (1) The provisions of chapter 82.32 RCW apply to this
28 chapter.

29 (2) The department, department of ecology, and the department of
30 commerce may adopt rules as they deem necessary to administer this
31 chapter.

32 NEW SECTION. **Sec. 105.** TAXPAYER REPORTS. (1) As part of a
33 taxpayer's tax reporting obligation, each taxpayer remitting the
34 carbon pollution tax on electricity as provided in section
35 102(1)(a)(ii) of this act must file with the department a carbon
36 content report containing the information contained in RCW 19.29A.060
37 and such other information as the department may require for purposes
38 of this chapter, together with the tax calculated thereon based on

1 tax tables adopted by the department pursuant to section 102(7) of
2 this act. If the taxpayer cannot identify the resources, the
3 department must assume the carbon content inherent in that
4 electricity to be one metric ton of carbon dioxide per megawatt-hour.

5 (2) For purposes of determining the tax due under this chapter,
6 the department must use the carbon calculation provided in section
7 102(3) of this act.

8 (3) As part of a taxpayer's tax reporting obligation, each
9 taxpayer remitting the carbon pollution tax on fossil fuels as
10 provided in section 102(1)(a)(i) of this act, must file with the
11 department a report that details the fossil fuels used in the
12 refining process and the fuel types and quantities produced for sale
13 into the state each year, and such other information as the
14 department may require for purposes of reporting tax due under this
15 chapter, together with the tax due thereon based on the tax tables
16 adopted by the department pursuant to section 102(7) of this act.

17 (4) If the information required in subsection (1) or (2) of this
18 section is not available, the taxpayer may file an interim report
19 based on estimates, together with an estimated tax payment based
20 thereon and then file a final report no later than six months after
21 the due date of the report required under this section. The
22 department must add interest on amounts overpaid and penalties and
23 interest on amounts underpaid in accordance with chapter 82.32 RCW.

24 (5) All information submitted to the department under this
25 section is considered taxpayer information under RCW 82.32.330 and is
26 not subject to disclosure.

27 NEW SECTION. **Sec. 106.** REPORT BY DEPARTMENT. On or before
28 October 31st of each year from 2019 through 2029 and biennially
29 thereafter, the department must submit a report to the governor and
30 the legislature containing the following with respect to the annual
31 or biennial period ending December 31st immediately preceding the
32 reporting date, annualized if in a biennial report:

33 (1) The total carbon pollution tax collected during the reporting
34 period;

35 (2) Estimated costs incurred by the department, the department of
36 commerce, the department of ecology, and the Washington State
37 University extension energy program directly associated with
38 administration of the carbon pollution tax shown both in dollar
39 amounts and as a percentage of the total amount of carbon pollution

1 tax revenues collected. The department of ecology, the department of
2 commerce, and Washington State University extension energy program
3 must report its estimated administrative costs under this subsection
4 to the department each year at least two weeks before the deadline
5 for the report required under this section;

6 (3) The estimated overall net revenue gain or loss calculated by
7 comparison of subsections (1) and (2) of this section in dollar
8 amounts and as a percentage of carbon pollution tax revenues
9 collected; and

10 (4) A summary produced by the department of commerce of the
11 investments made through its administration of the carbon reduction
12 investment fund created in section 301 of this act. The summary
13 should include amounts invested in each program area, project
14 descriptions, names of grant recipients, an estimate of the
15 greenhouse gas emissions reductions achieved or anticipated via the
16 investments, and other pertinent information or information as
17 periodically requested by the legislature. The department of commerce
18 must provide the summary described under this subsection to the
19 department each year at least two weeks before the deadline required
20 for the report required under this section.

21 NEW SECTION. **Sec. 107.** TECHNICAL ASSISTANCE. Upon request of
22 the department, the departments of commerce and ecology and the
23 Washington State University extension energy program must provide
24 technical assistance to the department as may be necessary for the
25 department to effectively administer this chapter.

26 NEW SECTION. **Sec. 108.** CARBON POLLUTION REDUCTION ACCOUNT. (1)
27 The carbon pollution reduction account is created in the state
28 treasury. All receipts from the carbon pollution tax under section
29 102 of this act, and other moneys directed to the account by the
30 legislature, must be deposited into the account. Moneys in the
31 account may only be spent after appropriation. Beginning in fiscal
32 year 2019 and for each fiscal year thereafter, moneys in the account
33 may only be used for the following purposes:

34 (a) Fifteen percent of the moneys or two hundred fifty million
35 dollars, whichever is greater, for water infrastructure and forest
36 health projects;

37 (b) Fifteen percent of the moneys or two hundred fifty million
38 dollars, whichever is greater, for clean energy and clean

1 transportation investments. Moneys in this subsection (1)(b) must be
2 used as follows:

3 (i) At least sixty million dollars for research, development,
4 demonstration, and pilot development of clean energy technology, for
5 projects awarded through the clean energy fund administered by the
6 department of commerce;

7 (ii) An amount sufficient to support appropriations in the
8 omnibus capital appropriations act for weatherization, energy
9 efficiency and solar grants, building envelope repairs, or other
10 public building energy efficiency projects; and

11 (iii) The remainder to the carbon reduction investment fund
12 created in section 301 of this act;

13 (c) Six percent of the moneys or one hundred million dollars,
14 whichever is greater, to relieve the price impact of the carbon
15 pollution tax including, but not limited to, the following programs:

16 (i) The aged, blind, or disabled cash assistance program;

17 (ii) The temporary assistance for needy families program; or

18 (iii) The low-income home energy assistance program;

19 (d) Twelve percent of the moneys or two hundred million dollars,
20 whichever is greater, for jobs and competitiveness programs in part
21 II and part III of this act. Moneys in this subsection (1)(d) must be
22 used as follows:

23 (i) Twenty million dollars for workforce training assistance
24 programs as prioritized by the employment security department;

25 (ii) Transfers to the state general fund as directed in the
26 omnibus operating appropriations act for the cost of small business
27 tax relief provided in part II of this act; and

28 (iii) The remainder to the carbon reduction investment fund
29 created in section 301 of this act for industrial energy efficiency
30 and clean manufacturing projects that help Washington manufacturers
31 reduce their carbon intensity and lower their carbon pollution tax
32 obligations under this act; and

33 (e) The department's and other agencies' costs to support and
34 administer the carbon pollution tax and program administration for
35 investments made through this act.

36 (2) The remainder of the moneys in the account must be
37 transferred to the education legacy trust account created in RCW
38 83.100.230.

39 (3) For fiscal year 2018, the legislature may direct the state
40 treasurer to make transfers of moneys from the carbon pollution

1 reduction account to the state general fund for costs associated with
2 part II of this act prior to July 1, 2018.

3 NEW SECTION. **Sec. 109.** RCW 82.32.805 and 82.32.808 do not apply
4 to the new tax preferences, as defined in RCW 82.32.805, created in
5 section 103, chapter . . . , Laws of 2017 (section 103 of this act).

6 **PART II**
7 **SMALL BUSINESS TAX RELIEF**

8 **Sec. 201.** RCW 82.32.045 and 2010 1st sp.s. c 23 s 1103 are each
9 amended to read as follows:

10 (1) Except as otherwise provided in this chapter, payments of the
11 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16
12 RCW, along with reports and returns on forms prescribed by the
13 department, are due monthly within twenty-five days after the end of
14 the month in which the taxable activities occur.

15 (2) The department of revenue may relieve any taxpayer or class
16 of taxpayers from the obligation of remitting monthly and may require
17 the return to cover other longer reporting periods, but in no event
18 may returns be filed for a period greater than one year. For these
19 taxpayers, tax payments are due on or before the last day of the
20 month next succeeding the end of the period covered by the return.

21 (3) The department of revenue may also require verified annual
22 returns from any taxpayer, setting forth such additional information
23 as it may deem necessary to correctly determine tax liability.

24 (4) Notwithstanding subsections (1) and (2) of this section, the
25 department may relieve any person of the requirement to file returns
26 and pay any taxes otherwise due under chapters 82.04 and 82.16 RCW if
27 the following conditions are met:

28 (a) The person's value of products, gross proceeds of sales, or
29 gross income of the business, from all business activities taxable
30 under chapter 82.04 RCW, is (~~less than:~~

31 ~~(i) Twenty-eight thousand dollars per year; or~~
32 ~~(ii) Forty-six thousand six hundred sixty-seven dollars per~~
33 ~~year));~~

34 (i) For persons generating less than fifty percent of their
35 taxable amount from activities taxable under RCW 82.04.255,
36 82.04.290(2)(a), and 82.04.285, less than:

37 (A) Twenty-eight thousand dollars per year through June 30, 2018;

1 (B) One hundred thousand dollars per year beginning July 1, 2018;
2 or

3 (ii) For persons generating at least fifty percent of their
4 taxable amount from activities taxable under RCW 82.04.255,
5 82.04.290(2)(a), and 82.04.285 less than one hundred thousand dollars
6 per year;

7 (b) The person's gross income of the business from all activities
8 taxable under chapter 82.16 RCW is less than twenty-four thousand
9 dollars per year; and

10 (c) The person is not required to collect or pay to the
11 department of revenue any other tax or fee which the department is
12 authorized to collect.

13 **Sec. 202.** RCW 82.04.4451 and 2010 1st sp.s. c 23 s 1102 are each
14 amended to read as follows:

15 (1) In computing the tax imposed under this chapter, a credit is
16 allowed against the amount of tax otherwise due under this chapter,
17 as provided in this section. The maximum credit for a taxpayer for a
18 reporting period is determined by multiplying the applicable maximum
19 monthly credit amount provided in (a) or (b) of this subsection (1)
20 by the number of months in the reporting period, as determined under
21 RCW 82.32.045.

22 (a) Except for taxpayers that report at least fifty percent of
23 their taxable amount under RCW 82.04.255, 82.04.290(2)(a), and
24 82.04.285, the maximum (~~credit for a taxpayer for a reporting period~~
25 ~~is thirty five dollars multiplied by the number of months in the~~
26 ~~reporting period, as determined under RCW 82.32.045)) monthly credit
27 amount for a taxpayer is:~~

28 (i) Thirty-five dollars through June 30, 2018; and

29 (ii) One hundred twenty-five dollars beginning July 1, 2018.

30 (b) For a taxpayer that reports at least fifty percent of its
31 taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285,
32 the maximum (~~credit for a reporting period is seventy dollars~~
33 ~~multiplied by the number of months in the reporting period, as~~
34 ~~determined under RCW 82.32.045)) monthly credit amount is one hundred
35 twenty-five dollars.~~

36 (2) When the amount of tax otherwise due under this chapter is
37 equal to or less than the maximum credit, a credit is allowed equal
38 to the amount of tax otherwise due under this chapter.

1 (3) When the amount of tax otherwise due under this chapter
2 exceeds the maximum credit, a reduced credit is allowed equal to
3 twice the maximum credit, minus the tax otherwise due under this
4 chapter, but not less than zero.

5 (4) The department may prepare a tax credit table consisting of
6 tax ranges using increments of no more than five dollars and a
7 corresponding tax credit to be applied to those tax ranges. The table
8 shall be prepared in such a manner that no taxpayer will owe a
9 greater amount of tax by using the table than would be owed by
10 performing the calculation under subsections (1) through (3) of this
11 section. A table prepared by the department under this subsection
12 must be used by all taxpayers in taking the credit provided in this
13 section.

14 **PART III**

15 **CARBON REDUCTION INVESTMENT FUND**

16 NEW SECTION. **Sec. 301.** The carbon reduction investment fund is
17 created in the state treasury. Funds specified under section 108 of
18 this act, and other moneys directed by the legislature, must be
19 deposited in the fund. Moneys in the fund must only be used for the
20 purposes described in this section, and may only be spent after
21 appropriation.

22 (1) The department of commerce must manage the fund and in the
23 role of manager must solicit proposals and award funding for projects
24 that reduce greenhouse gas emissions, improve energy efficiency, and
25 support jobs in Washington state.

26 (2) The department of commerce must consult with the department
27 of ecology and the Washington State University extension energy
28 program in the design of four program areas for investments and in
29 the review of proposals submitted within each of these program areas:

30 (a) Industrial energy efficiency. Manufacturers as defined in RCW
31 82.04.110 may propose projects that increase the energy efficiency or
32 reduce the greenhouse gas emissions of its facility including, but
33 not limited to, proposals to implement combined heat and power,
34 district energy, on-site renewables, or to upgrade existing equipment
35 such as boilers to more efficient models and to switch to less carbon
36 intensive fuel sources. Projects that reduce process emissions may
37 also be considered;

1 (b) Clean transportation. Managers of transportation fleets,
2 transit agencies, and others may propose projects that reduce
3 transportation-related emissions including, but not limited to,
4 proposals that exceed workplace targets for commute trip reduction
5 under the authority of chapter 70.94 RCW; accelerate the
6 electrification of, or use of hydrogen fuel cell technology to fuel,
7 public transit vehicles and light duty vehicle fleets; create
8 electric vehicle charging or hydrogen refueling infrastructure; and
9 proposals that implement biomethane or other gaseous or liquid
10 biofuels for transportation that result in reduced greenhouse gas
11 emissions;

12 (c) Energy efficiency for existing buildings. Building owners and
13 facility managers may propose projects that improve energy efficiency
14 and utilize demand side management of electricity, including the use
15 of natural gas and other fossil fuel consumption proposals when they
16 deliver emission reductions that meet the requirements set forth in
17 subsection (3) of this section; and

18 (d) Other technologies. The department may, in consultation with
19 the department of ecology and the Washington State University
20 extension energy program, solicit proposals that deploy new and
21 emerging technologies to reduce the carbon intensity of energy and
22 are not explicitly covered by the programs in (a) through (c) of this
23 subsection. The department of commerce may award funds for projects
24 that include, but are not limited to, energy efficiency in the
25 agricultural sector, development of new fuel sources, and synthetic
26 natural gas.

27 (3) The department of commerce must by rule develop the process
28 and mechanisms to solicit, review, approve, and award proposals,
29 after evaluating the suitability of reverse auctions, request for
30 proposals, or other means before selecting one or more approaches.
31 Project proposals must be judged by criteria set in rule that must
32 include, but not be limited to:

33 (a) Metric tons of carbon dioxide equivalent emissions avoided
34 over the lifetime of the project that are:

35 (i) Real, specific, quantifiable, and identifiable emission
36 reductions; and

37 (ii) Achieve emission reductions in addition to existing law,
38 statute, or legal requirement;

39 (b) Cost-effective compared to other proposals submitted within
40 the same program area; and

1 (c) Include matching funds from nonstate sources.

2 (4) Projects must be designed in accordance with existing
3 greenhouse gas emission protocols approved by the department of
4 commerce or, where none exist for the proposed activity, per
5 methodologies developed or approved by the department of commerce.

6 (5) The department of commerce must coordinate with relevant
7 agencies and organizations to ensure that investments complement and
8 build upon related efforts of other programs including the electric
9 vehicle infrastructure bank and existing utility efficiency programs.

10 (6) Funded project proponents must submit to the department of
11 commerce a progress report at least annually on the anniversary date
12 of the contract execution. The progress report must be delivered in a
13 format specified by the department of commerce and must include the
14 following in addition to any such information as the department of
15 commerce requires in the terms of the contract:

16 (a) Summary of the investments made and technology installed and
17 deployed;

18 (b) An estimate of the avoided greenhouse gas emissions since the
19 date of the signed contract or the last report;

20 (c) Verification from a qualified third party, as identified by
21 the department of commerce, who must report on:

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

25 (ii) The verification plan that details the methods used to
26 evaluate the project;

27 (iii) Their review of the proponent's accounting of emission
28 reductions;

29 (iv) The site visits conducted;

30 (v) Any inconsistencies in the proponent's accounting, assessment
31 of these inconsistencies' impacts on the integrity of the reductions,
32 and recommendations for remedial action; and

33 (vi) Any additional data as the department of commerce identifies
34 in rule making that it requires to sufficiently evaluate the project
35 and to provide the highest integrity and verification of emission
36 reductions.

37 (7) The department of commerce must design project funding
38 contracts, monitor project implementation, and track contract
39 performance, to actively assist the project proponent in securing the
40 expected project outcomes.

