
SENATE BILL 6096

State of Washington

65th Legislature

2018 Regular Session

By Senators Ranker, Darneille, and Dhingra

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1 AN ACT Relating to climate protection and clean energy jobs;
2 amending RCW 70.235.020; adding new sections to chapter 70.235 RCW;
3 adding a new chapter to Title 82 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Aircraft fuel" has the same meaning as provided in RCW
9 82.42.010.

10 (2) "Carbon calculation" means a calculation made by the
11 department of commerce, in consultation with the department of
12 ecology, for purposes of determining the carbon dioxide emissions
13 from the complete combustion or oxidation of fossil fuels and the
14 carbon dioxide emissions in electricity for use in calculating the
15 tax pursuant to section 2 of this act. Among other resources, the
16 department of commerce may consider carbon dioxide content
17 measurements for fossil fuels from the United States energy
18 information administration and the United States environmental
19 protection agency. For electricity consumed within the state, the
20 department of commerce must adopt criteria for making the carbon
21 calculation with the intent that it is based upon a per kilowatt hour

1 amount across all kilowatt hours delivered to customers within the
2 state by that utility.

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

6 (4) "Carbon dioxide equivalent," "CO₂ equivalent," or "CO₂e" means
7 a metric measure used to compare the emissions from various
8 greenhouse gases based on their global warming potential.

9 (5) "Carbon pollution tax" means the tax created in section 2 of
10 this act.

11 (6) "Coal" means a readily combustible rock of carbonaceous
12 material, including anthracite coal, bituminous coal, subbituminous
13 coal, lignite, waste coal, syncoal, and coke of any kind.

14 (7) "Consumer price index" means the consumer price index for all
15 urban consumers, and all items, that covers areas exclusively within
16 the boundaries of this state and the greatest number of people,
17 compiled by the bureau of labor statistics of the United States
18 department of labor.

19 (8) "Direct service industrial customer" has the same meaning as
20 provided in RCW 82.16.0495.

21 (9) "Fossil fuel" means petroleum products, motor vehicle fuel,
22 special fuel, dyed special fuel, aircraft fuel, natural gas,
23 petroleum, coal, or any form of solid, liquid, or gaseous fuel
24 derived from these products, including without limitation still gas,
25 propane, and petroleum residuals including bunker fuel.

26 (10) "Motor vehicle fuel" has the same meaning as provided in RCW
27 82.38.020.

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

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

32 (13) "Petroleum product" has the same meaning as provided in RCW
33 82.23A.010.

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

35 (15) "Special fuel" has the same meaning as provided in RCW
36 82.38.020 and includes fuel that is sold or used to propel vessels.

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

39 (17)(a) "Use," "used," "using," or "put to use" means, with
40 respect to any fossil fuel, the consumption in this state of the

1 fossil fuel by the taxpayer or the possession or storage in this
2 state of the fossil fuel by the taxpayer preparatory to subsequent
3 consumption of the fossil fuel within this state by the taxpayer.

4 (b) For purposes of this subsection (17), "possession" means the
5 control of fossil fuel located within this state and includes both
6 actual and constructive possession. "Actual possession" occurs when
7 the person with control has physical possession. "Constructive
8 possession" occurs when the person with control does not have
9 physical possession. "Control" means the power to sell or use a
10 fossil fuel or to authorize the sale or use by another.

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

13 NEW SECTION. **Sec. 2.** CARBON POLLUTION TAX. (1)(a) A carbon
14 pollution tax is imposed on:

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

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

19 (b) The measure of the carbon pollution tax is the carbon dioxide
20 emissions:

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

23 (ii) Inherent in electricity consumed within this state by the
24 taxpayer.

25 (c) The tax rate is equal to fifteen dollars per metric ton of
26 carbon dioxide as of July 1, 2019, increasing two and one-half
27 dollars per year until reaching thirty dollars per metric ton.

28 (2) For the purposes of this chapter:

29 (a) The carbon pollution tax is imposed only once with respect to
30 the same fossil fuel or electricity, at the time and place of the
31 first taxable event within this state, and upon the first taxable
32 person within this state. The carbon pollution tax does not apply to
33 the sale or consumption within this state of electricity generated
34 using fossil fuels upon which the tax under this chapter has been
35 imposed;

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

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

1 (ii) The state, its political subdivisions, and municipal
2 corporations; and

3 (iii) Persons who maintain a place of business in this state but
4 who are not required to be registered with the department under RCW
5 82.32.030(1);

6 (c) A sale of fossil fuel takes place in this state when the
7 fossil fuel is delivered in this state to the purchaser or a person
8 designated by the purchaser, notwithstanding any contract terms
9 designating a location outside of this state as the place of sale;
10 and

11 (d) Each sale within this state of a fossil fuel or electricity,
12 other than a sale of electricity to consumers who are not direct
13 service industrial customers, must indicate on the invoice or other
14 document of sale the amount of carbon pollution tax paid or to be
15 paid with respect to the fossil fuel or electricity and the rate of
16 such tax paid or to be paid, who paid or is liable to pay the tax,
17 and any other information as may be prescribed by the department by
18 rule. If a purchaser of fossil fuels or electricity sold within this
19 state fails to obtain an invoice or document of sale that complies
20 with this subsection (2)(d), the department may collect the carbon
21 pollution tax from the purchaser.

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

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

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

30 (4) For taxpayers who are also subject to any of the taxes
31 imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW, the
32 frequency of reporting and payment of the carbon pollution tax must,
33 to the extent practicable, coincide with a taxpayer's reporting
34 periods for the taxes imposed under chapter 82.04, 82.08, 82.12, or
35 82.16 RCW.

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

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

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

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

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

12 (7) The department must develop and make available worksheets,
13 tax tables, and guidance documents necessary to calculate the carbon
14 dioxide emissions of fossil fuels or the carbon dioxide emissions
15 inherent in electricity.

16 NEW SECTION. **Sec. 3.** EXEMPTIONS AND CREDITS. (1) The carbon
17 pollution tax does not apply to:

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

22 (b) Fossil fuels or electricity that the state is prohibited from
23 taxing under the state Constitution or the Constitution or laws of
24 the United States;

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

30 (ii) An exporter of fossil fuels or electricity upon which
31 another person previously paid the carbon pollution tax or for which
32 allowances were purchased in a state-administered greenhouse gas
33 emissions trading program is entitled to a credit or refund of the
34 tax paid, if the exporter can establish to the department's
35 satisfaction that the tax under this chapter was previously paid or
36 allowances were previously purchased on the exported fossil fuels or
37 electricity. The person who paid the carbon pollution tax is not
38 entitled to an exemption under this subsection (1)(c) when some other
39 person is entitled to a refund or credit under this subsection

1 (1)(c)(ii). For purposes of this subsection (1)(c)(ii), "exporter"
2 means a person who exports fossil fuels or electricity from this
3 state;

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

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

10 (f) Fossil fuels used for aviation or maritime purposes.

11 (2) If a person pays the carbon pollution tax, or a comparable
12 carbon pollution tax imposed by another state, on fossil fuels that
13 are consumed in the generation of electricity sold for consumption in
14 this state, or purchases allowances for those fossil fuels through a
15 state-administered greenhouse gas emissions trading program, the
16 electricity so generated will not be subject to the tax imposed under
17 this chapter provided that the department receives evidence, pursuant
18 to rules adopted by the department, that the tax has been paid by the
19 person using the fossil fuels to generate electricity. The exemption
20 provided in this subsection is limited to the total amount of
21 comparable carbon pollution tax imposed by another state.

22 (3) Credit is allowed against the cost of the purchase of
23 allowances in a state-administered greenhouse gas emissions trading
24 system or the carbon pollution tax for any comparable carbon
25 pollution tax legally due and paid by the taxpayer or other person to
26 another state with respect to the same fossil fuel or electricity.
27 The amount of the credit may not exceed the lesser of the total
28 amount of comparable carbon pollution tax imposed by another state or
29 the tax liability arising under this chapter with respect to that
30 fossil fuel or electricity.

31 (4) In accordance with rules adopted by the department, credit is
32 allowed against the tax paid with respect to fossil fuels or
33 electricity sold to or used by a facility with an exemption
34 certificate from the department of commerce under section 4 of this
35 act, or sold to or used by the entities included with the following
36 categories of energy intensive trade-exposed industries, classified
37 under the following North American industry classification system
38 codes in effect as of January 1, 2016:

39 (a) 311411: Frozen fruit, juice, and vegetable manufacturing;

40 (b) 311423: Dried and dehydrated food manufacturing;

- 1 (c) 311611: Animal slaughtering, except poultry;
- 2 (d) 315311: Nitrogenous fertilizer manufacturing;
- 3 (e) 321111: Iron and steel mills;
- 4 (f) 322110: Pulp mills;
- 5 (g) 322121: Paper mills, except newsprint;
- 6 (h) 322122: Newsprint mills;
- 7 (i) 322130: Paperboard mills;
- 8 (j) 325188: All other basic inorganic chemical manufacturing;
- 9 (k) 325199: All other basic organic chemical manufacturing;
- 10 (l) 327211: Flat glass manufacturing;
- 11 (m) 327213: Glass container manufacturing;
- 12 (n) 327310: Cement manufacturing;
- 13 (o) 327410: Lime manufacturing;
- 14 (p) 327420: Gypsum product manufacturing;
- 15 (q) 331312: Primary aluminum production;
- 16 (r) 331315: Aluminum sheet, plate, and foil manufacturing;
- 17 (s) 331419: Primary smelting and refining of nonferrous metal,
- 18 except copper and aluminum; and
- 19 (t) 334413: Semiconductor and related device manufacturing.

20 (5) The definitions in this subsection apply throughout this
21 section unless the context clearly requires otherwise.

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

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

27 (i) Imposed on the sale, use, possession, transfer, or
28 consumption of fossil fuels, or the sale, consumption, or generation
29 of electricity produced through the combustion of fossil fuels, and
30 that is not generally imposed on other activities or privileges; and

31 (ii) Measured by the carbon dioxide emissions resulting from the
32 complete combustion or oxidation of such fossil fuels, or the carbon
33 dioxide inherent in such electricity, in terms of carbon dioxide
34 emissions.

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

1 NEW SECTION. **Sec. 4.** IDENTIFICATION OF ENERGY INTENSIVE AND
2 TRADE-EXPOSED FACILITIES. (1) By July 1, 2019, the department of
3 commerce must adopt a rule that identifies energy intensive and
4 trade-exposed facilities in addition to those facilities that are
5 defined in section 3 of this act. In adopting the rule, the
6 department of commerce must consider the greenhouse gas emissions
7 intensity of the facility's production as well as the facility's
8 trade share. The goal of the rule is to reduce the leakage of
9 emissions and associated economic activity to jurisdictions in which
10 greenhouse gas emissions are not taxed or regulated.

11 (2) The department of commerce must issue a certificate to a
12 facility meeting the rule criteria. The certificate must include an
13 expiration date that is no less than four years and no more than six
14 years from its issuance. To maintain the certificate the holder must
15 provide an annual report beginning July 1, 2020, regarding the
16 facility's consumption of fossil fuels and electricity for the
17 preceding twelve months.

18 (3) The tax exemption in section 3 of this act is subject to
19 cancellation by the department of revenue in the event that, despite
20 exemption from the tax, the facility within the state is closed. The
21 department of revenue must recover previously exempted tax associated
22 with greenhouse gas emissions from the consumption of fossil fuel and
23 electricity at the facility, where the department of commerce
24 determines that the closure is a result of relocation and not due to
25 normal business cycles.

26 NEW SECTION. **Sec. 5.** (1) The definitions in this section apply
27 throughout this section and sections 6 and 7 of this act unless the
28 context requires otherwise.

29 (a) "Commission" means the utilities and transportation
30 commission.

31 (b) "Consumer-owned utility" has the same meaning as provided in
32 RCW 19.280.020.

33 (c) "Department" means the department of commerce.

34 (d) "Gas distribution business" has the same meaning as provided
35 in RCW 82.16.010.

36 (e) "Investor-owned utility" has the same meaning as provided in
37 RCW 19.280.020.

38 (f) "Light and power business" has the same meaning as provided
39 in RCW 82.16.010.

1 (2) Beginning July 1, 2020, each light and power business or gas
2 distribution business may claim a credit against the tax imposed in
3 section 2 of this act for clean energy investments approved pursuant
4 to section 7 of this act, not to exceed seventy percent of the taxes
5 owed under section 2 of this act in the same calendar year.

6 (3) To be eligible for the credit under this section for clean
7 energy investment, a light and power business or gas distribution
8 business must, as of the date the credit is claimed, have executed an
9 agreement with the department or commission pursuant to section 6 of
10 this act, authorizing it to reinvest an equivalent amount of revenues
11 collected from customers for the purposes of implementing the
12 agreement. Remaining revenues collected pursuant to the tax imposed
13 in section 2 of this act must be remitted to the department of
14 revenue and deposited in the carbon pollution reduction account.

15 (4) Each light and power business and gas distribution business
16 claiming a credit pursuant to this section shall establish and
17 maintain a separate clean energy investment account into which it
18 must deposit amounts equal to the credit taken under this section.
19 Moneys in this account must be kept separate from other accounts, and
20 may only be expended for the purposes identified in this section and
21 sections 6 and 7 of this act.

22 (5) A light and power business or gas distribution business
23 subject to the jurisdiction of the commission may not earn a rate of
24 return from the portion of investments paid for with moneys from the
25 clean energy investment account.

26 (6) Moneys retained in the separate clean energy investment
27 account are considered gross operating revenue for the purpose of RCW
28 80.24.010, and may not be considered gross income for the purpose of
29 chapter 82.16 RCW.

30 (7) The commission and the department must create a technical
31 advisory committee for the purpose of advising the commission, the
32 department, other state agencies, the legislature, utilities, and
33 local governments on utility reinvestment of moneys credited pursuant
34 to this section. The advisory committee will develop standards and
35 guidelines to be used by the commission and the department to
36 evaluate, quantify, and verify greenhouse gas emissions reductions
37 proposed by utility plans pursuant to section 6 of this act. The
38 duties of the technical advisory committee include, but are not
39 limited to:

1 (a) Adopting and maintaining standard protocols for verification
2 and evaluation of emissions reductions from utility investments;

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

5 (c) Developing a standard reporting format for all investments
6 and activities supported by the clean energy investment accounts; and

7 (d) Other duties consistent with the purpose of this section, as
8 required by the commission or department.

9 (8) The department and the commission may adopt rules to
10 implement this section and sections 6 and 7 of this act.

11 NEW SECTION. **Sec. 6.** (1) To be eligible for the tax credit
12 under section 5 of this act, a light and power business or gas
13 distribution business must develop and maintain an approved clean
14 energy investment plan, and execute an agreement with the department
15 or the commission as described in this section.

16 (2) When developing and updating its clean energy investment
17 plan, a light and power business or gas distribution business must
18 solicit public input through public processes under the oversight of
19 the commission or the governing body of a consumer-owned utility.

20 (3) Beginning July 1, 2020, a light and power business or gas
21 distribution business seeking a credit under section 5 of this act
22 must submit a clean energy investment plan for approval by the
23 department, in the case of a consumer-owned utility, or by the
24 commission, in the case of an investor-owned utility.

25 (4) Each clean energy investment plan must include the following:

26 (a) A demonstration that the portfolio of funded activities can
27 reasonably be expected to achieve reductions in CO₂e;

28 (b) An estimate, based on protocols developed by the technical
29 advisory committee, of the cost per ton of emission 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, or renewable energy
34 requirements;

35 (d) A customer education and outreach program to promote
36 widespread participation by consumers and businesses; and

37 (e) A provision that no less than twenty percent of the moneys
38 collected by a utility pursuant to this section must be dedicated for
39 low-income energy assistance, which may include discounted rates for

1 qualifying customers and grants to qualifying customers with high
2 utility bills. Such moneys are additional to other funding for low-
3 income energy assistance.

4 (5) A clean energy investment plan may include the following
5 types of investments or expenditures:

6 (a) Additional conservation in excess of the target established
7 under RCW 19.285.040(1), other state obligations, or other obligation
8 established by the commission;

9 (b) Market transformation for energy efficiency products;

10 (c) Eligible renewable energy resources as defined by RCW
11 19.285.030, in excess of the target established under RCW
12 19.285.040(2);

13 (d) Low-income weatherization;

14 (e) Infrastructure to support electrification of the
15 transportation sector, including, but not limited to:

16 (i) Equipment on an electrical company's transmission and
17 distribution system to accommodate electric vehicle connections, and
18 smart grid systems, that enable electronic interaction between the
19 company and charging systems, and facilitate company utilization of
20 vehicle batteries for system needs;

21 (ii) Incentives for car dealers to sell electric vehicles; and
22 incentives for property owners to install charging equipment;

23 (iii) Incentives for the electrification of passenger vehicle
24 fleets;

25 (f) Research and development that will promote energy
26 conservation, or the deployment of zero-emission energy resources;

27 (g) Investments in renewable natural gas infrastructure,
28 including gas conditioning equipment for biogas; and

29 (h) Contributions to self-directed investments in the following
30 measures to serve the sites of large industrial gas and electrical
31 customers: Conservation; new renewable energy resources;
32 infrastructure to support electrification of transportation needs and
33 heating loads; or renewable natural gas infrastructure, including gas
34 conditioning equipment for biogas.

35 (6) In order to maintain eligibility for the tax credit under
36 section 5 of this act and to continue to retain authority to expend
37 money from the utility's clean energy investment account, a light and
38 power business or gas distribution business must submit and receive
39 approval of an updated clean energy investment plan every three
40 years.

1 (7) The definitions in section 5 of this act apply to this
2 section.

3 NEW SECTION. **Sec. 7.** (1) Upon approval of a clean energy
4 investment plan under section 6 of this act, a light and power
5 business or gas distribution business must execute an agreement with
6 the department or the commission, authorizing the light and power
7 business or gas distribution business to expend moneys from its clean
8 energy investment account in accordance with an approved clean energy
9 investment plan, with the oversight of the department or commission.
10 The department and the commission have full authority to execute
11 contracts under this section consistent with other state contracting
12 requirements.

13 (2) In order to maintain eligibility for the tax credit under
14 section 5 of this act and to retain authority to expend money from
15 the utility's clean energy investment account, a utility must submit
16 annual reports to the commission or the department, including:

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

19 (b) An accounting of emissions reductions achieved and the cost
20 per ton of emissions reductions compared to estimates of the cost per
21 ton in emissions reductions contained in the clean energy investment
22 plan; and

23 (c) An updated estimate of future emissions reductions and the
24 estimated cost per ton.

25 (3) The commission may enter into an agreement with the
26 department to serve as the contracting entity on behalf of the state
27 for the purposes of this section.

28 (4) The definitions in section 5 of this act apply to this
29 section.

30 NEW SECTION. **Sec. 8.** ADMINISTRATION PROVISIONS AND RULE
31 ADOPTION. The provisions of chapter 82.32 RCW apply to this chapter.
32 The department and the departments of ecology and commerce may adopt
33 rules necessary to administer this chapter.

34 NEW SECTION. **Sec. 9.** TAXPAYER REPORTS. (1) As part of a
35 taxpayer's tax reporting obligation, each taxpayer remitting the
36 carbon pollution tax on electricity as provided in section
37 2(1)(a)(ii) of this act must file with the department a carbon

1 content report containing the information contained in RCW 19.29A.060
2 and such other information as the department may require for purposes
3 of this chapter, together with the tax calculated thereon based on
4 tax tables adopted by the department pursuant to section 2(7) of this
5 act. If the taxpayer cannot identify the resources, the department
6 must assume the carbon content inherent in that electricity to be one
7 metric ton of carbon dioxide per megawatt-hour.

8 (2) For purposes of determining the tax due under this chapter,
9 the department must use the carbon calculation provided in section
10 2(3) of this act.

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

18 (4) All information submitted to the department under this
19 section is considered taxpayer information under RCW 82.32.330 and is
20 not subject to disclosure.

21 NEW SECTION. **Sec. 10.** COMMERCE AND JOINT LEGISLATIVE AUDIT AND
22 REVIEW COMMITTEE REPORTS. (1) On or before October 31st of each year
23 from 2020 through 2030, the department of commerce, in consultation
24 with the departments of revenue and ecology, must submit a report to
25 the governor and appropriate committees of the senate and house of
26 representatives on the carbon pollution tax program, including but
27 not limited to the following:

28 (a) The total carbon pollution tax collected in the previous
29 calendar year;

30 (b) The costs incurred by all agencies associated with
31 administration of the tax;

32 (c) The revenue foregone by the state resulting from credits and
33 exemptions claimed against the tax, itemized by specific credits and
34 exemptions; and

35 (d) The estimated revenues and administrative costs projected for
36 the next three calendar years.

37 (2) By December 31, 2024, the joint legislative audit and review
38 committee in consultation with the departments of commerce and
39 ecology must conduct a review of the tax imposed under section 2 of

1 this act. The review must include but is not limited to analysis and
2 evaluation of:

3 (a) The net economic impacts on job creation or economic activity
4 that may have been directly or indirectly attributable to the tax;

5 (b) The impact of the tax, if any, on total greenhouse gas
6 emissions attributable directly or indirectly to in-state or out-of-
7 state activities;

8 (c) The impact of the tax on consumers of energy in Washington,
9 and the effectiveness of the use of revenues to mitigate that impact;

10 (d) The effectiveness of the use of revenues to reduce greenhouse
11 gas emissions, to mitigate the impacts of emissions, to advance clean
12 energy technology development and deployment, and to increase energy
13 efficiency; and

14 (e) The contribution of the emissions reductions achieved by the
15 tax and the investments of revenues from the tax toward meeting the
16 state's statewide emission limits.

17 (3) The joint legislative audit and review committee's report
18 under this section must include its recommendations on whether the
19 carbon pollution tax and use of the revenues from the tax should be
20 adjusted to provide appropriate measures for reducing greenhouse gas
21 emissions while avoiding negative economic impacts to Washington
22 businesses, workers, and consumers.

23 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.235
24 RCW to read as follows:

25 CARBON POLLUTION REDUCTION ACCOUNT. (1) The carbon pollution
26 reduction account is created in the state treasury. All receipts from
27 the carbon pollution tax under section 2 of this act, and other
28 moneys directed to the account by the legislature, must be deposited
29 into the account. Moneys in the account may only be spent after
30 appropriation.

31 (2)(a) Beginning in fiscal year 2019 and for each fiscal year
32 thereafter, moneys in the account must first be used to support
33 appropriations for the department's and other agencies' costs to
34 support and administer the carbon pollution tax.

35 (b) The remaining moneys in the account must be transferred by
36 the treasurer at least annually to the following accounts:

37 (i) To the climate impacts account created in section 13 of this
38 act, three hundred fifty million dollars in fiscal years 2020 and
39 2021, four hundred fifty million dollars in fiscal years 2022 and

1 2023, five hundred fifty million dollars in fiscal years 2024 and
2 2025, and six hundred fifty million dollars in each fiscal year
3 thereafter; and

4 (ii) After the transfers required by (b)(i) of this subsection:

5 (A) Fifteen percent to the carbon price impact assistance account
6 created in section 12 of this act;

7 (B) Fifty-five percent to the carbon reduction investment fund
8 account created in section 14 of this act; and

9 (C) Thirty percent to the water and forests resilience account
10 created in section 15 of this act.

11 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.235
12 RCW to read as follows:

13 **CARBON PRICE IMPACT ASSISTANCE ACCOUNT.** (1) The carbon price
14 impact assistance account is created in the state treasury. The
15 account must receive moneys transferred to the account pursuant to
16 section 11 of this act as well as other moneys directed to the
17 account by the legislature. The account is subject to appropriation.

18 (2) Moneys in the account may be expended to mitigate impacts to
19 consumers, workers, businesses, and communities from carbon pollution
20 and from increased energy costs that may be caused by the tax imposed
21 under section 2 of this act.

22 (3) Moneys in the account may be used to provide assistance to
23 low-income households that may be impacted by increased energy costs
24 attributable to the carbon pollution tax, including:

25 (a) Funding low-income household energy assistance and
26 weatherization programs;

27 (b) Funding aged, blind, or disabled cash assistance programs;

28 (c) Funding other financial assistance to low-income households
29 and individuals as may be authorized by the legislature to offset
30 increased energy costs caused by the carbon pollution tax pursuant to
31 section 2 of this act.

32 (4) Moneys in the account may also be used to provide for a just
33 transition to a clean energy economy by providing assistance to
34 impacted workers in fossil fuel as well as energy intensive trade-
35 exposed industries, where workers are dislocated due to the impacts
36 of the tax imposed under section 2 of this act. The assistance may
37 include, but is not limited to, wage replacement or wage insurance,
38 health benefits, pension contributions, retraining costs, peer
39 counseling services, employment placement services, relocation

1 expenses, and other services. The department of commerce in
2 coordination with the employment security department may adopt rules
3 to implement this subsection.

4 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.235
5 RCW to read as follows:

6 CLIMATE IMPACTS ACCOUNT. (1) The climate impacts account is
7 created in the state treasury. The account must receive moneys
8 transferred to the account pursuant to section 11 of this act as well
9 as other moneys directed to the account by the legislature. The
10 account is subject to appropriation.

11 (2) Moneys in the account may be used for activities of state
12 agencies that address directly or indirectly impacts associated with
13 the combustion of fossil fuels, the release of greenhouse gases, and
14 other pollutant releases associated with such emissions. These
15 activities include, but are not limited to:

16 (a) Programs that address the public health, safety, and welfare
17 needs relating to the air and water quality impacts of combustion of
18 fossil fuels, that help to reduce emissions, or that address
19 infrastructure planning and projects to adapt to projected impacts
20 from climate change;

21 (b) School district programs under chapter 28A.160 RCW for
22 student transportation;

23 (c) Replacing foregone state general fund revenue from tax
24 exemptions and other incentives such as the renewable energy
25 incentive payments program under RCW 82.16.130 and alternative fuels
26 and vehicle tax incentives; and

27 (d) Funding for projects that provide a benefit to the public
28 through development, demonstration, and deployment of clean energy
29 technologies that save energy and reduce energy costs, reduce harmful
30 air emissions, or otherwise increase energy independence for the
31 state.

32 NEW SECTION. **Sec. 14.** A new section is added to chapter 70.235
33 RCW to read as follows:

34 CARBON REDUCTION INVESTMENT FUND ACCOUNT. (1) The carbon
35 reduction investment fund account is created in the state treasury.
36 The account must receive moneys transferred to the account pursuant
37 to section 11 of this act as well as other moneys directed to the
38 account by the legislature. Moneys in the account may only be used

1 for the purposes described in this section, and the account is
2 subject to appropriation.

3 (2) The department of commerce must manage the fund, and as
4 manager must solicit proposals and award funding for projects that
5 reduce greenhouse gas emissions in Washington state, and for projects
6 that reduce emissions directly connected to energy use and other
7 activity in Washington state. The department of commerce must award
8 funding with the primary goal to maximize the net cumulative
9 reduction of greenhouse gas emissions within the amounts as
10 appropriated.

11 (3) The department of commerce must consult with the department
12 of ecology and the Washington State University extension energy
13 program in the design and operation of the fund. The fund must adhere
14 to the principles of technology neutrality, cost-effectiveness, and
15 competitive markets. Priority will be given to projects that return
16 direct benefits to communities disproportionately impacted by carbon
17 pollution, provided that the projects achieve equivalent net emission
18 reductions and are cost competitive compared to other proposals. The
19 fund must consider projects in the following program areas including,
20 but not limited to:

21 (a) Industrial energy efficiency. Manufacturers as defined in RCW
22 82.04.110 may propose projects that increase the energy efficiency or
23 reduce the greenhouse gas emissions of its facility including, but
24 not limited to, proposals to implement combined heat and power,
25 district energy, on-site renewables, or to upgrade existing equipment
26 such as boilers to more efficient models and to switch to less carbon
27 intensive fuel sources. Projects that reduce process emissions may
28 also be considered;

29 (b) Clean transportation. Managers of transportation fleets,
30 transit agencies, and others may propose projects that reduce
31 transportation-related emissions including, but not limited to,
32 proposals that exceed workplace targets for commute trip reduction
33 under the authority of chapter 70.94 RCW; accelerate the
34 electrification of, or use of hydrogen fuel cell technology to fuel
35 public transit vehicles, school buses used for student
36 transportation, and light duty vehicle fleets; create more efficient
37 and integrated transportation networks; create electric vehicle
38 charging or hydrogen refueling infrastructure; and proposals that
39 implement biomethane or other gaseous or liquid biofuels for
40 transportation that result in reduced greenhouse gas emissions;

1 (c) Energy efficiency for existing buildings. Building owners and
2 facility managers may propose projects that improve energy efficiency
3 and utilize demand side management of electricity, including the use
4 of natural gas and other fossil fuel consumption proposals when they
5 deliver emission reductions that meet the requirements set forth in
6 subsection (4) of this section; and

7 (d) Other technologies. The department of commerce, in
8 consultation with the department of ecology and the Washington State
9 University extension energy program, must solicit proposals that
10 reduce the carbon intensity of energy and are not explicitly covered
11 by the programs in (a) through (c) of this subsection. The department
12 of commerce may award funds for projects on a technology neutral
13 basis that include, but are not limited to, energy efficiency in the
14 agricultural sector, development of new fuel sources, and carbon
15 sequestration.

16 (4)(a) The department of commerce must by rule develop the
17 process and mechanisms to solicit, review, approve, and award
18 proposals. The department of commerce must evaluate the suitability
19 of multiple approaches before selecting one or more approaches
20 including, but not limited to:

21 (i) Awarding funding based on the total net carbon reductions
22 achieved by the project;

23 (ii) Awarding funding based on the portion of carbon reductions
24 that are not cost-effective under current market conditions; or

25 (iii) Setting a fixed award amount for greenhouse gas emission
26 reductions or carbon sequestration based on a reverse auction or some
27 other market determined amount.

28 (b) For forest carbon sequestration projects the department of
29 commerce must coordinate with the department of natural resources to
30 align funding criteria with the program authorized under section 15
31 of this act.

32 (c) The department of commerce may also consider making an award
33 in the form of upfront payments, estimated annual payments, or
34 payments only after the carbon reductions have been measured and
35 verified.

36 (d) Prior to July 1, 2020, the department of commerce may not
37 award an amount in excess of one hundred dollars per ton of carbon
38 dioxide equivalent or reduced emissions of greenhouse gases for any
39 proposal.

1 (e) Project proposals must be judged by criteria set in rule by
2 the department of commerce. The criteria must be predominantly
3 weighted based upon the following:

4 (i) Metric tons of carbon dioxide equivalent emissions avoided
5 over the lifetime of the project that are:

6 (A) Real, specific, quantifiable, and identifiable emission
7 reductions; and

8 (B) Additional to existing law, statute, or legal requirement;
9 and

10 (ii) Cost competitive compared to other proposals submitted
11 within the same program area.

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

17 (b) By October 1, 2019, the Washington State University extension
18 energy program must complete a clean energy investment study to
19 recommend appropriate award amounts per ton of carbon dioxide
20 equivalent of greenhouse gas emission reductions for a variety of
21 clean energy, efficiency, and other project types. This study must
22 take into account greenhouse gas emission reduction project prices in
23 regulatory and voluntary carbon reduction programs operated in other
24 jurisdictions and be set at the minimum level deemed necessary to
25 catalyze investment of these project types. By October 1, 2020, and
26 by October 1st of each odd-numbered year thereafter, the Washington
27 State University extension energy program and the department of
28 commerce must update the recommended award amounts for the following
29 two-year period.

30 (6) Recipients of funding for projects must submit to the
31 department of commerce a progress report at a date or dates to be
32 determined in the funding contract. The progress report must include
33 the following in addition to any such information as the department
34 of commerce requires in the terms of the contract:

35 (a) A summary of the investments made and technology installed
36 and deployed; and

37 (b) Verification of the avoided greenhouse gas emissions since
38 the date of the signed contract or the last report from a qualified
39 third party, as identified by the department of commerce, who must
40 report on:

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

4 (ii) The verification plan that details the methods used to
5 evaluate the project;

6 (iii) Their review of the proponent's accounting of emission
7 reductions;

8 (iv) The site visits conducted; and

9 (v) Any additional data as the department of commerce identifies
10 in rule making that it requires to sufficiently evaluate the project
11 and to provide the highest integrity and verification of emission
12 reductions.

13 (7) The department of commerce must design project funding
14 contracts, monitor project implementation, and track contract
15 performance, to actively assist the project proponent in securing the
16 expected project outcomes.

17 (8) The department of commerce may adopt rules necessary to
18 implement this section.

19 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.235
20 RCW to read as follows:

21 WATER AND FORESTS RESILIENCE ACCOUNT. (1) The water and forests
22 resilience account is created in the state treasury. The account must
23 receive moneys transferred to the account pursuant to section 2 of
24 this act as well as other moneys directed to the account by the
25 legislature. The account is subject to appropriation.

26 (2) Funding from the account may be used by the department of
27 ecology to provide grants and loans for the project activities
28 described in this subsection, in consultation with the departments of
29 natural resources, fish and wildlife, and transportation, and the
30 recreation and conservation office. Eligible projects and activities
31 must consider climate impacts in their planning, siting, design, and
32 implementation. The expenditures under this subsection must be for
33 projects and activities that significantly reduce risks to
34 Washington's public health, safety, economy, and environmental
35 vitality, and that are consistent with the following priorities:

36 (a) Reducing stormwater pollution from existing infrastructure
37 and development, with priority given to projects and activities for
38 communities disproportionately impacted by carbon pollution;

1 (b) Reducing the risk of flooding, protecting against damage
2 caused by floods, and protecting or restoring naturally functioning
3 areas where floods occur;

4 (c) Improving the availability and reliability of water supplies
5 for instream and out-of-stream uses; and

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

17 (3) Funds from the account may also be used by the department of
18 natural resources for forest resilience and wildfire risk mitigation
19 and suppression. The department may provide funding that includes but
20 is not limited to:

21 (a) Grants to projects and activities that improve forest health
22 through thinning or prescribed fire, with priority given to projects
23 proposed pursuant to a forest collaborative planning process
24 establishing ecological and public safety goals across any
25 combination of local, state, federal, and private ownerships;

26 (b) Grants to support the army national guard and other entities
27 for their role in supporting wildfire suppression;

28 (c) Expenditures for forest health activities, with a priority
29 placed upon the forest health treatment and assessment framework
30 developed in chapter 95, Laws of 2017;

31 (d) Grants to projects and activities for highly affected
32 communities disproportionately impacted by carbon pollution and
33 community preparedness organizations that reduce the risk of
34 wildfires and improve communities' ability to adapt to wildfires; and

35 (e) The establishment and funding of a working forest
36 conservation easement program. The program's primary goal is to
37 maximize the amount of carbon sequestered over an easement's first
38 one hundred years. The program must be designed to permanently
39 prevent the development or conversion of working forests, and to
40 provide long-term, sustainable jobs in rural communities, including

1 jobs in forest restoration and ecologically focused thinning and low
2 intensity timber harvesting.

3 **Sec. 16.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to
4 read as follows:

5 (1)(a) The state (~~shall~~) must limit emissions of greenhouse
6 gases to achieve the following emission reductions for Washington
7 state:

8 (i) By 2020, reduce overall emissions of greenhouse gases in the
9 state to 1990 levels;

10 (ii) By 2035, reduce overall emissions of greenhouse gases in the
11 state to (~~twenty-five~~) forty percent below 1990 levels;

12 (iii) By 2050, the state will do its part to reach global climate
13 stabilization levels by reducing overall emissions to fifty percent
14 below 1990 levels, or seventy percent below the state's expected
15 emissions that year.

16 (b) By December 1, 2008, the department (~~shall~~) must submit a
17 greenhouse gas reduction plan for review and approval to the
18 legislature, describing those actions necessary to achieve the
19 emission reductions in (a) of this subsection by using existing
20 statutory authority and any additional authority granted by the
21 legislature. Actions taken using existing statutory authority may
22 proceed prior to approval of the greenhouse gas reduction plan.

23 (c) Except where explicitly stated otherwise, nothing in chapter
24 14, Laws of 2008 limits any state agency authorities as they existed
25 prior to June 12, 2008.

26 (d) Consistent with this directive, the department (~~shall~~) must
27 take the following actions:

28 (i) Develop and implement a system for monitoring and reporting
29 emissions of greenhouse gases as required under RCW 70.94.151; and

30 (ii) Track progress toward meeting the emission reductions
31 established in this subsection, including the results from policies
32 currently in effect that have been previously adopted by the state
33 and policies adopted in the future, and report on that progress.

34 (2) By December 31st of each even-numbered year beginning in
35 2010, the department and the department of (~~community, trade, and~~
36 ~~economic development shall~~) commerce must report to the governor and
37 the appropriate committees of the senate and house of representatives
38 the total emissions of greenhouse gases for the preceding two years,
39 and totals in each major source sector. The department (~~shall~~) must

1 ensure the reporting rules adopted under RCW 70.94.151 allow it to
2 develop a comprehensive inventory of emissions of greenhouse gases
3 from all significant sectors of the Washington economy.

4 (3) Except for purposes of reporting, emissions of carbon dioxide
5 from industrial combustion of biomass in the form of fuel wood, wood
6 waste, wood by-products, and wood residuals (~~(shall not be)~~) are not
7 considered a greenhouse gas as long as the region's silvicultural
8 sequestration capacity is maintained or increased.

9 NEW SECTION. **Sec. 17.** The provisions of RCW 82.32.805 and
10 82.32.808 do not apply to this act.

11 NEW SECTION. **Sec. 18.** Sections 1 through 10 of this act
12 constitute a new chapter in Title 82 RCW.

13 NEW SECTION. **Sec. 19.** This act may be known and cited as the
14 climate protection and clean energy jobs act.

15 NEW SECTION. **Sec. 20.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

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