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**SENATE BILL 6203**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Carlyle, Ranker, Palumbo, Nelson, Pedersen, Frockt, Billig, Rolfes, McCoy, Keiser, Wellman, Liias, Hunt, Chase, Saldaña, and Kuderer; by request of Governor Inslee

AN ACT Relating to reducing carbon pollution by moving to a clean energy economy; adding new sections to chapter 43.31 RCW; adding a new section to chapter 43.21A RCW; adding a new chapter to Title 82 RCW; adding a new chapter to Title 43 RCW; and providing an effective date.

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

**Part I**

**Carbon Pollution Tax**

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

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

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

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

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

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

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

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

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

(9) "Department" means the department of revenue.

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

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

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

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

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

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

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

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

(18) "Special fuel" has the same meaning as provided in RCW 82.38.020.

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

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

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

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

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

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

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

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

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

(ii) Inherent in electricity sold or consumed within this state.

(c)(i) The tax rate is equal to twenty dollars per metric ton of carbon dioxide through December 31, 2019; and

(ii) For subsequent years, beginning January 1, 2020, the department must adjust the previous year's tax rate by the rate of inflation, as measured using the consumer price index for the most recent twelve-month period for which data are available, if the rate of inflation is greater than zero, plus three and one-half percent. The department must round the tax rate to the nearest cent in the manner provided in RCW 82.08.054. The department must calculate tax rate adjustments under this subsection (1)(c)(ii) in December of each year and publish on its web site the tax rate for any year by January 1st of that year.

(2) For the purposes of this chapter:

(a) The carbon pollution tax is imposed:

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

(ii) At the time and place of the first taxable event within this state, including the first sale or use within this state of fossil fuels or the first sale or consumption within this state of electricity generated through the combustion of fossil fuels, occurring on or after the effective date of this section, regardless of whether the fossil fuel or electricity was previously sold, used, or consumed within this state before the effective date of this section; and

(iii) Upon the first taxable person within this state.

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

(c) The carbon pollution tax does not apply to the sale or consumption within this state of electricity generated using fossil fuels upon which the tax under this chapter has been imposed.

(d) The carbon pollution tax applies only to:

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

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

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

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

(f) Each sale within this state of a fossil fuel or electricity must indicate on the invoice or other document of sale the amount of carbon pollution tax paid or to be paid with respect to the fossil fuel or electricity and the rate of such tax paid or to be paid, who paid or is liable to pay the tax, and any other information as may be prescribed by the department by rule. If a purchaser of fossil fuels or electricity sold within this state fails to obtain an invoice or document of sale that complies with this subsection (2)(f), the department may collect the carbon pollution tax from the purchaser.

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

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

(b) For the sale or consumption of electricity sourced from an asset controlling supplier, including but not limited to the Bonneville power administration, the department must calculate and publish on its web site the system emissions factors for the data year for all asset controlling suppliers recognized by the department. Asset controlling suppliers are considered specified sources of electricity;

(c) For the sale or consumption of electricity where the source used to generate the electricity is unknown or unspecified, the carbon dioxide inherent in that electricity is one metric ton of carbon dioxide per megawatt-hour;

(d) For fossil fuels used to refine fossil fuels, the department of ecology, in consultation with the department of commerce, must adopt by rule criteria for making the carbon calculation; and

(e) For the sale or consumption of electricity where the source of fossil fuels used to generate the electricity is incompletely or insufficiently provided through chapter 19.29A RCW, as determined by the department of ecology in consultation with the department of commerce, the department of ecology may require such other information as the department of ecology deems necessary for purposes of determining the carbon calculation under this chapter.

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

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

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

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

(b) Direct service industrial customer if the direct service industrial customer purchased the electricity from a seller who is not required to be registered with the department for purposes of paying taxes due under chapter 82.04 or 82.16 RCW; and

(c) Direct access electricity customer for any electricity consumed within the state purchased from a seller who is not required to be registered with the department for purposes of paying taxes due under chapter 82.04 or 82.16 RCW.

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

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

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

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

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

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

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

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

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

(g) Aircraft fuel as defined in RCW 82.42.010.

(2)(a) For any electricity and fossil fuels subject to the tax imposed by section 102 of this act that are also subject to a comparable carbon pollution tax or charge on carbon content imposed by another jurisdiction, including allowances required to be purchased by another jurisdiction, the entity may take a credit against the tax imposed by this act up to the amount of the similar tax or charge paid to the other jurisdiction, provided that the taxpayer claiming the credit provides evidence acceptable to the department that the equivalent tax has been paid.

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

(i) Imposed on:

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

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

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

(3) The tax imposed in section 102 of this act does not apply to fossil fuels usedon-site for manufacturing processes by an energy-intensive trade-exposed facility.

(a) By July 1, 2019, the department of commerce must adopt a rule to establish criteria for identifying and certifying potential energy-intensive and trade-exposed facilities. Designated energy-intensive trade-exposed facilities must show that they compete with like facilities to manufacture commodities for sale into a global market, and are placed at a competitive disadvantage by the carbon pollution tax in this market or incur unusually high energy costs which, when subjected to the tax in this chapter, would put their in-state operations at risk of closure.

(b) The department of commerce must update the criteria periodically and entities who apply for and receive classification as an energy-intensive and trade-exposed facility is required to recertify on a schedule set by the department of commerce.

(c) The department of commerce must, annually on a schedule set by the department of commerce, notify the department of eligibility determinations for taxpayers who have been certified by the department of commerce to claim this exemption on tax returns.

(4) One hundred percent of the taxes owed under section 102 of this act by a light and power business or a gas distribution business that chooses to claim a credit pursuant to section 302 of this act.

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

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

NEW SECTION. **Sec.**  REPORT BY THE DEPARTMENT OF COMMERCE. On or before October 31st of each year from 2020 through 2030 and biennially thereafter, and in compliance with RCW 43.01.036, the department of commerce, with support from the department of revenue, must submit a report to the governor and the appropriate committees of the legislature containing the following with respect to the annual or biennial period ending the December 31st immediately preceding the reporting date, annualized if in a biennial report:

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

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

(3) The estimated overall net revenue gain or loss calculated by comparison of subsections (1) and (2) of this section in dollar amounts and the estimated costs determined under subsection (2) of this section as a percentage of carbon pollution tax revenues collected;

(4) A summary produced by the department of commerce of the investments made through its administration of the energy transformation account created in section 201 of this act. The summary must include amounts invested in each program area, project descriptions, names of grant recipients, an estimate of the greenhouse gas emissions reductions achieved or anticipated via the investments, and other pertinent information or information as periodically requested by the legislature; and

(5) A summary produced by the department of commerce of the progress made by utilities implementing their plans under the clean energy investment program created in part III of this act. The summary must include aggregate totals of anticipated greenhouse gas reductions called for by plans and progress made toward achieving these reductions; an accounting of funds spent and average cost per ton of verified greenhouse gas reductions achieved through program investments.

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

NEW SECTION. **Sec.**  CARBON POLLUTION REDUCTION ACCOUNT. The carbon pollution reduction account is created in the state treasury. All receipts from the carbon pollution tax under section 102 of this act, and other moneys directed to the account by the legislature, must be deposited into the account. Moneys in the account may only be spent after appropriation. Moneys in the account must be first appropriated to the department of revenue and other appropriate agencies for the administration of this chapter and the remainder must be distributed by the state treasurer as follows:

(1) Fifty percent of the moneys to the energy transformation account created in section 201 of this act;

(2) Thirty-five percent of the moneys to the water and natural resource resilience account created in section 203 of this act;

(3) Fifteen percent of the moneys for the transition assistance account created in section 202 of this act.

NEW SECTION. **Sec.**  STATE PREEMPTS TAX. The tax levied in this chapter is in lieu of any carbon tax upon the sale or use within this state of all fossil fuels, including fossil fuels used in generating electricity and the retail sale or consumption within this state of electricity generated through the combustion of fossil fuels. No city, town, county, township, or other subdivision or municipal corporation of the state may levy or collect any comparable carbon tax or charge upon the sale or use within this state of all fossil fuels, including fossil fuels used in generating electricity and the retail sale or consumption within this state of electricity generated through the combustion of fossil fuels.

**Part II**

**Allocation of Carbon Pollution Reduction Account Funds**

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

FUNDING FOR ENERGY TRANSFORMATION.

(1) The energy transformation account is created in the state treasury. The account must receive moneys distributed to the account from the carbon pollution reduction account created in section 107 of this act as well as other moneys directed to the account by the legislature. Moneys in the account may only be used for the purposes described in this section, and may only be spent after appropriation.

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

(3) The department must consult with the department of ecology and the Washington State University extension energy program in the design and operation of the fund and must follow the guidelines and obligations set forth in the implementation plan created in section 401 of this act.

(4) Priority must be given to projects and activities that provide benefits to low-income communities, communities of color, and communities of indigenous peoples.

(5) Projects eligible for funding include but are not limited to:

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

(b) Clean transportation, including projects and programs that exceed workplace targets for commute trip reduction under the authority of chapter 70.94 RCW; accelerate uptake of renewable fuels and electrification in transit and other vehicle fleets; promote advanced-technology transportation networks that achieve greater safety and energy efficiency; create electric vehicle charging or hydrogen refueling infrastructure; and projects that implement biomethane or other gaseous or liquid biofuels for transportation that result in reduced greenhouse gas emissions; equitable transit oriented development.

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

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

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

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

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

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

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

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

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

(iv) The site visits conducted by verifiers; and

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

(7) The department must design project funding contracts, monitor project implementation, and track contract performance, to actively assist the project proponent in securing the expected project outcomes. The department may suspend or terminate funding when projects do not achieve projected reductions as provided in the funding agreement, and in cases of gross misuse of funds, may require a return of grant funding.

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

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

(10) Public entities, including but not limited to state agencies, municipal corporations, and federally recognized tribes, and private entities, both not-for-profit and for-profit, are eligible to receive investment funds authorized by this section.

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

TRANSITION ASSISTANCE ACCOUNT.

(1) The transition assistance account is created in the state treasury. The account must receive moneys distributed to the account from the carbon pollution reduction account created in section 107 of this act as well as other moneys directed to the account by the legislature. Moneys in the account may only be used for the purposes described in this section, and may only be spent after appropriation.

(2) Using funds appropriated from the account, the department must provide assistance to vulnerable communities and households to provide for an equitable transformation to a clean energy economy. The assistance may include but is not limited to low-income energy assistance, low-income weatherization assistance, funding existing cash assistance programs, providing for public health programs, rural economic development, support for low-carbon innovation and entrepreneurship, providing for increased affordable transportation options and services, affordable housing and improving community services and infrastructure to increase resilience to climate impacts and environmental pollution.

(3) In addition to the community and household assistance authorized under subsection (2) of this section, the department must use funds appropriated from the account to assist workers in fossil fuel industries affected by the transition to a cleaner energy economy. The assistance may include but is not limited to wage replacement benefits, training and education subsidies, job placement support, relocation assistance. The department must administer the funds through existing assistance programs when they exist, and must work in conjunction with the employment security department to identify the best use of funding.

(4) In addition, the state board for community and technical colleges must use funds deposited into this account to establish three separate clean energy centers for excellence in the state community college system, with one center each devoted to:

(a) The development of renewable energy integration and generation;

(b) The development of smart grid technology and the next generation of hydropower resources; and

(c) A center to promote renewable forest products and research to improve forest health and reduce fire risk. The centers, in cooperation with the state's energy research institutions, must facilitate research and development, help attract investment in clean energy, and promote clean energy jobs across a range of sectors.

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

(6) The department may adopt rules necessary to implement this section.

(7) The department must establish a citizen advisory group comprising stakeholders representing labor organizations, social equity focused organizations, small businesses, local government and other interests to provide input on the use of these funds.

NEW SECTION. **Sec.**  A new section is added to chapter 43.21A RCW to read as follows:

WATER AND NATURAL RESOURCES RESILIENCE.

(1) The water and natural resources resilience account is created in the state treasury. The account must receive moneys distributed to the account from the carbon pollution reduction account created in section 107 of this act as well as other moneys directed to the account by the legislature. Moneys in the account may only be used for the purposes described in this section, and may only be spent after appropriation.

(2) The department of ecology may provide grants and loans for the project activities described in this subsection, in consultation with the departments of fish and wildlife, and transportation, and the recreation and conservation office, and in accordance with the obligations and guidelines established by the implementation plan created by section 401 of this act. Eligible projects and activities must consider future climate impacts in their planning, siting, design, and implementation. The expenditures under this subsection must be for projects and activities that include but are not limited to:

(a) Reducing stormwater pollution from existing infrastructure and development;

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

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

(d) Constructing fish barrier correction projects, with state department of transportation projects required by court orders having priority, and other projects on state and local roadways eligible for funding when available funding exceeds that necessary to meet the timeline of applicable court orders. In making awards for projects not subject to the public court orders, the department of ecology must obtain the recommendations of the fish passage barrier removal board created in RCW 77.95.160.

(3) The account may be used by the department of natural resources to improve forest and natural lands health and resilience, reduce wildfire risk, and prepare for and suppress wildland fires.

(a) The department of natural resources may undertake projects and activities or provide grants for projects and activities that improve forest health that includes but is not limited to thinning or prescribed fire, with priority given to projects:

(i) Proposed pursuant to a forest collaborative planning process establishing ecological and public safety goals across any combination of local, state, federal, and private ownerships; and

(ii) That are consistent with the forest health treatment and assessment framework developed pursuant to chapter 95, Laws of 2017;

(b) The department of natural resources may support agency activities related to and provide grants for:

(i) Wildland fire prevention;

(ii) Wildland fire suppression; and

(iii) Projects and activities that reduce the risk of wildland fires to communities and improve their ability to adapt to wildfires.

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

(5) By January 1, 2019, the department of ecology must establish an advisory committee comprising representatives of state and local agencies, the climate impacts group at the University of Washington and other private sector organizations to provide input on how the department shall identify, evaluate, and prioritize infrastructure needs and projects based on their ability to increase the resilience of Washington's natural resources to the impacts of climate change expected in the state.

**Part III**

**Clean Energy Investment Program**

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this part unless the context clearly requires otherwise.

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

(2) "Department" means the department of commerce.

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

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

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

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

NEW SECTION. **Sec.**  CARBON POLLUTION TAX CREDIT. (1) Beginning July 1, 2019, each light and power business or gas distribution business may claim a credit against the tax imposed in section 102 of this act for clean energy investments approved pursuant to this chapter, not to exceed one hundred percent of the taxes owed under section 102 of this act in the same calendar year.

(2) To be eligible for the credit under this section for clean energy investment, a light and power business or gas distribution business must, as of the date the credit is claimed, have executed an agreement with the department or commission pursuant to section 306 of this act, authorizing it to reinvest an equivalent amount of revenues collected from customers for the purposes of this chapter during that year, the preceding year, or any of the three subsequent years. Remaining revenues collected pursuant to the tax imposed in section 102 of this act shall be remitted to the department of revenue and deposited in the carbon pollution reduction account.

(3) Each light and power business and gas distribution business claiming a credit pursuant to this section must establish and maintain a separate clean energy investment account into which it must deposit amounts equal to the credit taken under this section. Moneys in this account must be kept separate from other accounts, and may only be expended for the purposes identified in this chapter. Interest accrued on this account must be expended only for purposes identified in this chapter.

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

(5) Moneys retained in the separate clean energy investment account are considered gross operating revenue for the purpose of RCW 80.24.010, and are not considered gross income for the purpose of chapter 82.16 RCW.

NEW SECTION. **Sec.**  TECHNICAL ADVISORY COMMITTEE CREATED. (1) The commission and the department must create a broadly representative technical advisory committee for the purpose of advising the commission, the department, other state agencies, the legislature, utilities, and local governments on utility reinvestment of moneys credited pursuant to section 302 of this act. The advisory committee will advise on or review standards and guidelines to be developed or adopted by the commission and the department to evaluate, quantify and verify greenhouse gas emissions reductions proposed by utility plans pursuant to section 305 of this act. The duties of the technical advisory committee include, but are not limited to:

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

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

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

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

(2) The technical advisory committee established in this section constitutes a class one group under RCW 43.03.220. Expenses for the technical advisory committee are an appropriate administrative expense for the purpose of section 305(7)(j) of this act. Staff support must be provided by the department and the commission.

NEW SECTION. **Sec.**  WASHINGTON CLEAN ENERGY INVESTMENT PROGRAMS ESTABLISHED—RULE MAKING. By July 1, 2019, the department of commerce must adopt rules that apply to the consumer-owned utilities and the utilities and transportation commission must adopt rules that apply to the investor-owned utilities concerning the process, timelines, reporting, and documentation required to ensure the proper implementation of this chapter. Such rules must also establish requirements for review, approval, and independent monitoring and evaluation of clean energy investment plan implementation. The department and the commission must, to the extent practicable, adopt rules that are similar enough to ensure coordinated and consistent implementation of this chapter for consumer-owned and investor-owned utilities.

NEW SECTION. **Sec.**  CLEAN ENERGY INVESTMENT PLANS. (1) To be eligible for the tax credit under section 302 of this act, a light and power business or gas distribution business must develop and maintain an approved clean energy investment plan, and execute an agreement with the department or the commission as described in this section.

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

(3) Beginning July 1, 2020, a light and power business or gas distribution business seeking a credit under section 302 of this act must submit:

(a) A clean energy investment plan for approval by the department, in the case of a consumer-owned utility, or by the commission, in the case of an investor-owned utility;

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

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

(4) A utility's clean energy investment plan may use methods and calculations that deviate from the common protocols and planning assumptions recommended by the technical advisory committee when approved by the commission or the department of commerce.

(5) A clean energy investment plan must include:

(a) Programs for investments or expenditures that:

(i) Are incremental to investments or expenditures that the utility would have pursued in the absence of such clean energy investment plan; and

(ii)(A) Reduce or offset carbon dioxide emissions of the utility; or

(B) Advance market transformation, educate consumers, develop new low carbon fuels such as renewable natural gas, and increase participation in programs that enable consumers to choose low carbon alternatives;

(b) A demonstration that the portfolio of funded activities can reasonably be expected to achieve reductions in greenhouse gas emissions;

(c) An estimate, based on protocols developed by the technical advisory committee or other protocol as authorized under subsection (4) of this section, of the metric tons of emissions reductions and the cost per metric ton of emission reductions for the portfolio of projects in the clean energy investment plan;

(d) A demonstration that expenditures in the clean energy investment plan will be additional to expenditures necessary to meet other emissions reduction, energy conservation, or renewable energy requirements not to exceed an average cost per metric ton of greenhouse gases abated at three hundred percent of the carbon tax rate or to be determined by the department or commission as appropriate; and

(e) A customer education and outreach program to promote widespread participation by consumers and businesses.

(6) At least twenty percent of the moneys collected by a utility pursuant to this section must be dedicated for low-income energy assistance, which may include discounted rates for qualifying customers, grants to qualifying customers with high utility bills and weatherization, residential distributed energy resources and electric vehicle charging equipment that benefit low-income customers. Such moneys must be additional to other funding for low-income energy assistance.

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

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

(b) Market transformation for energy efficiency products;

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

(d) Low-income weatherization;

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

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

(ii) Incentives for car dealers to sell electric vehicles;

(iii) Incentives for property owners to install charging equipment for electric vehicles; and

(iv) Incentives for the electrification of vehicle fleets;

(f) Investment in clean distributed energy resources and grid modernization to facilitate distributed resources and improved grid resiliency;

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

(h) Investments in renewable natural gas production, including gas conditioning equipment for biogas;

(i) Contributions to self-directed investments in the following measures to serve the sites of large industrial gas and electrical customers: Conservation; new renewable energy resources; behind-the-meter technology that facilitates demand response cooperation to reduce peak loads; infrastructure to support electrification of transportation needs and heating loads; or renewable natural gas production, including gas conditioning equipment for biogas; and

(j) The reasonable costs of administration of clean energy investment program, as determined by the department or the commission.

(8) Funds from a clean energy investment account may be expended by an investor-owned utility to replace all or some of the debt financing portion of capital projects identified in the utility's approved clean energy investment plan, if the commission determines that such treatment would reduce the overall cost of the project to customers, and is otherwise consistent with the purposes of this section.

(9) In order to maintain eligibility for the tax credit under section 302 of this act and to continue to retain authority to expend money from the utility's clean energy investment account, a light and power business or gas distribution business must submit and receive approval of an updated clean energy investment plan every three years.

NEW SECTION. **Sec.**  CLEAN ENERGY INVESTMENT PROGRAM EXPENDITURE MONITORING AND OVERSIGHT. (1) Upon approval of a clean energy investment plan, a light and power business or gas distribution business must execute an agreement with the department or the commission, authorizing the light and power business or gas distribution business to expend moneys from its clean energy investment account in accordance with an approved clean energy investment plan, with the oversight of the department or commission.

(2) In order to maintain eligibility for the tax credit under section 302 of this act and to retain authority to expend money from the utility's clean energy investment account, a utility must submit annual reports to the commission or the department, including, but not limited to:

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

(b) Using the protocols established by the commission and the department:

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

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

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

(4) The department of commerce must, annually on a schedule it sets, provide the department of revenue a report summarizing who is entitled to the credit, over what timeline, any further information required to assist the department of revenue in administering the credit.

**Part IV**

**Planning**

NEW SECTION. **Sec.**  PLANNING AND PREPARATION FOR IMPLEMENTING THE CARBON POLLUTION REDUCTION ACCOUNT. The department of commerce must, by June 30, 2019, develop an implementation plan for the investment of the energy transformation account and the transition assistance account. This planning and preparation must include:

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

(2) The preparation of robust monitoring and evaluation systems to ensure that the effects and cost-effectiveness of grants are rigorously assessed and that such assessments are used over time to inform and strengthen the grant making process;

(3) The assessment and development of efficient and transparent grant making strategies designed to ensure program objectives are met and taxpayer interests are protected, including, but not limited to, leveraging investments through partnerships, reverse auctions, and pay-for-performance mechanisms in which funding is released upon emission reduction verifications; and

(4) Outreach and education to engage eligible recipients for grant funding and to prepare them to develop and submit grant applications for priority projects.

NEW SECTION. **Sec.**  PLANNING AND PREPARATION FOR RESILIENCE. (1) The department of ecology must, in the first twelve months after the implementation of the carbon tax in section 102 of this act, and in cooperation with the Washington recreation and conservation office and the climate impacts group at the University of Washington, develop an implementation plan for the investment of the water and natural resources resilience account. This plan must include:

(a) Identification of priority issues for adaptation and resilience investments;

(b) Clear objectives for the program and metrics to be used by the department and the legislature to evaluate the impact and effectiveness of investments made through the program;

(c) Guidance to evaluate the rigor, potential impact, and readiness of applications submitted under the program;

(d) Assessment and development of grant making strategies to maximize the cost-effectiveness of the program; and

(e) Outreach and education to engage potential recipients for grant funding and to prepare them to develop and submit grant applications for priority projects.

(2) Not later than October 1, 2022, and every four years thereafter, the department of ecology must work with the climate impacts group at the University of Washington to provide an assessment of the state's resilience to climate change impacts and the remaining major vulnerabilities, and must provide recommendations for additional types of projects and activities which should be funded from the water and natural resources resilience account. All state agencies shall cooperate in providing monitoring data and other information important in preparing the assessment and the recommendations required by this subsection.

NEW SECTION. **Sec.**  TRANSITION ASSISTANCE. The department of commerce must, in the first twelve months after the implementation of the carbon tax, work with the employment security department, the department of health, and other agencies to establish an implementation plan for the transition assistance account. The implementation plan must include:

(1) Identification of disproportionately impacted communities characterized by high concentrations of people that are of low income or higher levels of unemployment or that feature low levels of home ownership or where average costs of energy or rent is a higher proportion of average income;

(2) Guidance to evaluate wage and benefit value for affected workers; and

(3) Outreach and education to engage organizations and other eligible recipients for funding support.

NEW SECTION. **Sec.**  DECARBONIZATION PLANNING. The department of commerce must within two years after enactment of this statute develop a statewide plan for how the state of Washington would achieve mid-century net greenhouse gas emissions reductions of eighty percent or greater. The office of financial management, the department of ecology, the utilities and transportation commission, and Washington State University extension energy program must provide technical assistance to the department of commerce. The department of commerce must convene and provide staff support to deep decarbonization advisory committee made up of a broad representation of local and state governments, businesses, public interest organizations, energy industry, and citizens to provide recommendations on the scope and content of the statewide plan. As needed, commerce may establish technical committees to provide additional input and may contract for technical analysis of elements related to the plan.

**Part V**

**Miscellaneous Provisions**

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

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

NEW SECTION. **Sec.**  Parts III and IV of this act constitute a new chapter in Title 43 RCW.

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

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

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