AN ACT Relating to mitigating the impacts of climate change; adding a new section to chapter 43.19 RCW; adding a new section to chapter 35.92 RCW; adding a new section to chapter 54.04 RCW; adding a new section to chapter 82.16 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 80 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Washington is especially vulnerable to climate change because of the state's dependence on snow pack for summer stream flows and because the expected rise in sea levels threatens our coastal communities. Extreme weather, a warming Pacific Northwest, reduced snow pack, and sea level rise are four major ways that climate change is disrupting Washington's economy, environment, and communities;

(b) Washington's greenhouse gas emissions are continuing to increase, despite international scientific consensus that worldwide emissions must be reduced significantly below current levels to avert catastrophic climate change;

(c) Washington has been a leader in actions to reduce the increase of emissions, including the adoption of clean car standards, stronger
appliance energy efficiency standards, increased production and use of
renewable liquid fuels, and increased renewable energy sources by
electrical utilities;

(d) Washington has participated with other Western states in
designing regional approaches to reduce greenhouse gas emissions, and
a regional cap and trade mechanism will be more effective than if
implemented separately in each state;

(e) While these actions are significant, there is a need to assess
the trend of emissions statewide over the next several decades, and to
take sufficient actions so that Washington meets its responsibility to
contribute to the global actions needed to reduce the impacts and the
pace of global warming;

(f) Actions to reduce greenhouse gas emissions will spur technology
development and increase efficiency, thus resulting in benefits to
Washington's economy and businesses; and

(g) Numerous states and nations have adopted emission reduction
goals to assist emission sources with planning for changes in practices
and technologies.

(2) The legislature further finds that companies that generate
greenhouse gas emissions or manufacture products that generate such
emissions are purchasing carbon credits from landowners and from other
companies in order to provide carbon credits. Companies that are
purchasing carbon credits would benefit from a program to trade and to
bank carbon credits. Washington forests are one of the most effective
resources that can absorb carbon dioxide from the atmosphere. Forests,
and other planted lands and waters, provide carbon storage and mitigate
greenhouse gas emissions. Washington contains the most productive
forests in the world and both public and private landowners could
benefit from a carbon storage trading and banking program. The
legislature further finds that catastrophic forest fires are a major
source of greenhouse gas emissions, and that federal and state forest
land management should seek to manage forests to reduce the risk of
such fires.

(3) The legislature intends by this act to establish goals for the
statewide reduction in greenhouse gas emissions and reduction in
petroleum use, and to adopt the governor's mechanism in Executive Order
No. 07-02 to design and recommend a comprehensive set of measures to
accomplish the goals. The legislature further intends by this act to
authorize immediate actions in the electric power generation sector for
the reduction of greenhouse gas emissions and to accelerate efficiency
in the transportation sector.

NEW SECTION. Sec. 2. (1) By January 1, 2020, the annual statewide
greenhouse gas emission levels must be no greater than the emission
levels in 1990.
(2) By January 1, 2035, the annual statewide greenhouse gas
emission levels must be twenty-five percent below the emission levels
in 1990.
(3) By January 1, 2050, the annual statewide greenhouse gas
emission levels must be the lesser of:
(a) Fifty percent below the emission levels in 1990; or
(b) Seventy percent below the projected annual emission levels for
2050.
(4) By January 1, 2020, the total number of jobs in the clean
energy sector in the state must be increased from the estimated eight
thousand four hundred in 2004 to not less than twenty-five thousand
jobs.
(5) By January 1, 2020, the total expenditures for petroleum fuels
imported to the state shall be reduced twenty percent from the nine
billion six hundred million dollars expended in 2006.

NEW SECTION. Sec. 3. Executive Order No. 07-02 shall provide the
mechanisms for identifying the policies and strategies necessary to
achieve the economic and emission reduction goals of section 2 of this
act.

NEW SECTION. Sec. 4. By December 31st of each even-numbered year
beginning in 2010, the departments of ecology and community, trade, and
economic development shall report to the governor and the appropriate
committees of the senate and house of representatives the total
greenhouse gas emissions for the preceding two years, and totals in
each major source sector.

NEW SECTION. Sec. 5. (1) The legislature finds that:
(a) The United Nation's intergovernmental panel on climate change
report, released February 2, 2007, states that evidence of the
climate's warming "is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global mean sea level";

(b) Global warming will have serious adverse consequences on the economy, health, and environment of Washington;

(c) During the last several years, the state has taken significant strides towards implementing an environmentally and economically sound energy policy through reliance on energy efficiency, conservation, and renewable energy resources in order to promote a sustainable energy future that ensures an adequate and reliable energy supply at reasonable and stable prices;

(d) The governor, in Executive Order No. 07-02, has called for the reduction of Washington's emission of greenhouse gases to 1990 levels by 2020;

(e) To the extent energy efficiency and renewable resources are unable to satisfy increasing energy and capacity needs, the state will rely on clean and efficient fossil fuel fired generation and will encourage the development of cost-effective, highly efficient, and environmentally sound supply resources to provide reliability and consistency with the state's energy priorities;

(f) It is vital to ensure all electric utilities internalize the significant and underrecognized cost of emissions and to reduce Washington's exposure to costs associated with future federal regulation of these emissions;

(g) A greenhouse gases emissions performance standard for new long-term financial commitments to electric generating resources will reduce potential exposure of Washington's consumers to future reliability problems in electricity supplies;

(h) To the extent energy efficiency and renewable resources are unable to satisfy increasing energy and capacity needs, the state must rely on clean and efficient fossil-fuel generation;

(i) The state of California recently enacted a law establishing a greenhouse gases emissions performance standard for electric utility procurement of baseload electric generation that is based on the emissions of a combined-cycle thermal electric generation facility fueled by natural gas; and

(j) The state of Washington has an obligation to provide clear guidance for the procurement of baseload electric generation to
alleviate regulatory uncertainty while addressing risks that can affect
the ability of electric utilities to make necessary and timely
investments to ensure an adequate, reliable, and cost-effective supply
of electricity.

(2) The legislature declares that:
(a) A greenhouse gases emissions performance standard for new
long-term financial commitments for baseload electric generation should
reduce financial risk to electric utilities and their customers from
future pollution-control costs, without jeopardizing the state's
commitment to lowest reasonable cost resources and the need to maintain
a reliable regional electric system.
b) A greenhouse gases emissions performance standard will
complement the state's carbon dioxide mitigation policy for
fossil-fueled thermal electric generation facilities under chapter
80.70 RCW.
(c) The need for long-term financial commitments for new baseload
electric generation can be reduced over time through the deployment by
electric utilities of technologies that improve the efficiency of
electricity production, transmission, distribution, and consumption.

NEW SECTION. Sec. 6. The definitions in this section apply
throughout this chapter unless the context clearly requires otherwise.
(1) "Attorney general" means the Washington state office of the
attorney general.
(2) "Auditor" means: (a) The Washington state auditor's office or
its designee for qualifying utilities under its jurisdiction that are
not investor-owned utilities; or (b) an independent auditor selected by
a qualifying utility that is not under the jurisdiction of the state
auditor and is not an investor-owned utility.
(3) "Baseload electric generation" means electric generation from
a power plant that is designed and intended to provide electricity at
an annualized plant capacity factor of at least sixty percent.
(4) "Cogeneration facility" means a power plant in which the heat
or steam is also used for industrial or commercial heating or cooling
purposes and that meets federal energy regulatory commission standards
for qualifying facilities under the public utility regulatory policies
"Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

"Commission" means the Washington utilities and transportation commission.

"Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

"Council" means the energy facility site evaluation council created in RCW 80.50.030.

"Department" means the department of ecology.

"Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

"Electric utility" means an electrical company or a consumer-owned utility.

"Governing board" means the board of directors or legislative authority of a consumer-owned utility.

"Greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

"Long-term financial commitment" means either a new ownership investment in baseload electric generation, or a new or renewed contract for baseload electric generation with a term of five or more years.

"Output-based methodology" means a greenhouse gases emissions performance standard that is expressed in pounds of greenhouse gases emitted per megawatt-hour and factoring in the useful thermal energy employed for purposes other than the generation of electricity.

"Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.
(17) "Power plant" means a facility for the generation of electricity that includes one or more generating units at the same location.

NEW SECTION. Sec. 7. (1) On or before July 1, 2008, the department, in consultation with the council, shall establish a greenhouse gases emissions performance standard for all baseload electric generation of electric utilities, at a rate of emissions of greenhouse gases that is no higher than the rate of emissions of greenhouse gases for a commercially available combined-cycle natural gas thermal electric generation facility that provides baseload electric generation. All combined-cycle natural gas thermal electric generation facilities that are in operation, or that are permitted to operate as of June 30, 2008, are deemed to be in compliance with the greenhouse gases emissions performance standard established under this section. In determining the rate of emissions of greenhouse gases for baseload electric generation, the department shall include the net emissions resulting from the production of electricity by the baseload electric generation.

(2) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration facility recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy. In developing and implementing the greenhouse gases emissions performance standard, the department shall consider and act in a manner consistent with any rules adopted pursuant to the public utilities regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(3) Carbon dioxide that is injected in geological formations, so as to prevent releases into the atmosphere, in compliance with applicable laws and regulations may not be counted as emissions of the power plant in determining compliance with the greenhouse gases emissions performance standard.

(4) In adopting and implementing the greenhouse gases emissions performance standard, the department, in consultation with the commission, council, the Bonneville power administration, the western electricity coordination council, and electric utilities shall consider
the effects of the greenhouse gases emissions performance standard on system reliability and overall costs to electricity customers.

(5) In developing and implementing the greenhouse gases emissions performance standard, the department shall, to the extent practicable, address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(6) The department shall adopt the greenhouse gases emissions performance standard by rule pursuant to chapter 34.05 RCW, the administrative procedure act. The department shall adopt rules to enforce the requirements of this section, and adopt procedures to verify the emissions of greenhouse gases from any baseload electric generation supplied under a contract subject to the greenhouse gases emissions performance standard to ensure compliance with the standard. Enforcement of the greenhouse gases emissions performance standard must begin immediately upon the establishment of the standard.

(7) The department shall adopt the rules necessary to implement this section by June 30, 2008.

**NEW SECTION. Sec. 8.** (1) No electrical company may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(2) In order to enforce the requirements of this chapter, the commission shall review and approve any long-term financial commitment proposed to be entered into by an electrical company to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act. No electrical company may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(3) In determining whether a long-term financial commitment is for baseload electric generation, the commission shall consider the design of the power plant and its intended use, based upon the electricity purchase contract, if any, permits necessary for the operation of the
power plant, and any other matter the commission determines is relevant under the circumstances.

(4) Upon application by an electric utility, the commission may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) extraordinary circumstances, catastrophic events, or threat of significant financial harm that may arise from unforeseen circumstances.

(5) Upon application by an electrical company, the commission shall make a determination regarding the company's proposed decision to acquire electric generation or enter into a power purchase agreement for electricity that complies with the greenhouse gases emissions performance standard established under section 7 of this act, as to the need for the resource, and the appropriateness of the specific resource selected. The commission shall take into consideration factors such as the company's forecasted loads, need for energy, power plant technology, expected costs, and other associated investment decisions. In addition, the commission shall provide for recovery of the cost of these resources, including full recovery of related fuel expense, coincident with the in-service date of the project or the effective date of the power purchase agreement.

(6) The commission shall add an increment of two percent to the rate of return on common equity permitted on an electrical company's other investments for: (a) The company's cost-effective investment in energy efficiency end use measures that exceed the requirements of RCW 19.285.040(1); and (b) energy efficiency technologies, including any device, instrument, machine, appliance, or process related to the production, transmission, distribution, and consumption of electricity to increase energy efficiency, including but not limited to smart grid technology, smart meters, and demand response technologies. The rate of return increment must be allowed for a period not to exceed thirty years after the investment is first placed in the rate base.

(7) The commission shall apply the procedures adopted by the council to verify the emissions of greenhouse gases from baseload electric generation under section 7 of this act.

(8) The commission shall adopt rules for the enforcement of this chapter with respect to electrical companies and adopt procedural rules
for approving costs incurred by an electrical company under subsection (4) of this section.

(9) The commission shall adopt the rules necessary to implement this section by June 30, 2008.

NEW SECTION. Sec. 9. (1) No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(2) The governing board of a consumer-owned utility shall review and approve any long-term financial commitment proposed to be entered into by the utility to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act. No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(3) In confirming that a long-term financial commitment is for baseload electric generation, the governing board shall consider the design of the power plant and the intended use of the power plant based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the governing board determines is relevant under the circumstances.

(4) The governing board may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) extraordinary circumstances, catastrophic events, or threat of significant financial harm that may arise from unforeseen circumstances.

(5) The governing board shall apply the procedures adopted by the council to verify the emissions of greenhouse gases from baseload electric generation pursuant to section 7 of this act, and may request assistance from the council in doing so.

(6) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this
chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

NEW SECTION. Sec. 10. A new section is added to chapter 43.19 RCW to read as follows:

(1) During the biennium ending June 30, 2009, the department of general administration is authorized to purchase at least one hundred plug-in electric hybrid vehicles for state agency light duty vehicle uses, when commercially available at comparable life costs to other vehicles. At least twenty-five of the vehicles must be assigned for use by state agency directors. The vehicles must bear a prominent designation as a plug-in electric hybrid vehicle. The department of general administration shall develop a purchasing contract under which state agencies and local governments may purchase plug-in electric hybrid vehicles.

(2) By December 31, 2009, the department of general administration shall provide a report to the transportation and energy committees of the senate and house of representatives on the acquisition of these vehicles and their operational and maintenance performance.

NEW SECTION. Sec. 11. The legislature finds and declares that offset contracts and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers. The legislature declares that sections 12 and 13 of this act are intended to reverse the result of Okeson v. City of Seattle, No. 77888-4 (January 18, 2007), by expressly granting municipal utilities and public utility districts the statutory authority to engage in mitigation activities to offset their utility's impact on the environment.

NEW SECTION. Sec. 12. A new section is added to chapter 35.92 RCW to read as follows:

(1) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with electricity for lighting and other purposes may develop and make publicly available a plan for the utility to reduce greenhouse gases up to and including a plan to achieve no-net emissions.
from all sources of greenhouse gases it owns, leases, uses, contracts for, or otherwise controls.

(2) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with electricity for lighting and other purposes may, as part of its utility operation, mitigate the environmental impacts of its operation and any power purchases, such as greenhouse gases emissions. The mitigation may include all greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of carbon offsets or credits. Any carbon offset or credit purchased after the effective date of this section must be recognized by any greenhouse gases registry developed by the state.

NEW SECTION. Sec. 13. A new section is added to chapter 54.04 RCW to read as follows:

(1) A public utility district may develop and make publicly available a plan for the district to reduce greenhouse gases up to and including a plan to achieve no-net emissions from all sources of greenhouse gases it owns, leases, uses, contracts for, or otherwise controls.

(2) A public utility district may, as part of its utility operation, mitigate the environmental impacts of its operation and any power purchases, such as greenhouse gases emissions. The mitigation may include all greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of carbon offsets or credits. Any carbon offset or credit purchased after the effective date of this section must be recognized by any greenhouse gases registry developed by the state.

NEW SECTION. Sec. 14. (1) The office of Washington state climatologist is created.

(2) The office of Washington state climatologist consists of the director of the office, who is the state climatologist, and appropriate
staff and administrative support as necessary to carry out the powers and duties of the office as enumerated in section 15 of this act.

(3) The director of the office of Washington state climatologist must be appointed jointly by the president of Washington State University and the president of the University of Washington. The office of Washington state climatologist is administered as determined jointly by these two presidents.

NEW SECTION. Sec. 15. The office of Washington state climatologist has the following powers and duties:

(1) To serve as a credible and expert source of climate and weather information for state and local decision makers and agencies working on drought, flooding, climate change, and other related issues;

(2) To gather and disseminate, and where practicable archive, in the most cost-effective manner possible, all climate and weather information that is or could be of value to policy and decision makers in the state;

(3) To act as the representative of the state in all climatological and meteorological matters, both within and outside of the state, when requested by the legislative or executive branches of the state government;

(4) To prepare, publish, and disseminate climate summaries for those individuals, agencies, and organizations whose activities are related to the welfare of the state and are affected by climate and weather;

(5) To supply critical information for drought preparedness and emergency response as needed to implement the state's drought contingency response plan maintained by the department of ecology under RCW 43.83B.410, and to serve as a member of the state's drought water supply and emergency response committees as may be formed in response to a drought event;

(6) To conduct and report on studies of climate and weather phenomena of significant socioeconomic importance to the state; and

(7) To evaluate the significance of natural and man-made changes in important features of the climate affecting the state, and to report this information to those agencies and organizations in the state who are likely to be affected by these changes.
NEW SECTION. Sec. 16. A new section is added to chapter 82.16 RCW to read as follows:

(1) Subject to the limitations in this section, an eligible light and power business may claim a credit against the tax imposed under this chapter.

(2) The amount of credit is equal to two percent annually, for a period of thirty years, of the cost of: (a) Cost-effective investments in energy efficiency end use measures that exceed the requirements of RCW 19.285.040(1); and (b) energy efficiency technologies, including any device, instrument, machine, appliance, or process related to the production, transmission, distribution, and consumption of electricity to increase energy efficiency, including but not limited to smart grid technology, smart meters, and demand response technologies.

(3) For purposes of this section, "eligible light and power business" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

NEW SECTION. Sec. 17. Sections 1 through 4, 14, and 15 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 18. Sections 5 through 9 of this act constitute a new chapter in Title 80 RCW.

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