

1 a carbon policy that invests in clean energy, clean water, forest
2 health, and clean air projects. The investments made by this act in
3 clean energy are intended to attract additional private and public
4 investment to catalyze faster reductions in greenhouse gas emissions.

5 (c) The legislature finds that assigning a cost to the emissions
6 of greenhouse gases to partially defray the taxpayer cost of these
7 impacts is appropriate in light of the social, environmental, and
8 economic harms from those emissions. This is intended to allow clean
9 energy, which lacks these negative externalities, to fairly compete
10 in the marketplace, and to incentivize and expedite the transition to
11 clean energy sources. In addition, in assigning a cost to the
12 emissions of greenhouse gases, it is the intent of the legislature to
13 help avert worst-case climate change scenarios by enacting state
14 policies and supporting national and international policies that
15 contribute to the reduction of average global concentrations of
16 atmospheric carbon dioxide to under three hundred fifty parts per
17 million.

18 (2) Therefore, it is the intent of the legislature to enact a
19 carbon pollution mitigation tax on fossil fuel emissions of
20 greenhouse gases that contribute to global climate change. This tax
21 is intended to serve as the primary policy of the state in reducing
22 emissions of greenhouse gases from all sectors and to encourage the
23 development of energy resources that pose fewer environmental and
24 public health costs while benefiting local economies. This act is
25 intended to mitigate energy costs for low-income individuals or
26 households living at or near the federal poverty line. This act is
27 also intended to help Washington reduce its contribution to
28 anthropogenic climate change and to forestall and minimize the worst-
29 case scenarios anticipated to result from atmospheric greenhouse gas
30 pollution and global climate change caused by that pollution. By
31 allowing utilities to direct a share of the carbon tax imposed by
32 this act, it is the intent of the legislature that, for the
33 electricity sector, this policy must avoid the need for investments
34 in new fossil fuel based generation while protecting low rates and
35 reliable service by bridging the cost between emitting and
36 nonemitting generation resources; for the gas sector, it reduces the
37 use of natural gas in the residential, commercial, and industrial
38 sectors in favor of alternatives, including those manufactured in
39 partnership with Washington's dairies, wastewater and waste
40 facilities; and with remaining funds maximizes clean energy

1 investments that reduce greenhouse gas emissions in ways that promote
2 improved functioning and resilience of the grid. Finally, in order to
3 facilitate a just and equitable transition to a clean energy economy,
4 it is the intent of the legislature to use revenue from the tax to:

5 (a) Assist low-income individuals and disproportionately impacted
6 communities in this transition;

7 (b) Provide meaningful support to workers and communities if they
8 are impacted by this act; and

9 (c) Improve community health through contributing to clean air,
10 clean water, and healthy forests.

11 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "Board" means the carbon program oversight board established
15 in section 103 of this act.

16 (2) "Carbon calculation" means a calculation made by the
17 department of ecology for purposes of assessing the carbon pollution
18 mitigation tax for fossil fuels in section 202 of this act.

19 (3) "Carbon content" means the carbon dioxide equivalent that is
20 released through the combustion or oxidation of a fossil fuel or that
21 is associated with the combustion or oxidation of a fossil fuel used
22 to generate imported electricity.

23 (4) "Carbon dioxide equivalent" has the same meaning as provided
24 in RCW 70.235.010.

25 (5) "Clean energy" means technologies, services, or processes
26 that reduce energy consumption or enable the transition to a low-
27 carbon energy economy, or both. Clean energy includes, but is not
28 limited to, technologies, services, or processes that increase the
29 supply of energy from renewable resources, as that term is defined in
30 RCW 19.285.030, improve energy efficiency, improve the processes and
31 systems that use energy, deploy renewable energy infrastructure, or
32 facilitate the marketplace permeation of energy solutions with fewer
33 associated greenhouse gas emissions, including planning and creating
34 structures that reduce energy demand.

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

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

1 (8) "Disproportionately impacted communities" means communities
2 identified by the department of health pursuant to section 112 of
3 this act.

4 (9) "Energy-intensive and trade-exposed facility" or "EITE
5 facility" means a facility identified by the department of commerce
6 under section 210 of this act.

7 (10) "Forest management purposes" means the performance of
8 activities directly related to the growing, raising, or harvesting of
9 forest products, including but not limited to logs, chips, and forest
10 biomass. "Forest management purposes" does not include transporting
11 on public or private roads individuals, forest products, machinery,
12 or equipment.

13 (11)(a) "Fossil fuel" means petroleum products that are intended
14 for combustion, natural gas, coal or coke of any kind, or any form of
15 solid, liquid, or gaseous fuel derived from these products including
16 but not limited to motor vehicle fuel, special fuel, aircraft fuel,
17 marine fuel, still gas, propane, and petroleum residuals such as
18 bunker fuel.

19 (b) For purposes of imposing the tax on the carbon content of
20 fossil fuels by a refinery facility consumed during the process of
21 refining fossil fuels consistent with section 202(3) of this act,
22 "fossil fuel" also means crude oil and petroleum.

23 (12) "Imported electricity" means electricity generated outside
24 of the state of Washington and delivered for end use within the
25 state.

26 (13) "Incremental cost" means the difference between the cost of
27 a lowest reasonable cost nonemitting resource bundle, regardless of
28 ownership, compared to the cost of the lowest reasonable cost bundle
29 that may include emitting resources.

30 (14) "Inflation" is the inflation rate determined by the consumer
31 price index for all urban consumers (CPI-U) available from the United
32 States department of labor, bureau of labor statistics.

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

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

37 (17) "Motor vehicle fuel" has the same meaning as provided in RCW
38 82.38.020.

39 (18) "Natural gas" means naturally occurring mixtures of
40 hydrocarbon gases and vapors consisting principally of methane,

1 whether in gaseous or liquid form, including methane clathrate.
2 Natural gas does not include gas produced by the decomposition of
3 wastes in a landfill, as defined in RCW 70.95.030, a biodigester,
4 wastewater facility, or from other nonfossil fuel sources.

5 (19) "Nonemitting resource bundle" means one or more technologies
6 or projects that, taken together, perform the same function as the
7 least-cost similarly reliable and available alternative project or
8 resource while emitting no greenhouse gases during the generation of
9 electricity. These technologies or projects may include investments
10 eligible under section 204(3) of this act.

11 (20) "Nonpower attributes" has the same meaning as provided in
12 RCW 19.285.030.

13 (21) "Person" means the state of Washington, political
14 subdivision of the state of Washington, municipal corporation, the
15 United States, and any individual, receiver, administrator, executor,
16 assignee, trustee in bankruptcy, trust, estate, firm, copartnership,
17 joint venture, club, company, joint stock company, business trust,
18 corporation, limited liability company, association, society, or any
19 group of individuals acting as a unit, whether mutual, cooperative,
20 fraternal, nonprofit, or otherwise.

21 (22) "Petroleum product" means hydrocarbons that are the product
22 of the fractionation, distillation, or other refining or processing
23 of crude oil that are used as, usable as, or may be refined as a fuel
24 or fuel blendstock.

25 (23) "Special fuel" has the same meaning as provided in RCW
26 82.38.020 and includes fuel that is sold or used to propel vessels.

27 (24) "Supplier" means a person that produces, refines, imports,
28 sells, or delivers fossil fuels, or any combination of producing,
29 refining, importing, selling, or delivering fossil fuels in or into
30 the state for use or processing within the state.

31 (25) "Tax credit investment funds" means the portion of the tax
32 imposed pursuant to section 202 of this act is credited to a light
33 and power business or gas distribution business for greenhouse gas
34 emission reduction and atmospheric carbon sequestration investments
35 under section 113 of this act.

36 (26) "Trade share" means the sum of the state imports and exports
37 that cross state lines of a good relative to the sum of the total
38 value of state shipments plus imports of the good.

39 (27) "Year" means the twelve months commencing January 1st and
40 ending December 31st unless otherwise specified.

1 NEW SECTION. **Sec. 103.** CARBON PROGRAM OVERSIGHT BOARD. (1)(a)

2 The carbon program oversight board is established within the
3 executive office of the governor. The purpose of the board is to
4 oversee implementation of this act and advise the governor on whether
5 the tax and programs funded by the tax are achieving greenhouse gas
6 emission reductions equitably, sustainably, and efficiently.

7 (b) Voting members of the board must be appointed by the
8 governor. The board must consist of at least one voting member
9 representing each of the following parties, totaling nineteen
10 members:

11 (i) An organization whose mission is to advocate for residential
12 consumers;

13 (ii) An organization whose mission is to advocate for industrial
14 consumers of energy;

15 (iii) A Washington business or organization representing
16 Washington businesses;

17 (iv) A worker from an energy-intensive and trade-exposed
18 facility;

19 (v) A light and power business or a supplier;

20 (vi) A land conservation organization;

21 (vii) An environmental organization with a focus on climate
22 policy;

23 (viii) A federally recognized Indian tribe, whose designated
24 representative must rotate to a representative of a new tribe every
25 three years;

26 (ix) A statewide labor organization representing a broad cross
27 section of workers;

28 (x) A public health organization;

29 (xi) An organization that represents disproportionately impacted
30 communities;

31 (xii) Two local governments, of which one must be a city and one
32 must be a county, and one must be located east of the crest of the
33 Cascade mountains and one must be located west of the crest of the
34 Cascade mountains;

35 (xiii) An organization or university that possesses technical
36 expertise in alternative energy, energy efficiency, or other low-
37 carbon energy efficiency project implementation;

38 (xiv) A business engaged in alternative energy, energy
39 efficiency, or other low-carbon energy project implementation; and

1 (x) In addition to, and not counting, the board members
2 identified in (b)(iii) and (x) of this subsection, four members
3 representing either:

4 (A) Those most harmed by cumulative impacts in disproportionately
5 impacted communities, as identified in section 114 of this act; or

6 (B) Communities of workers in any economic sectors negatively
7 impacted by the tax imposed under section 202 of this act.

8 (c) The board must also consist of the following nonvoting
9 members:

10 (i) The director of the department of ecology or the director's
11 designee;

12 (ii) The director of the department of commerce or the director's
13 designee;

14 (iii) The director of the department of transportation or the
15 director's designee;

16 (iv) The chair of the utilities and transportation commission or
17 the chair's designee;

18 (v) The commissioner of public lands or the commissioner's
19 designee;

20 (vi) The director of the department of revenue or the director's
21 designee; and

22 (vii) A representative of each caucus of the house of
23 representatives and the senate, named by the leader of each caucus.

24 (d)(i) For the voting members of the board, the duration of the
25 first appointment must be:

26 (A) A two-year term for six members;

27 (B) A three-year term for six members; and

28 (C) A four-year term for seven members.

29 (ii) After the initial appointments, the appointments must be for
30 three-year terms or until a successor is appointed, except in the
31 case of appointments to fill vacancies, which must be for the
32 remainder of the unexpired term. The governor must appoint one of the
33 voting members to serve as chair of the board for the duration of the
34 member's term.

35 (e) The governor must make the appointments of the members under
36 (b) of this subsection by January 1, 2018. Any member appointed by
37 the governor may be removed by the governor for cause. The governor
38 must appoint board members so as to achieve a council membership with
39 balanced representation by geography, gender, and ethnicity.

40 (f) The board has the following powers and duties:

1 (i) Providing advice and recommendations to the governor, the
2 legislature, and the state agencies involved in the implementation of
3 chapters 70.--- and 82.--- RCW (the new chapters created in sections
4 402 and 403 of this act) and RCW 70.235.020;

5 (ii) Monitoring the effects of the implementation of this act, to
6 ensure that:

7 (A) Policy choices create an equitable and competitive economic
8 environment for businesses based on their greenhouse gas emissions
9 footprint; and

10 (B) Implementation of this act does not lead to unfair or
11 unintended economic distortions, including leakage related to EITE
12 facilities;

13 (iii) Providing oversight of carbon pollution mitigation tax
14 receipt moneys to ensure consistency with overlay investment criteria
15 required under section 115 of this act, to ensure that implementation
16 of this act does not lead to inequitable environmental or economic
17 impacts and that implementation satisfies the other purposes
18 established by sections 104, 107, 108 through 112, 114, and 210 of
19 this act, and reporting periodically to the legislature consistent
20 with RCW 43.01.036 on such matters;

21 (iv) Providing recommendations on utility clean energy investment
22 plans required in section 114 of this act;

23 (v) Hearing appeals of EITE exemption determinations made under
24 section 208(5) of this act;

25 (vi) Overseeing and making recommendations on the cumulative
26 impacts analysis required in section 114 of this act;

27 (vii) Overseeing and making recommendations on the investments
28 recommended by disproportionately impacted communities to meet the
29 overlay investment criteria required under section 115 of this act;
30 and

31 (viii) Overseeing and making recommendations on environmental and
32 economic analyses of the benefits and risks, including investments in
33 areas with displacement risk, of investments of carbon pollution
34 mitigation tax revenues that accrue to disproportionately impacted
35 communities and to workers displaced by the provisions of this act.

36 (2) The board must form an economic and environmental justice
37 subcommittee to convene periodically. The subcommittee must be
38 comprised of members of the board including but not limited to the
39 representatives identified in (1)(b)(x) of this section. The
40 fundamental purpose of the subcommittee is to provide a forum for

1 analysis of whether the policies adopted in chapters 70.--- and
2 82.--- RCW (the new chapters created in sections 402 and 403 of this
3 act) lead to improvements within disproportionately impacted
4 communities. This subcommittee must also advise the board in the
5 performance of its responsibilities in (1)(f)(vi) through (viii) of
6 this section.

7 (3) Upon request, the board must receive staff support, including
8 research and technical expertise, from the department of ecology, the
9 department of commerce, and the Washington State University extension
10 energy program. The department of commerce must also provide staff
11 resources to the board for rule making required of the board by this
12 chapter.

13 (4) Members of the board employed by the state must serve without
14 additional pay and participation in the work of the board is deemed
15 to be performance of their employment. Members from the public at
16 large must be compensated in accordance with RCW 43.03.240 and are
17 entitled to reimbursement individually for travel expenses incurred
18 in the performance of their duties as members of the board in
19 accordance with RCW 43.03.050 and 43.03.060.

20 NEW SECTION. **Sec. 104.** **EQUITABLE TRANSITION FUND CREATION.** (1)

21 The equitable transition fund is created within the state treasury.
22 Moneys in the account may only be spent after appropriation.

23 (2) Money in the fund may only be spent to ensure impacted
24 workers are made substantially whole during the period of transition
25 to a clean energy economy, including, but not limited to:

26 (a) Full wage replacement, health benefits, and pension
27 contributions for every worker with at least five years of service
28 for each year of service up to ten years of service. Workers with
29 less than five years of service are eligible for wage insurance;

30 (b) Up to two years of retraining costs including tuition and
31 related costs;

32 (c) Peer counseling services during transition;

33 (d) Employment placement services;

34 (e) Relocation expenses; and

35 (f) Other services deemed necessary by the board.

36 (3) It is the intent of the legislature to prioritize the
37 allocation of full financial support to this fund in an amount
38 sufficient to meet the needs of workers who may lose their jobs to
39 the transition to the clean energy economy. It is the intent of the

1 legislature to supplement the initial distribution to the account
2 specified in section 203 of this act with additional funds as needed
3 to ensure that the balance of the equitable transition fund does not
4 drop below five hundred thousand dollars at any point during a
5 biennium.

6 (4) Funding will be made available for workers who are dislocated
7 specifically due to the impacts of this act, including, but not
8 limited to, workers in fossil fuel-dependent industries. The process
9 of determining whether an event has occurred obligating the state to
10 provide financial support may be initiated by the board, or brought
11 to the attention of the board by a worker or a representative of a
12 labor union who believes a situation qualifies for equitable
13 transition support. The board must make final decisions determining
14 qualifying events and levels of support needed.

15 (5) The department of commerce may adopt rules to ensure proper
16 implementation of the requirements of this section.

17 NEW SECTION. **Sec. 105.** LOW-INCOME CARBON POLLUTION MITIGATION
18 TAX GRANT. (1) The mitigation grant account is created in the state
19 treasury. Receipts from the tax imposed in section 202 of this act
20 and distributed consistent with section 203 of this act must be
21 deposited into the account. Money in the account may only be used for
22 purposes described in this section.

23 (2) The definitions in this subsection apply throughout this
24 section unless the context clearly indicates otherwise.

25 (a) "Adjusted gross income" has the same meaning as provided in
26 Title 26 U.S.C. Sec. 62 of the federal internal revenue code, as
27 amended, as of the effective date of this section.

28 (b) "Department" means the department of social and health
29 services.

30 (c) "Eligible person" means:

31 (i) An individual, or an individual and that individual's spouse
32 if they file a joint return, who:

33 (A) Has an adjusted gross income as provided for in subsection
34 (4) of this section; and

35 (B) Properly files a federal income tax return as a Washington
36 resident, or is a nonresident alien who has an individual taxpayer
37 identification number from the United States internal revenue
38 service, and has been a resident of the state of Washington for more

1 than one hundred eighty days of the year in which the grant is
2 sought; or

3 (ii) Any person eligible for any Washington means-tested benefits
4 including, but not limited to, temporary assistance for needy
5 families under chapter 74.12 RCW and the supplemental nutrition
6 assistance program under chapter 74.04 RCW, and who have resided in
7 the state of Washington for more than one hundred eighty days of the
8 year in which the grant is sought.

9 (3) The department must establish and administer a low-income
10 carbon pollution mitigation tax grant, as provided in this section,
11 for Washington state residents to assist in the equitable transition
12 to lower carbon emission energy sources.

13 (4) An eligible person is allowed a low-income carbon pollution
14 mitigation tax grant based on the adjusted gross income reported on
15 the federal personal income tax return for the tax year in which the
16 grant is sought, or based on an equivalent estimation of adjusted
17 gross income developed by the department for use in determining grant
18 eligibility for any person that is not required to file federal
19 personal income tax returns for the tax year in which the grant is
20 sought. It must be calculated in accordance with, and subject to the
21 limits of, the following tables:

22 Low-income carbon pollution mitigation tax grant, single head of
23 household

No children		1 child		2 children		3 or more children	
AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount
\$0-\$19,999	\$120	\$0-\$19,999	\$180	\$0-\$19,999	\$240	\$0-\$19,999	\$300
\$20,000-\$26,999	\$90	\$20,000-\$26,999	\$135	\$20,000-\$28,499	\$180	\$20,000-\$29,499	\$225
\$27,000-\$33,999	\$60	\$27,000-\$33,999	\$90	\$28,500-\$36,999	\$120	\$29,500-\$38,999	\$150
\$34,000-\$40,999	\$30	\$34,000-\$40,999	\$45	\$37,000-\$45,499	\$60	\$39,000-\$48,499	\$75
\$41,000 or greater	\$0	\$41,000 or greater	\$0	\$45,500 or greater	\$0	\$48,500 or greater	\$0

36 Low-income carbon pollution mitigation tax remittance, married/filing
37 jointly

No children		1 child		2 children		3 or more children	
AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount
\$0-\$23,999	\$120	\$0-\$23,999	\$180	\$0-\$23,999	\$240	\$0-\$23,999	\$300
\$24,000-\$30,999	\$90	\$24,000-\$30,999	\$135	\$24,000-\$32,999	\$180	\$24,000-\$33,999	\$225
\$31,000-\$37,999	\$60	\$31,000-\$37,999	\$90	\$33,000-\$41,999	\$120	\$34,000-\$43,999	\$150
\$38,000-\$44,999	\$30	\$38,000-\$44,999	\$45	\$42,000-\$50,999	\$60	\$44,000-\$53,999	\$75
\$45,000 or greater	\$0	\$45,000 or greater	\$0	\$51,000 or greater	\$0	\$54,000 or greater	\$0

(5) The grant amounts provided for in subsection (4) of this section must be adjusted effective on January 1st of an even-numbered year based on the annual growth of the consumer price index for urban wage earners and clerical workers as published by the United States bureau of labor statistics on January 1st of the immediately previous odd-numbered year.

(6) The grant under this section must be administered according to this subsection (6):

(a) An eligible person must apply to the department for the grant as calculated under this section.

(b) Applications for the low-income carbon pollution mitigation tax grant must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before July 1, 2018. The department may use the best available data to process the grant. The department must begin accepting applications October 1, 2019.

(c) The department must review the application and determine eligibility for the low-income carbon pollution mitigation tax grant based on information provided by the applicant and through audit and other administrative records including, when it deems it necessary, verification through the department of revenue and the United States internal revenue service data.

(d) The department must remit the grant amount to the eligible person who submitted the application. Grants may be made through electronic funds transfer or other means.

1 (e) The department must, in conjunction with other agencies and
2 community-based nonprofit organizations, design and implement a
3 public information campaign that is language and culturally
4 appropriate to inform potentially eligible persons of the existence
5 of, requirements of, and process to apply for this grant.

6 (f) Funds allocated to this rebate, but unspent due to less than
7 full enrollment of eligible persons, must be used in the following
8 year on outreach to inform difficult to reach eligible participants
9 in accordance with (e) of this subsection. The amount used for
10 program outreach under this subsection (6)(f) may not exceed ten
11 million dollars per year; funds in excess of ten million dollars per
12 year that are unspent must be used in the following year on grants to
13 eligible persons.

14 (g) The department may adopt any rules necessary to implement
15 this section.

16 (7) The low-income carbon pollution mitigation tax grant must be
17 excluded from consideration as income for the purpose of determining
18 eligibility and benefit levels of food stamp or benefit program
19 recipients to the maximum exclusion authorized by federal law.

20 NEW SECTION. **Sec. 106.** NATURAL RESOURCES SUPER ACCOUNT. (1) The
21 natural resources super account is created in the state treasury.
22 Money distributed consistent with section 203 of this act must be
23 deposited in the account. Money in the account may only be spent
24 after appropriation. Money in the account may only be spent for the
25 purposes described in subsections (2) and (3) of this section.

26 (2)(a) One hundred sixty million dollars per year, adjusted every
27 year by the fiscal growth factor as defined in RCW 43.135.025, must
28 be used for the eligible activities of the following agencies:

- 29 (i) The department of natural resources;
- 30 (ii) The department of ecology;
- 31 (iii) The department of fish and wildlife;
- 32 (iv) The department of agriculture;
- 33 (v) The state parks and recreation commission;
- 34 (vi) The Washington state conservation commission;
- 35 (vii) The Puget Sound partnership;
- 36 (viii) The recreation and conservation office;
- 37 (ix) The environmental and land use hearings office; and
- 38 (x) The Columbia river gorge commission.

1 (b) The activities of the natural resource agencies listed in (a)
2 of this subsection that are eligible for funding out of the natural
3 resources super account are those activities that were funded out of
4 the state general fund in the 2015-2017 omnibus operating
5 appropriations acts, or for activities of those agencies that might
6 otherwise be funded out of the state general fund due to the
7 preference of the legislature or the lack of available fund balance
8 in other appropriate accounts. It is not the intent of the
9 legislature to limit the sources of program funding for the agencies
10 listed in (a) of this subsection in future biennia to the money
11 appropriated from the natural resources super account. Rather, it is
12 the intent of the legislature to rely on other sources of funding for
13 any new responsibilities assigned to those agencies and for any
14 future cost increases associated with existing agency programs.

15 (3) No later than June 20, 2019, and every two years thereafter,
16 the state treasurer must transfer to the general fund all money in
17 excess of the appropriations made for purposes of subsection (2) of
18 this section. With this transfer to the general fund, it is the goal
19 of the legislature to offset most of the fiscal impacts to the
20 general fund of the following:

21 (a) Credits against state taxes owing by retail electric
22 utilities for the renewable energy incentive payments made to
23 customers installing solar or other renewable energy facilities at
24 their premises, pursuant to RCW 82.16.130;

25 (b) The tax credits provided for biodiesel feedstock pursuant to
26 RCW 82.08.0205 and 82.12.0205; and

27 (c) The tax credits provided for manufacturing research and
28 development and machinery and equipment pursuant to RCW 82.08.02565
29 and 82.12.02565.

30 NEW SECTION. **Sec. 107.** CLEAN WATER CLIMATE GRANTS—CLEAN WATER
31 CLIMATE PROGRAM ACCOUNT CREATION. (1) The clean water climate program
32 account is created in the state treasury. Receipts from the carbon
33 pollution mitigation tax imposed under section 202 of this act and
34 distributed consistent with section 203 of this act must be deposited
35 into the account. Each biennium, the first seven million, eight
36 hundred seventy thousand dollars of receipts deposited into the
37 account is solely for the mitigation of residential permit-exempt
38 groundwater withdrawals. It is the intent of the legislature to
39 appropriate seven million eight hundred seventy thousand dollars each

1 biennium for this purpose. Subject to appropriation, the department
2 of ecology may use the remaining money in the account solely to
3 provide grants and loans for sustainable water projects and
4 activities that consider climate impacts in their planning, siting,
5 design, or implementation. In selecting sustainable water projects
6 and activities to receive grants and loans, the department of ecology
7 must consider the climate impact of such investments. Selected
8 projects must:

9 (a) Mitigate or facilitate adaptation to the impacts of climate
10 change; or

11 (b) Provide long-term climate resilience benefits.

12 (2) Other than amounts appropriated for the mitigation of permit-
13 exempt groundwater withdrawals consistent with subsection (1) of this
14 section, the department of ecology must use remaining moneys
15 deposited in the account in approximately equal amounts for each of
16 the following projects and activities:

17 (a) Design, construction, and monitoring activities and projects
18 that restore and protect estuaries and marine shoreline habitats. The
19 department of ecology must select projects that add capacity to or
20 complement project funding from the Puget Sound national estuary
21 program marine and nearshore protection programs, and may not select
22 projects that are required by regulatory obligations or
23 administrative or court orders;

24 (b) Activities and projects that reduce flood risk and restore
25 natural floodplain ecological function. The department of ecology
26 must give priority under this subsection (2)(b) to projects or
27 activities that achieve multiple benefits. The department of ecology
28 must choose projects using ranking and selection criteria consistent
29 with the procedures for ranking and selecting floodplains by design
30 projects that are funded through the omnibus capital appropriations
31 act;

32 (c) Activities and projects that increase the sustainable supply
33 of water and improve aquatic habitat. In order for a project to
34 receive funding under this subsection (2)(c), the project proponent
35 must demonstrate that the project:

36 (i) Is cost-effective; and

37 (ii) Achieves multiple benefits; and

38 (d) Designing, constructing, or monitoring projects and
39 activities that improve infrastructure treating stormwater from
40 previously developed areas within an urban growth boundary designated

1 under chapter 36.70A RCW. In order to be eligible for funding under
2 this subsection (2)(d), a project must reduce pollution and improve
3 habitat, with a preference given to projects that use green
4 stormwater infrastructure or the infiltration and treatment of
5 polluted runoff to achieve those goals. The department of ecology
6 must choose projects using ranking and selection criteria consistent
7 with the procedures for ranking and selecting projects funded through
8 the stormwater financial assistance program administered by the
9 department of ecology.

10 (3) In selecting grant and loan recipients under this section,
11 the department of ecology must consider:

12 (a) The cost-effectiveness of the project or activity;

13 (b) The project's or activity's ability to leverage other
14 private, in-kind, or government investments and markets;

15 (c) Whether the project or activity will provide multiple
16 benefits to communities and the environment;

17 (d) The degree to which the project or activity is designed to
18 increase long-term human and ecosystem resilience considering best
19 available climate science; and

20 (e) For projects or activities within the Puget Sound watershed,
21 whether the project or activity is consistent with the action agenda
22 developed by the Puget Sound partnership under chapter 90.71 RCW.

23 (4) Funding in this section must be disbursed consistent with
24 section 115 of this act.

25 NEW SECTION. **Sec. 108.** FOREST HEALTH INVESTMENTS—SUSTAINABLE
26 FOREST HEALTH ACCOUNT CREATION. (1) The sustainable forest health
27 account is created in the state treasury. Receipts from the carbon
28 pollution mitigation tax imposed under section 202 of this act and
29 distributed consistent with section 203 of this act must be deposited
30 into the account. Money in the account must be used consistent with
31 this section.

32 (2) Each year the department of natural resources must prioritize
33 appropriations from the sustainable forest health account to achieve
34 greenhouse gas emission reductions or increased resilience and at
35 least one of the following goals:

36 (a) Improved air quality through increased carbon sequestration
37 and reduced greenhouse gas emissions;

38 (b) Improved water quality;

39 (c) Improved wildlife habitat;

1 (d) Enhanced public recreation opportunities; and

2 (e) Enhanced long-term resilience to wildfires and other effects
3 of a changing climate on forest health.

4 (3) Other than amounts appropriated pursuant to subsection (5) of
5 this section, it is the intent of the legislature that sixty-seven
6 percent of the money appropriated to this account be made to the
7 department of natural resources. The department of natural resources
8 must develop procedures and criteria for allocation of the amounts
9 appropriated in approximately equal amounts for:

10 (a) Projects and activities that bolster and increase community
11 preparedness and awareness before, during, and after fire including
12 for communities with limited English proficiency and other
13 underserved populations in communities at risk from wildfire; and

14 (b) Projects and activities that improve forest health through
15 forest health treatments as that term is defined in chapter 79.10 RCW
16 with priority given to:

17 (i) Projects prioritized pursuant to RCW 76.06.--- (section 1,
18 chapter 95, Laws of 2017) and 79.10.--- (section 2, chapter 248, Laws
19 of 2017); and

20 (ii) Other projects proposed pursuant to a forest collaborative
21 planning process establishing ecological and public safety goals
22 across any combination of local, state, federal, tribal, and private
23 ownerships.

24 (4)(a) Other than amounts appropriated pursuant to subsection (5)
25 of this section, it is the intent of the legislature that thirty-
26 three percent of the money appropriated to this account be made to
27 the recreation and conservation office. The recreation and
28 conservation office must develop procedures and criteria for the
29 establishment and funding of a working forest conservation easement
30 program. The procedures and criteria must include, at a minimum, a
31 mechanism for ranking project applicants that allows for the
32 prioritization of projects that maximize the amount of carbon
33 sequestered by the program.

34 (b) The rules governing the ranking system must consider
35 scientifically based forest ecosystem carbon sequestration
36 calculations, and unique regional needs to determine the maximum,
37 life-cycle carbon sequestration capacity of the combination of carbon
38 stored in wood from a managed forest and carbon in the forest,
39 including consideration of carbon sequestered in resulting wood
40 building materials.

1 (c) The working forest conservation easement program must be
2 designed to maximize carbon sequestration in working forests, to
3 ensure sustainable supply of timber, to ensure the ecological
4 longevity of working forests, and to provide long-term, sustainable
5 jobs in rural communities. If it maximizes carbon sequestration
6 potential, the program may prioritize the acquisition of easements
7 for forest properties for which there is a comparatively high
8 probability that contiguous forestland acreage will eventually be
9 subdivided, otherwise sold in smaller acreage parcels, or its timber
10 stock liquidated in the near term.

11 (5) Consistent with amounts specified in the most recent
12 appropriations act, and separate from the allocations specified in
13 subsections (3) and (4) of this section, up to ten million dollars
14 per biennium may be used from the sustainable forest health account
15 to fund projects in the forest riparian easement program where:

16 (a) It can be demonstrated that in the absence of a project
17 funded through the forest riparian easement program, there is a
18 comparatively high probability that associated lands would be
19 converted from forestland properties to nonforest uses with
20 associated permanent loss of forest cover; and

21 (b) The landowner agrees to permanent protections for the
22 forestland property to maximize carbon sequestration benefits.

23 (6) Funding in this section must be disbursed consistent with
24 section 115 of this act.

25 NEW SECTION. **Sec. 109.** CLEAN AIR INVESTMENT PROGRAMS—CLEAN
26 ENERGY ACCOUNT CREATION. (1) The clean energy account is created in
27 the state treasury. Receipts from the carbon pollution mitigation tax
28 imposed under section 202 of this act and distributed consistent with
29 section 203 of this act must be deposited into the account. Upon the
30 distribution of money into the account, the state treasurer must
31 distribute thirty-five percent of the receipts to the carbon
32 reduction investment fund created in section 110 of this act, and
33 sixty-five percent of the receipts to the sustainable investment fund
34 created in section 111 of this act. Moneys in the account may only be
35 spent after appropriation.

36 (2) For purposes of administering the carbon reduction investment
37 fund and the sustainable infrastructure fund, the department of
38 commerce must adopt procedures that ensure the achievement of
39 quantifiable and verifiable emission reductions or sequestration

1 while minimizing the costs of state administration and other
2 transaction costs associated with project implementation.
3 Expenditures from the funds must be designed to stimulate new
4 projects that sequester carbon or reduce emissions of greenhouse
5 gases and other air pollutants regulated under the federal clean air
6 act or chapter 70.94 RCW that impact human health or the environment.

7 (a) Except where explicitly exempt from this requirement, project
8 investment levels must, to the extent practicable, not exceed the
9 minimum levels of funding necessary to make the project viable or
10 cost-competitive.

11 (b) A project may not receive funding from both the carbon
12 reduction investment fund and the sustainable infrastructure fund.

13 NEW SECTION. **Sec. 110.** CLEAN AIR INVESTMENT PROGRAMS—CARBON
14 REDUCTION INVESTMENT FUND CREATED. (1)(a) The carbon reduction
15 investment fund is created in the state treasury. Moneys in the
16 account may only be spent after appropriation. Money in the carbon
17 reduction investment fund may only be used for carbon sequestration
18 or greenhouse gas emission reduction projects in Washington or
19 projects that reduce emissions directly connected to energy use and
20 other activity in Washington state.

21 (b) The department of commerce, in consultation with the board
22 created in section 103 of this act, must administer the carbon
23 reduction investment fund and oversee the projects that receive
24 moneys in the fund.

25 (c) During the 2017-2019 fiscal biennium, the first fifteen
26 million dollars deposited into the carbon reduction investment fund
27 is solely for a project which, when fully deployed, will reduce
28 emissions of greenhouse gases by a minimum of seven hundred fifty
29 thousand tons per year, increase energy efficiency, and protect or
30 create manufacturing jobs located in a county with a population of
31 less than three hundred thousand.

32 (2) Private and public sector entities may apply to the
33 department of commerce to receive grant funding from the carbon
34 reduction investment fund.

35 (a) Applicants must demonstrate that project proposals are
36 consistent with the intent of this act, especially the reduction of
37 state greenhouse gas emissions consistent with state limits under RCW
38 70.235.020, and the achievement of public benefits described in
39 subsection (6) of this section.

1 (b) Applicants must provide information to the department of
2 commerce on the lifetime and annual anticipated carbon sequestration
3 or greenhouse gas emission reductions associated with a project, cost
4 of the project, projected cost savings resulting from the project,
5 timeline for completion, total funding request taking into account
6 the investment price established by the department of commerce under
7 section 112 of this act, and other information as required by the
8 department of commerce.

9 (c) The department of commerce must ensure that projects meet the
10 requirements of this section and section 116 of this act.

11 (3) Except for the project specified in subsection (1)(c) of this
12 section, expenditures from the fund created in this section must be
13 prioritized based on the anticipated quantifiable and verifiable
14 amount of carbon sequestration or greenhouse gas emission reduction
15 to be achieved by the project per dollar of investment from the fund.
16 The amount of funding provided to each category of project must be
17 based on the investment prices established in section 106 of this
18 act, and must be of an amount sufficient to make viable the
19 implementation of a project that would not otherwise be carried out
20 under current economic conditions, but not to exceed such an amount.
21 In the event that a project benefits a community targeted for funding
22 in section 115 of this act, the investment price may exceed the
23 amount necessary set by the department of commerce in section 112 of
24 this act by an additional ten percent.

25 (4) The department of commerce must adopt procedures for
26 reviewing and prioritizing grant project applications. Holding other
27 evaluative criteria constant, a preference must be given to project
28 applicants who demonstrate that moneys from the carbon reduction
29 investment fund will be accompanied by a matching investment from
30 another public or private source of funds.

31 (5) A single person or project may not receive more than five
32 percent of the total value of carbon reduction investment fund
33 investments made under this section each biennium. Subject to
34 appropriation, funds for a project may be disbursed over multiple
35 biennia.

36 (6) Carbon reduction investment fund investments each biennium
37 must include but are not limited to projects that are designed to:

38 (a) Lower the cost of energy for Washington residents by
39 investing in clean energy and making it more affordable and

1 competitive, transitioning to zero-emission vehicles, and reducing
2 cost volatility and emissions from fossil fuel energy sources;

3 (b) Increase access to clean energy by public and private
4 entities through greater deployment of clean transportation and
5 renewable energy, including roof-top and community solar; and

6 (c) Reduce energy waste and increase energy efficiency, thereby
7 helping to make energy efficiency projects affordable to public and
8 private entities.

9 NEW SECTION. **Sec. 111.** CLEAN AIR INVESTMENT PROGRAMS—
10 SUSTAINABLE INFRASTRUCTURE FUND CREATED. (1) The sustainable
11 infrastructure fund is created in the state treasury. Moneys in the
12 fund may only be spent after appropriation. The department of
13 commerce, in consultation with the board established in section 103
14 of this act, must administer the sustainable infrastructure fund and
15 oversee the greenhouse gas emission reduction projects that receive
16 money from the fund. Money in the sustainable infrastructure fund may
17 only be used for planning or implementation of greenhouse gas
18 emission reduction projects in Washington that achieve indirect
19 carbon reductions or that have long-term or difficult to quantify
20 emission reduction prospects. Public and private project proponents
21 are eligible to apply to the board to obtain funding from the
22 sustainable infrastructure fund, with preference given to projects
23 that do not inherently rely on nonrenewable resources as a power
24 source. Consistent with the allocations and categories specified in
25 subsections (2), (3), and (4) of this section, projects that plan for
26 or implement greenhouse gas emission reductions are eligible for
27 funding from the sustainable infrastructure fund.

28 (2) Thirty-five percent of amounts appropriated to the
29 sustainable infrastructure fund are provided solely for
30 transportation projects that reduce pollution from transportation
31 sources by:

32 (a) Aiding full or partial fuel switching to electricity or fuels
33 not derived from fossil fuels;

34 (b) Converting private and public fleets, including transit
35 fleets, to zero-emission vehicles;

36 (c) Improving freight mobility systems; or

37 (d) Strategic planning and development of sustainable
38 infrastructure projects, including charging and fueling projects
39 necessary to support the categories of fleet conversions and vehicles

1 identified in (a) and (b) of this subsection. However, to be eligible
2 for infrastructure funding under this subsection (2)(d), an
3 infrastructure project is not required to be associated with a fleet
4 and vehicle conversion consistent with (a) or (b) of this subsection
5 (2) that receives or has received funding from the sustainable
6 infrastructure fund.

7 (3) Fifty-five percent of amounts appropriated to the sustainable
8 infrastructure fund are provided solely for land use projects. Of
9 these funds, ten million dollars per biennium are reserved for grants
10 by the department of commerce to cities and counties consistent with
11 RCW 36.70A.190, including but not limited to funding related to the
12 buildable lands review and evaluation program required by RCW
13 36.70A.215 and chapter . . . (2SSB 5254), Laws of 2017 2nd sp. sess.
14 In counties participating in a regional transportation planning
15 organization, funds must be spent on projects that enable or
16 accelerate the implementation of plans adopted by regional
17 transportation planning organizations, so long as such plans are
18 designed to achieve emission reduction limits consistent with RCW
19 70.235.020. Projects eligible under this subsection are ones that:

20 (a) Support equitable transit-oriented development, including
21 transit-oriented development that:

- 22 (i) Is predominately affordable housing;
23 (ii) Reduces vehicle miles traveled; and
24 (iii) Reduces transportation costs and logistical burdens for
25 low-income individuals and families, and infirm, disabled, or
26 otherwise vulnerable populations;

27 (b) Expand or improve public transportation infrastructure,
28 including, but not limited to, projects that promote connections
29 between communities that are underserved by public transportation
30 infrastructure, prioritizing improvements and vehicles that rely on
31 electricity or rely on fuels not derived from fossil fuels, and
32 supporting nonmotorized mobility; or

33 (c) Support programs and infrastructure that reduce vehicle miles
34 traveled through commute trip reduction strategies including, but not
35 limited to, employer-based initiatives.

36 (4) Ten percent of amounts appropriated to the sustainable
37 infrastructure fund are provided solely for power sector projects
38 eligible for funding from the sustainable infrastructure fund.
39 Projects must exceed the requirements of chapter 19.285 RCW, where
40 applicable, and:

1 (a) Achieve energy efficiency;

2 (b) Facilitate renewable energy integration, such as smart-grid
3 technologies and energy storage;

4 (c) Encourage the deployment of clean distributed energy
5 resources;

6 (d) Increase system resiliency and encourage the development of
7 electricity microgrids with clean energy; or

8 (e) Support other demand side resources that reduce generation or
9 capacity needs.

10 (5) For purposes of ranking the priority of transportation, land
11 use, and power sector project applications for funding from the
12 sustainable infrastructure fund, the board must consider, at minimum,
13 the criteria in (a) through (g) of this subsection (5) for both
14 implementation projects or imputed as the predicted final output of a
15 planning project. In addition, the board may develop additional
16 subject-appropriate criteria for ranking the priority of project
17 applications against other projects within the same categories of
18 projects specified in subsection (2), (3), or (4) of this section.
19 Additionally, the board must prioritize proposals that include the
20 high labor standards described in section 115(3) of this act.

21 (a) The total volume of emissions of carbon dioxide equivalent
22 avoided as a result of the project, measured over the anticipated
23 lifetime of the project;

24 (b) The cost per ton of carbon dioxide equivalent avoided as a
25 result of the project, measured over the anticipated lifetime of the
26 project;

27 (c) The degree to which the project will reduce emissions of
28 other dangerous air pollutants regulated under chapter 70.94 RCW or
29 public exposures to pollutants regulated under chapter 90.48 or
30 70.105D RCW;

31 (d) Whether the project will benefit a disproportionately
32 impacted community identified in section 114 of this act and by the
33 board established in section 103 of this act;

34 (e) The likelihood of project completion in the absence of
35 support from the sustainable infrastructure fund;

36 (f) The degree to which the project is consistent with projects
37 funded under multiple categories of the sustainable infrastructure
38 fund; and

39 (g) The degree to which funding from the sustainable
40 infrastructure fund will be matched by project proponents or

1 supplemented by other funding sources, including in-kind
2 contributions from the community or project sponsor.

3 (6) Should the total requested funding amount submitted to a
4 category of the sustainable infrastructure fund fall short of total
5 funding available in the category, remaining funding must be
6 reallocated to the other categories in proportion to their relative
7 allocation in this section.

8 (7) The board may adopt rules establishing policies and
9 priorities for projects to be financed from moneys in the sustainable
10 infrastructure fund. To support the investment prioritization
11 decisions for the use of sustainable infrastructure funds under this
12 subsection, the board must rely on the advice of the department of
13 commerce.

14 (8) Before November 1st of each even-numbered year, the board
15 must recommend to the governor a prioritized list of all projects to
16 be funded from the sustainable infrastructure fund. The governor must
17 submit this list in the capital budget request to the legislature.
18 The legislature may remove projects from the list recommended by the
19 governor. The board may not sign contracts or otherwise financially
20 obligate funds from the sustainable infrastructure fund as provided
21 in this chapter before the legislature has appropriated funds for a
22 specific list of projects. Projects must be funded in order of rank
23 consistent with other requirements in this section. In the event that
24 a project ranked high enough to receive funding becomes ineligible
25 for funding after initial application and rankings, funding must be
26 moved to the next ranked project on the list. The list must include,
27 but not be limited to, a description of each project and any
28 particular match requirement.

29 (9) Disbursements from the entirety of the sustainable
30 infrastructure fund must collectively be consistent with section 115
31 of this act. However, specific funding allocations in subsections
32 (2), (3), and (4) of this section are not individually required to be
33 consistent with section 115 of this act.

34 NEW SECTION. **Sec. 112.** DEPARTMENT OF COMMERCE—CARBON REDUCTION
35 INVESTMENT PRICE. (1) By March 1, 2018, the Washington State
36 University extension energy program must complete a clean energy
37 investment study to recommend appropriate initial investment prices
38 per ton of carbon dioxide equivalent of greenhouse gas emission
39 reductions for a variety of eligible project types. This study must

1 take into account greenhouse gas emission reduction project prices in
2 regulatory and voluntary carbon reduction programs operated in other
3 jurisdictions and be set at the minimum level necessary to catalyze
4 investment in these project categories.

5 (2) On the basis of the study completed in subsection (1) of this
6 section and consistent with the timelines in subsection (3) of this
7 section, the department of commerce must set investment prices for
8 different categories of emission reduction projects in the state
9 based on the quantifiable and verifiable amount of carbon reduction
10 to be achieved by the project.

11 (3) By July 1, 2018, and July 1st of each even-numbered year
12 thereafter, the department of commerce, in consultation with the
13 Washington State University extension energy program and other
14 relevant agencies, must determine the investment prices for a range
15 of emissions reduction projects for the forthcoming two years. The
16 investment prices must be published in the form of a set schedule
17 detailing the investment prices for each particular category of
18 eligible project during the following two years. The investment price
19 may not exceed one hundred dollars in 2017 dollars per ton of carbon
20 dioxide equivalent of reduced emissions of greenhouse gases. In
21 setting biennial carbon investment prices, the department of commerce
22 must consider the recommendation of the Washington State University
23 extension energy program in subsection (1) of this section, as well
24 as the incentive size that it determines to be minimally necessary to
25 overcome barriers to deployment in relevant sectors of the clean
26 energy economy. Upon the request of a project applicant, the
27 department of commerce and the Washington State University extension
28 energy program may consider additional project types beyond those
29 initially identified as eligible for funding under this section.

30 NEW SECTION. **Sec. 113.** UTILITY-TAX CREDIT INVESTMENTS. (1)(a) A
31 light and power business may claim a credit of sixty percent of taxes
32 due under this chapter for each reporting period if they meet the
33 criteria in subsection (2) of this section. A gas distribution
34 business may claim a credit of thirty percent of taxes due under this
35 chapter for each reporting period if they meet the criteria in
36 subsection (3) of this section.

37 (b) In order to claim the credit, a light and power business or a
38 gas distribution business must submit to the department:

1 (i) Documentation of plan approval under subsection (4) of this
2 section; and

3 (ii) The certificate received under subsection (5) of this
4 section that is associated with the most recent annual report filed
5 by the light and power business or gas distribution business.

6 (c) If the amount of tax due reported on a return under this
7 chapter is amended or adjusted to correct the amount of tax properly
8 due, the credit amount must be adjusted accordingly. The credit must
9 be taken in a form and manner as required by the department. The
10 credit may not exceed the tax that would otherwise be due under this
11 chapter. Refunds may not be granted in place of credits.

12 (d) In the event that a light and power business or a gas
13 distribution business elects not to claim the credit allowed under
14 this section on its return, the portion of the tax due under this
15 chapter that is eligible for the credit must be calculated by the
16 department and the department must submit this information to the
17 state treasurer. The state treasurer must deposit the calculated
18 amount into the carbon reduction investment fund to be spent
19 consistent with section 110 of this act.

20 (2)(a) To qualify for the credit in subsection (1) of this
21 section, a light and power business must apply the amount of the
22 credit taken in subsection (1) of this section and must use the funds
23 for the purposes described in this subsection (2). The light and
24 power business must prioritize funds for avoiding greenhouse gas and
25 other pollution from power generation associated with the acquisition
26 of generating resources in order to meet new capacity or energy
27 resource needs. A light and power business must use tax credit
28 investment funds to offset the incremental cost, if any, of acquiring
29 the lowest reasonable cost nonemitting resource bundle to meet new
30 capacity or energy resource needs identified within five years of the
31 calendar year in which funds are collected.

32 (i) New capacity or energy resource needs may arise from, but are
33 not limited to, electricity load growth, changes in capacity needs,
34 changes in needs for ancillary services, changes in reliability
35 needs, changes in flexibility needs, or needs arising due to
36 replacing electricity generation.

37 (ii) Any entity receiving retained tax revenue under subsection
38 (1) of this section that is also eligible to retain tax funds under
39 subsection (3) of this section must prioritize funds retained under
40 both sections for this purpose.

1 (iii) The light and power business may decide the manner for
2 using the funds consistent with the intent of this section that is
3 most cost-effective, including up-front payment of capital
4 expenditures, applying future receipts from retained tax funds to
5 offset amortized capital costs, competitive procurement of clean
6 energy projects, or other mechanisms.

7 (iv) Nothing in this section establishes a preference for
8 specific ownership structures or business models for resources
9 acquired to meet new energy or capacity needs.

10 (v) To the extent the lowest reasonable cost nonemitting resource
11 bundle includes demand side resources, at least twenty-five percent
12 of these investments must support projects that benefit either:

13 (A) Customers whose household income is at or below two hundred
14 percent of the federal poverty line; or

15 (B) Disproportionately impacted communities identified in section
16 114 of this act.

17 (b) Upon meeting the requirements established under (a) of this
18 subsection, a light and power business must invest any remaining tax
19 credit investment funds in clean energy projects that reduce
20 greenhouse gas emissions resulting from the consumption of energy in
21 Washington state, including transportation electrification projects
22 and other electrification projects that reduce the direct use of
23 fossil fuels in residential, commercial, and industrial sectors
24 within the area served by the light and power business. At least
25 fifty percent of the investments under this subsection (2)(b) must
26 support projects that benefit disproportionately impacted communities
27 identified in section 114 of this act, including, but not limited to,
28 projects that reduce energy consumption, reduce spending on motor
29 vehicle and special fuel, and deploy technologies that reduce or
30 avoid air pollution from the combustion of fossil fuels.

31 (3)(a) To qualify for the credit in subsection (1) of this
32 section, a gas distribution business must apply the amount of the
33 credit taken in subsection (1) of this section and must use the funds
34 for the purposes described in this subsection (3). Except as provided
35 for in (a)(ii) of this subsection, a gas distribution business must
36 prioritize tax credit investment funds for investments and projects
37 that decrease the use of fossil fuel gas by its customers and replace
38 these sales with alternatives that are not fossil fuels, including,
39 but not limited to, renewable natural gas and synthetic natural gas
40 not produced from fossil fuels.

1 (i) Eligible investments include but are not limited to spending
2 to address the incremental cost of nonfossil fuel gas versus fossil
3 fuel gas or investments that expand manufacture of nonfossil fuel
4 gas, whether owned by the gas distribution business or in partnership
5 with other private corporations or public entities.

6 (ii) A gas distribution business may decide the manner for using
7 the funds consistent with the intent of this section that is most
8 cost-effective. In the case that a gas distribution business invests
9 in increasing manufacturing capacity of nonfossil fuel gas, fund uses
10 may include, but are not limited to, up-front payment of capital
11 expenditures, applying future receipts from retained carbon tax funds
12 to offset amortized capital costs, investing in other entities
13 manufacturing nonfossil fuel gas that are contingent on preferred
14 rates or preferential access to the products, or other mechanisms.

15 (b)(i) Upon meeting the requirements established under (a) of
16 this subsection, a gas distribution business must spend any remaining
17 tax credit investment funds to invest in clean energy projects that
18 reduce greenhouse gas emissions resulting from the consumption of
19 energy in Washington state, including:

20 (A) Transportation projects that replace the use of motor vehicle
21 fuel and special fuel with electricity or alternatives not derived
22 from fossil fuels; and

23 (B) Other projects that reduce the direct use of fossil fuels in
24 residential, commercial, and industrial sectors within the area
25 served by the gas distribution business.

26 (ii) At least thirty-five percent of the investments in (b)(i) of
27 this subsection (3) must support projects that benefit low-income
28 customers, including, but not limited to, projects that reduce energy
29 consumption, reduce spending on motor vehicle and special fuel, and
30 deploy technologies that reduce or avoid air pollution from the
31 combustion of fossil fuels.

32 (4) Clean energy investment plans must be developed for the
33 purpose of administering tax credit investment funds retained under
34 this section.

35 (a) The clean energy investment plans developed by gas
36 distribution businesses and by light and power businesses that are
37 investor-owned utilities are subject to the following requirements:

38 (i) The utilities and transportation commission has the authority
39 to review and approve a gas distribution business or an investor-
40 owned utility's clean energy investment plan. The commission may

1 determine if the clean energy investments in the plan are prudent
2 based on its policies and practices; and

3 (ii) Investor-owned utilities and gas distribution businesses
4 must actively seek participation of their consumers and input in the
5 development of the clean energy investment plan from the board
6 created in section 103 of this act. An investor-owned utility or gas
7 distribution business may not make any investments using tax funds
8 retained under this section unless its clean energy investment plan
9 has been approved by the utilities and transportation commission, and
10 the board has been given an opportunity to provide recommendations.

11 (b) The clean energy investment plans developed by consumer-owned
12 utilities are subject to the following requirements:

13 (i) The governing body of a consumer-owned utility that develops
14 a clean energy investment plan must actively seek participation of
15 its customers in the development of the plan and must provide an
16 opportunity for public hearing and comment prior to finalizing the
17 plan; and

18 (ii) The consumer-owned utility must submit its clean energy
19 investment plan to the department of commerce for review and
20 approval. A consumer-owned utility may not make any investments using
21 tax credit investment funds unless its clean energy investment plan
22 has been approved by the department of commerce and the board has
23 been given an opportunity to provide recommendations to the utility.

24 (5)(a) Light and power businesses and gas distribution businesses
25 that utilize the tax credit under this section must develop an annual
26 report detailing the disposition of funds. These businesses must
27 submit their annual reports to the department of commerce and the
28 board created in section 103 of this act. In the case of investor-
29 owned utilities and gas distribution businesses, the annual reports
30 must also be submitted to the utilities and transportation
31 commission. In each annual report, the light and power business or
32 gas distribution business must include:

33 (i) A description of all funds spent and a calculation of
34 greenhouse gas emissions reduced or avoided by the light and power
35 business or gas distribution business;

36 (ii) A calculation of greenhouse gas emissions reduced or avoided
37 through investments outside the light and power business or gas
38 distribution business;

39 (iii) A description of benefits consistent with the requirements
40 of subsections (2)(a)(v) and (3)(b)(ii) of this section; and

1 (iv) If applicable, a description of why tax credit investment
2 funds were not spent.

3 (b) The department of commerce must review the reports of
4 investor-owned utilities, consumer-owned utilities, and gas
5 distribution businesses and must prepare an electronic report
6 summarizing the total amount invested by all light and power
7 businesses and gas distribution businesses, the types of projects
8 receiving investments, the total greenhouse gas emissions reduced or
9 avoided by light and power businesses and gas distribution
10 businesses, the total greenhouse gas emissions avoided through these
11 investments, and other information determined applicable by the
12 department of commerce. This annual report must be made public on the
13 department of commerce's web site.

14 (c) Each year, the department of commerce, in the case of
15 consumer-owned utilities, and the utilities and transportation
16 commission, in the case of gas distribution businesses and investor-
17 owned utilities, must issue a certificate to a light and power
18 business or a gas distribution business upon determining that the
19 investments described in the annual report are consistent with the
20 plan approved under subsection (4) of this section and the
21 requirements of this section.

22 (d) The department of commerce may adopt rules to implement this
23 subsection (5).

24 (6)(a) Tax credit investment funds must be spent within five
25 years of receipt, as determined by the department of commerce in the
26 instance of consumer-owned utilities, or by the utilities and
27 transportation commission in the instance of investor-owned utilities
28 and gas distribution businesses. If the tax credit investment funds
29 are not spent within five years of the application of the credit or
30 if the department of commerce or the public utilities commission
31 determines that the funds were not spent on qualifying investments,
32 the remaining tax is immediately due with any interest and penalties
33 assessed by the department. Any remaining tax due under this section
34 and associated penalties and interest must be forfeited to the state
35 treasurer to be deposited in the carbon reduction investment fund and
36 spent consistent with section 110 of this act.

37 (b) No more than five percent of the tax credit investment funds
38 may be spent on administration of the clean energy investments made
39 by the light and power business or gas distribution business under
40 this section.

1 (c) An entity eligible for the tax credit under this section is
2 not authorized to earn a rate of return from the portion of
3 investments paid for with tax credit investment funds.

4 (7) In addition to the department of revenue, the utilities and
5 transportation commission, in the case of investor-owned utilities
6 and gas distribution businesses, and the department of commerce, in
7 the case of consumer-owned utilities, may adopt rules to implement
8 this section.

9 NEW SECTION. **Sec. 114.** CUMULATIVE IMPACTS ANALYSIS AND
10 IDENTIFICATION OF DISPROPORTIONATELY IMPACTED COMMUNITIES. (1) By
11 March 1, 2018, for the purposes of mitigating harm from climate
12 change and dangerous air pollutants that impact human health or the
13 environment and are regulated under the federal clean air act or
14 chapter 70.94 RCW, the department of health must conduct a cumulative
15 impacts analysis to identify the geographic boundaries of
16 disproportionately impacted communities in Washington. The department
17 of health must identify, map, and rank disproportionately impacted
18 communities, based on cumulative impacts measured on a census tract
19 scale based on geographic, socioeconomic, public health, and
20 environmental burden, vulnerability, and hazard criteria, including:

21 (a) Areas that are disproportionately affected by dangerous air
22 pollutants and other environmental burdens and vulnerabilities,
23 including climate change vulnerabilities, such as vulnerabilities to
24 wildfires, drought or severe flooding, and hazards with negative
25 public health effects;

26 (b) Areas with high concentrations of people that are of low
27 income and wealth, that have low levels of educational attainment,
28 that feature high rates of unemployment, that feature low levels of
29 homeownership or where the average cost of rent is a high proportion
30 of average income, linguistic isolation, or other vulnerability
31 characteristics; and

32 (c) Other factors that are identified by the department of
33 health.

34 (2) The cumulative impacts analysis may integrate with and build
35 upon other population tracking resources used by the department of
36 health.

37 (3) By March 1, 2022, and every two years thereafter, the
38 department of health, under advisement from the board, must update
39 the identification of disproportionately impacted communities

1 pursuant to this section. By March 1, 2024, and every four years
2 thereafter, the department of health must review and revise the
3 methodology for identifying disproportionately impacted communities
4 to reflect best practices.

5 NEW SECTION. **Sec. 115.** OVERLAY INVESTMENT CRITERIA. (1) The
6 following overlay investment criteria applies to the expenditures in
7 sections 107 through 111 of this act:

8 (a) Each biennium, a minimum of twenty-five percent of
9 expenditures must be used for projects or activities that provide
10 direct, meaningful, and assured benefits to disproportionately
11 impacted communities;

12 (b) Each biennium, a minimum of ten percent of expenditures, in
13 addition to the twenty-five percent used in (a) of this subsection,
14 must be used for projects or activities that provide direct,
15 meaningful, and assured benefits and which are located within
16 disproportionately impacted communities, including overlap into an
17 adjacent buffer area of one-quarter mile of disproportionately
18 impacted communities identified in section 114 of this act; and

19 (c) Each biennium, a minimum of five percent of expenditures, in
20 addition to the twenty-five percent used in (a) of this subsection
21 and the ten percent used in (b) of this subsection, must be used for
22 projects or activities that provide direct, meaningful, and assured
23 benefits to communities with low incomes, as measured by census
24 tracts where the median income is sixty percent or less of the state
25 median income.

26 (2) For purposes of this section, a project or activity is
27 considered to benefit a community if the project or activity:

28 (a) Reduces one or more socioeconomic or environmental
29 disparities that contribute significantly to the cumulative impact
30 ranking in a particular impacted tract;

31 (b) Protects a community from the anticipated impacts of climate
32 change, including, but not limited to, reducing the susceptibility of
33 rural communities to wildfires, coastal communities to sea level
34 rise, and riparian communities to flooding; or

35 (c) Meets a community need identified by members of that
36 community consistent with the intent of this act, as determined by
37 the board created in section 103 of this act based upon evidence that
38 the proponents of the project or activity sought and accepted the

1 feedback of persons and organizations that live or are active in the
2 disproportionately impacted community.

3 (3) All investment decisions must give preference to projects
4 that meet high labor standards criteria that provide prevailing wage
5 rates determined by local collective bargaining, apprenticeship and
6 preapprenticeship utilization and preferred entry standards,
7 community workforce agreements to prioritize local hiring, and the
8 use of domestic content to lower greenhouse gas emissions in
9 procurement decisions wherever practicable.

10 (4) Only projects that commence after July 1, 2017, are eligible
11 to receive funding.

12 (5) Each state agency with control of expenditures of carbon
13 pollution mitigation tax receipts must track whether expenditures of
14 funds from accounts under that agency's administrative control meet
15 the overlay investment criteria of subsection (1) of this section. By
16 September 1, 2021, and September 1st of each odd-numbered year
17 thereafter, each state agency with administrative control over the
18 expenditure of carbon pollution mitigation tax receipts must submit
19 information to the department of commerce and the board pertaining to
20 the expenditures of money from the clean energy account, clean water
21 climate program account, and sustainable forest health account,
22 including the location, number, and description of people affected,
23 and explanation of the benefits to disproportionately impacted
24 communities.

25 (6) Upon request, the department of commerce must provide
26 technical and procedural assistance to project applicants for
27 projects that will benefit disproportionately impacted communities.
28 Assistance by the department of commerce may take the form of direct
29 technical assistance by department staff in support of the grant
30 applications that benefit disproportionately impacted communities, or
31 by facilitating access to resources and assistance made available
32 through other state agencies or community-based organizations under
33 contracts with the state to provide these services.

34 (7) By December 1, 2021, and each odd-numbered year thereafter,
35 the department of commerce, with prior approval of the findings and
36 recommendations by the board, must submit a report to the legislature
37 demonstrating whether the expenditures from the clean energy, clean
38 water climate program, and sustainable forest health accounts
39 complied with the overlay investment criteria of this section and
40 associated impacts from those investments. In the event that the

1 overlay investment criteria requirements of this section are not met,
2 the report must include recommendations for how investments of
3 expenditures from receipts of the carbon pollution mitigation tax can
4 come into compliance in future biennia.

5 NEW SECTION. **Sec. 116.** GENERAL PROVISIONS. (1) The expenditure
6 of funds under sections 107, 108, 110, 111, and 113 of this act must
7 be consistent with other federal, state, and local laws. Investments
8 pursuant to those sections may not support projects that are
9 otherwise legally required by federal, state, or local laws or that
10 are required as a result of a legal settlement or other action
11 binding on the potential recipient of the funds. All nonpower
12 attributes associated with the investments made with funds under
13 sections 110, 111, and 113 of this act may not be used to meet
14 compliance obligations or to obtain benefits under any other statute,
15 law, or regulation.

16 (2) Except for investments in efficiency improvements at EITE
17 facilities, the expenditure of funds under sections 110 and 113 of
18 this act may not create new or expand existing fossil fuel
19 infrastructure, including, but not limited to fossil fuel vehicles,
20 electricity generation from fossil fuels, and indoor heating and
21 cooling and other project types that rely on fossil fuel
22 infrastructure. Vehicles that rely on more than one fuel source are
23 eligible to receive funding under those sections even if one of the
24 fuels is derived from fossil fuels so long as the vehicle can travel
25 at least forty miles using a fuel source that does not result in the
26 emission of greenhouse gases directly from the vehicle.

27 (3) Nothing in this chapter precludes a person subject to the tax
28 imposed in chapter 82.--- RCW (the new chapter created in section 403
29 of this act) from being eligible to receive funds distributed under
30 this chapter.

31 NEW SECTION. **Sec. 117.** LIMITATION ON ADMINISTRATIVE EXPENSES.
32 No more than five percent of the receipts from the tax imposed under
33 chapter 82.--- RCW (the new chapter created in section 403 of this
34 act) may be appropriated to the ongoing administration of the tax,
35 the implementation of the programs directed by this chapter, or other
36 related tax and program implementation and enforcement activities of
37 the department of ecology, the department of revenue, department of
38 social and health services, the department of commerce, the

1 department of health, the Washington State University extension
2 energy program, the recreation and conservation office, the office of
3 the attorney general, or other state activities required under this
4 act.

5 **PART II**

6 **Carbon Pollution Mitigation Tax**

7 NEW SECTION. **Sec. 201.** DEFINITIONS. For the purposes of this
8 chapter unless the context clearly requires otherwise, the
9 definitions in section 102 of this act apply to this chapter.

10 NEW SECTION. **Sec. 202.** CARBON POLLUTION MITIGATION TAX IMPOSED.

11 (1) A carbon pollution mitigation tax is levied and collected on the
12 carbon content of fossil fuels and electricity, including imported
13 electricity, sold or used within this state.

14 (2) Beginning July 1, 2018, the tax rate is equal to fifteen
15 dollars per metric ton of carbon dioxide equivalent. Beginning July
16 1, 2019, the rate of the tax increases by seven percent plus
17 inflation each July 1st until July 1, 2047, except as provided
18 otherwise in section 206 of this act.

19 (3) The tax levied under this section is imposed only once with
20 respect to the same fossil fuel or electricity generated from fossil
21 fuels. The tax on electricity is imposed consistent with section 204
22 of this act. The tax on fossil fuels is imposed consistent with
23 section 205 of this act. The tax on the carbon content of crude oil
24 or crude oil derivatives consumed by or in a refinery facility is
25 imposed on the refinery facility.

26 (4)(a) Except as specified in section 205 of this act, for
27 persons subject to any tax imposed under chapter 82.04, 82.08, 82.12,
28 or 82.16 RCW, the frequency of reporting and payment of the carbon
29 pollution mitigation tax must, to the extent practicable, coincide
30 with a person's reporting periods for the taxes imposed under chapter
31 82.04, 82.08, 82.12, or 82.16 RCW.

32 (b) Returns must be filed electronically using the department's
33 online tax filing service or other method of electronic reporting as
34 the department may authorize.

35 (5) For purposes of determining the amount of tax owed by a
36 person under this section, the department must use carbon

1 calculations as determined by the department of ecology under section
2 212 of this act.

3 (6) For purposes of imposing the tax under this chapter, the
4 department must assume the carbon content of electricity that is not
5 attributed to a generation source under the rules adopted pursuant to
6 section 213 of this act is equal to one metric ton of carbon dioxide
7 per megawatt-hour.

8 (7)(a) Electricity and fuels subject to a similar tax or price
9 imposed in another jurisdiction before being imported into Washington
10 are exempt from the portion of the tax equal to the amount paid the
11 other jurisdiction.

12 (b) If the rate of a similar tax or price imposed in another
13 jurisdiction exceeds the rate of the tax imposed under this section,
14 then no additional tax associated with the fuels or electricity is
15 due under this section. The sum of the tax rates paid in Washington
16 and another jurisdiction for electricity and fuels imported into
17 Washington may not exceed the rate of the tax imposed in subsection
18 (2) of this section. However, a person that has paid taxes or a price
19 on fuels or electricity in another jurisdiction is not entitled to
20 any remittance from Washington for the difference between the rate of
21 the tax imposed in Washington and the higher rate or tax paid in the
22 other jurisdiction.

23 (c) For purposes of this section, "price" means the cost of
24 allowances, or a similar mechanism, for fossil fuels purchased
25 through a greenhouse gas emissions trading program administered by
26 another state of the United States, a political subdivision of any
27 other state of the United States, or a foreign country or political
28 subdivision.

29 (8) Each sale within Washington of a fossil fuel or electricity
30 must indicate on the invoice or other document of sale:

31 (a) The amount of the tax paid or to be associated with the sold
32 fossil fuel or electricity;

33 (b) The rate of the tax paid or to be paid;

34 (c) The person who paid or will pay the tax; and

35 (d) Other information required by rules adopted by the
36 department. Rules adopted by the department under this subsection
37 (8)(d) must be, at a minimum, sufficient to facilitate the remittance
38 of tax for uses and facilities that are exempt from the tax under
39 sections 208 and 209 of this act.

1 (9)(a) Upon request, the department must remit the amount of the
2 tax to a person that is exempt under section 208 or 209 of this act,
3 and for which the tax had been previously paid by a supplier or light
4 and power business, as supported by the documentation specified in
5 subsection (8) of this section.

6 (b) The department may issue remittance directly or in the form
7 of credit against the payment of taxes otherwise owed by the person
8 under chapters 82.04, 82.08, 82.12, and 82.16 RCW, at the time and
9 frequency with which those taxes are reported and paid.

10 (c) If a purchaser of fossil fuels or electricity sold within
11 this state fails to obtain an invoice or document of sale that
12 complies with the rules adopted pursuant to subsection (8) of this
13 section, or fails to present a certificate described under section
14 208(4) of this act, or both, the department may not remit tax to that
15 person.

16 (10) The department must round the tax rate to the nearest cent.
17 The department must publish on its web site the tax rate for any year
18 by January 1st of that year.

19 (11) The obligation to collect and remit the tax provided under
20 this section applies to:

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

23 (b) The state, its political subdivisions, and municipal
24 corporations; and

25 (c) Persons who maintain a place of business in this state but
26 who are not required to be registered with the department under RCW
27 82.32.030(1); and

28 (d) Any person consuming fossil fuels or electricity in
29 Washington.

30 NEW SECTION. **Sec. 203.** CARBON POLLUTION MITIGATION ACCOUNT. (1)

31 The carbon pollution mitigation account is created in the state
32 treasury. All receipts from the carbon pollution tax under section
33 202 of this act must be deposited into the account.

34 (2) The state treasurer must distribute money in the account, as
35 follows:

36 (a) Twenty million dollars in fiscal year 2019 to the mitigation
37 grant account established in section 105 of this act;

38 (b) One hundred twenty million dollars per year to the mitigation
39 grant account established in section 105(7) of this act;

1 (c) Four hundred million dollars in fiscal year 2019, and two
2 hundred million dollars per fiscal year thereafter, adjusted by the
3 fiscal growth factor, as defined in RCW 43.135.025, to the natural
4 resources super account to fund activities of the ten natural
5 resource agencies as specified in section 106 of this act and to
6 allow transfers to the general fund with the intent of partially
7 offsetting the impacts of the tax preferences specified in section
8 106 of this act; and

9 (d) To the general fund for payments of administrative expenses
10 in an amount specified in the omnibus appropriations act, consistent
11 with section 117 of this act.

12 (3) Prior to June 30 of each fiscal year, the office of financial
13 management must project an amount expected to remain after the
14 distributions consistent with subsection (2)(a) through (d) of this
15 section. The office of financial management must notify the state
16 treasurer of this amount, and the state treasurer must make
17 distributions of this amount on or around June 30th as follows:
18 Sixty-five percent to the clean energy account, twenty-three percent
19 to the clean water climate program account, and twelve percent to the
20 sustainable forest health account, consistent with sections 107
21 through 111 of this act.

22 NEW SECTION. **Sec. 204.** TAX ON ELECTRICITY. (1)(a) The tax
23 imposed in section 202 of this act on electricity must be paid by the
24 light and power business when it sells electricity for end use. Sales
25 by a light and power business for subsequent resale are not subject
26 to the tax. If a person consumes electricity for which a tax under
27 section 202 of this act has not been paid by a light and power
28 business, including, but not limited to, electricity consumed by a
29 direct service industrial customer, then the person must pay the tax
30 directly to the department.

31 (b) Except as provided in (c) of this subsection, a supplier of
32 fossil fuels is not responsible for payment of the tax associated
33 with fossil fuels directly or eventually supplied to a light and
34 power business for purposes of generating electricity. A light and
35 power business must pay the tax on fossil fuels used to generate
36 electricity that is sold to Washington customers.

37 (c) The tax on fossil fuels sold for combined heat and power, as
38 defined in RCW 19.280.020, is imposed on the seller of the fossil
39 fuels, consistent with section 205 of this act. The department may

1 not impose the tax on electricity from combined heat and power, and
2 must instead impose upon and assign payment responsibility for the
3 tax to the seller of the fossil fuels consistent with section 205 of
4 this act.

5 (2)(a) Light and power businesses that obtain a fully completed
6 exemption certificate, authorized under section 209 of this act, are
7 exempt from the portion of the tax resulting from sales to the person
8 providing the certificate. To qualify, an exemption certificate must
9 be provided by an EITE facility to a light and power business within
10 ninety days, or a longer period as may be provided by rule by the
11 department of commerce, subsequent to the payment period associated
12 with a sale of electricity. A light and power business that has
13 received an exemption certificate from an EITE facility may not pay
14 the tax under this chapter on electricity sold to the EITE facility
15 or sell to an EITE facility electricity for which the tax has already
16 been paid, to the maximum extent that the light and power businesses'
17 electricity acquisition and sales processes make it possible for the
18 light and power business to:

19 (i) Identify and acquire electricity for which the tax under this
20 chapter has not already been paid; and

21 (ii) Identify sales of electricity to EITE facilities that are
22 exempt from the tax.

23 (b) In the event that tax under this chapter has been paid on
24 electricity that is exempt from the tax due to its ultimate sale to
25 an EITE facility, the EITE facility may request a remittance from the
26 department, consistent with the requirements of section 202 (8) and
27 (9) of this act. Upon the request of the department, the light and
28 power business must provide evidence that the tax was not imposed on
29 electricity sold to an EITE facility.

30 (c) If the light and power business has not obtained an exemption
31 certificate authorized under section 209 of this act within the
32 period allowed subsequent to a payment period, the light and power
33 business may, within one hundred twenty days, or a longer period as
34 may be provided by rule by the department, subsequent to a request
35 for substantiation by the department, either prove that the
36 transaction was not subject to tax by other means or obtain a fully
37 completed exemption certificate from the purchaser, taken in good
38 faith.

39 (d) The EITE facility and the light and power business is jointly
40 and severally liable for taxes owed on electricity for which proper

1 exemption and refund documentation has not been provided to the
2 department.

3 NEW SECTION. **Sec. 205.** TAX ON FOSSIL FUELS. (1)(a) Except as
4 provided in (b) and (c) of this subsection (1), the tax imposed in
5 section 202 of this act on fossil fuels must be paid by a supplier
6 consistent with this section.

7 (b) The tax on fossil fuels supplied to a light and power
8 business for purposes of generating electricity is imposed consistent
9 with section 204 of this act.

10 (c) If a person consumes fossil fuels for which a tax under
11 section 202 of this act has not been paid, then the person is liable
12 for the tax and must pay the tax directly to the department.

13 (2) The department must collect the tax on fossil fuels from a
14 supplier:

15 (a) For motor vehicle fuel or special fuel, consistent with the
16 points of taxation specified in RCW 82.38.030(9);

17 (b) For gas, consistent with the points of taxation specified in
18 chapter 82.16 RCW, or, if the tax is not paid by a gas distribution
19 business under chapter 82.16 RCW, consistent with the points of
20 taxation provided in RCW 82.12.022 (1) through (3) and (8) through
21 (10);

22 (c) For other petroleum products, at the first sale or use in
23 Washington; and

24 (d) For sales to end users of fossil fuel types not listed
25 elsewhere in this subsection, when sold to an end user or consumer.

26 (3) The department of licensing must coordinate with and provide
27 information to the department regarding the sales of fuel and the
28 collection of the fuel tax under chapter 82.38 RCW.

29 NEW SECTION. **Sec. 206.** TAX INCREASE MITIGATED UPON ACHIEVEMENT
30 OF LIMITS. (1) If the department of ecology, based on data collected
31 by the department on total electricity and fuels subject to the tax
32 in the previous year, determines that:

33 (a) The sources of emissions covered by the tax imposed by this
34 chapter are predicted to achieve or exceed their combined share of
35 the emissions reductions necessary for the state to achieve the
36 emissions limits established in RCW 70.235.020, the tax rate
37 established in section 202 of this act must increase the following
38 July 1st only by the rate of inflation;

1 (b) The sources of emissions covered by the tax imposed by this
2 chapter are predicted to fall short of their combined share of the
3 emissions reductions necessary for the state to achieve the emissions
4 limits established in RCW 70.235.020 by no more than three percent of
5 the overall statewide limit, the rate of the tax established in
6 section 202 of this act must increase the following July 1st only by
7 two percent plus the rate of inflation;

8 (c) The sources of emissions covered by the tax imposed by this
9 chapter are predicted to fall short of their combined share of the
10 emissions reductions necessary for the state to achieve the emissions
11 limits established in RCW 70.235.020 by between three percent and
12 five percent of the overall statewide limit, the rate of the tax
13 established in section 202 of this act must increase the following
14 July 1st only by four percent plus the rate of inflation.

15 (2) For purposes of this section, the combined share of emissions
16 reductions for sources of emissions covered by the tax imposed by
17 this chapter is the proportion of the greenhouse gas emissions in
18 2017 by entities subject to the tax relative to the state's overall
19 emissions that year.

20 (3) The department of ecology must make the determinations
21 required under this section by December 1st of each year.

22 NEW SECTION. **Sec. 207.** TAX ADMINISTRATION. All of the
23 provisions in chapter 82.32 RCW have full force and application with
24 respect to taxes imposed under the provisions of this chapter and
25 section 113 of this act, except that the provisions of RCW
26 82.32.050(4) do not apply to tax credit investment funds under
27 section 113 of this act. The department must develop and make
28 available worksheets, tax tables, and guidance documents necessary to
29 calculate the emissions of fossil fuels or inherent in electricity.

30 NEW SECTION. **Sec. 208.** EXEMPTIONS AND REDUCED RATES. (1) The
31 tax levied and imposed under section 202 of this act does not apply
32 to:

33 (a) Fossil fuels brought into this state by means of the fuel
34 supply tank of a motor vehicle, vessel, locomotive, or aircraft;

35 (b) Fossil fuels or electricity that are prohibited from taxation
36 under the Constitution of Washington or the Constitution of the
37 United States;

1 (c) Fossil fuels or electricity that are exported or sold for
2 export outside of Washington. Export to a federally recognized Indian
3 tribal reservation located within this state is not considered export
4 outside of Washington;

5 (d) Fossil fuels sold or used for aviation or maritime purposes;

6 (e) Biofuels or the biofuel component of blended fuels. For
7 purposes of this subsection, "biofuel" includes, but is not limited
8 to, biodiesel, biomethane, ethanol, and ethanol blend fuels and
9 renewable liquid natural gas or liquid compressed natural gas made
10 from biogas; or

11 (f) Motor vehicle and special fuel exempt from taxation under RCW
12 82.38.080.

13 (2) The tax levied and imposed under section 202 of this act is
14 imposed on electricity and fossil fuels sold to or used by EITE
15 facilities except as provided for in section 209 of this act.

16 (3) The tax levied and imposed under section 202 of this act does
17 not apply to the following until July 1, 2039:

18 (a)(i) Diesel fuel or aircraft fuel sold or used solely for
19 agricultural purposes, as those terms are defined in RCW 82.08.865;
20 and

21 (ii) Diesel fuel or aircraft fuel, as those terms are defined in
22 RCW 82.08.865, sold or used solely for forest management purposes;

23 (b) Fuel sold or used for the purpose of public transportation
24 and for which the purchaser is entitled to a refund under RCW
25 82.38.080(1) (f) and (g) or 82.38.180(3)(b);

26 (c) Fuel that is sold or used by a private, nonprofit
27 transportation provider certified under chapter 81.66 RCW and for
28 which the purchaser is entitled to a refund under RCW 82.38.080(1)
29 (f) and (g) or 82.38.180(3)(b);

30 (d) Fuel sold or used by the Washington state ferry system for
31 use in a state-owned ferry; and

32 (e) Fuel sold or used for school buses, as defined in and
33 consistent with the requirements of RCW 46.04.521.

34 (4) The department must make available a certificate for use by
35 purchasers of fuels exempted under subsection (1)(d) or (3) of this
36 section from the tax levied and imposed in section 202 of this act.
37 Where tax was previously paid by a supplier or light and power
38 business, tax amounts must be remitted consistent with section 202
39 (8) and (9) of this act.

1 (5)(a) The tax levied and imposed under section 202 of this act
2 is phased in as described in this subsection for:

3 (i) Carbon content inherent in electricity; and

4 (ii) Residential uses of natural gas.

5 (b) The tax rate for these fuels is twenty-five percent of the
6 rate described in section 202 of this act on July 1, 2018,
7 fifty percent on July 1, 2020, seventy-five percent on July 1, 2022,
8 and one hundred percent of the rate on July 1, 2024.

9 (6)(a) The purchase or use of electricity generated at a facility
10 operating as of the effective date of this section for which a carbon
11 dioxide mitigation plan was created under chapter 80.70 RCW makes a
12 light and power business eligible for credit against taxes owed under
13 this part in an amount equal to the amount annually paid by the
14 facility to execute the plan. The credit under this subsection is
15 limited to only the portion of costs to execute the plan that is
16 equal to the portion of associated electricity produced by the
17 facility that is taxable under this act. The credit under this
18 subsection may not exceed two dollars of credit per ton of mitigated
19 greenhouse gas emissions.

20 (b) A facility executing a carbon dioxide mitigation plan created
21 under chapter 80.70 RCW may assign credits to light and power
22 businesses purchasing or using power from the facility. The sum value
23 of credits assigned by a facility in a year may not exceed the amount
24 paid that year by the facility to execute the portion of the plan
25 related to electricity generated by the facility that is taxable
26 under this act.

27 (c)(i) In order for a light and power business to claim the
28 credit allowed under this section, it must submit the following to
29 the energy facility site evaluation council:

30 (A) Documentation, attested to by the facility, of the facility's
31 costs to execute the carbon dioxide mitigation plan for the year in
32 which the credit is claimed;

33 (B) If applicable, evidence that the light and power business's
34 power purchase agreement with the facility includes the assignment of
35 carbon mitigation plan tax credit to the light and power business for
36 the year in which the credit is claimed;

37 (C) Upon request by the energy facility site evaluation council,
38 a facility generating electricity for which credits are claimed under
39 this subsection (6) must submit electricity sales data, power

1 purchase contracts, and other documentation regarding the portion of
2 electricity produced by the facility that is taxable under this act.

3 (ii) Upon receipt of the materials specified in (c)(i) of this
4 subsection (6), the energy facility site evaluation council must
5 certify the amount of credit for which a light and power business is
6 eligible each year.

7 (iii) The light and power business must submit the certification
8 received from the energy facility site evaluation council in order to
9 be eligible to claim the credit allowed under this subsection (6).
10 The department must apply a credit equal to the amount certified by
11 the energy facility site evaluation council.

12 NEW SECTION. **Sec. 209.** EITE FACILITY TAX EXEMPTION. (1)

13 Beginning July 1, 2019, and each July 1st thereafter, each EITE
14 facility that has obtained a certificate from the department of
15 commerce consistent with section 210 of this act must submit a report
16 to the department of commerce, in a form and at time intervals
17 adopted by rule by the department of commerce, regarding the EITE
18 facility's consumption of fossil fuels and electricity and the
19 associated tax paid on the fossil fuel or electricity for the
20 preceding twelve months. Beginning July 1, 2020, the report must also
21 include the benchmark annual emissions volume established for the
22 facility as determined by the department of ecology under section 211
23 of this act.

24 (2) EITE facilities may qualify for an exemption from the tax
25 under section 202 of this act. To qualify for an exemption, an EITE
26 facility must:

27 (a) Have submitted the report required under subsection (1) of
28 this section by the most recent date on which the report was due;

29 (b) Obtain an exemption certificate from the department of
30 commerce; and

31 (c) Provide the certificate to the light and power business,
32 supplier, or other taxable person under this act at the time of
33 purchase of electricity or fossil fuels.

34 (3) The EITE facility must renew the exemption certificates
35 authorized under this section with the department of commerce upon
36 expiration, as specified in section 210 of this act. The department
37 of commerce may not issue an exemption certificate under this section
38 to any EITE facility that has not filed the report required in
39 subsection (1) of this section.

1 (4) The exemption is subject to reduction or cancellation in the
2 event that, despite exemption from the tax, a certified EITE facility
3 closes a facility within the state, except when such a closure is a
4 result of normal changes in economics or business cycle, or moves
5 significant numbers of jobs to facilities outside Washington state.
6 The department of commerce, with input from the board, must provide a
7 determination to the department of revenue regarding the amount of
8 the tax exemption to be recovered from the EITE facility, which must
9 be proportional to the percentage of the EITE facility's number of
10 full-time employee positions in the state that moved to facilities
11 outside of Washington state.

12 (5)(a) The department must recover previously exempted tax in the
13 event that the department of commerce determines that reductions were
14 a result of relocation and not normal changes in economics or
15 business cycle. In recovering previously exempted taxes in such an
16 event, the department must seek recovery of the proportional amount
17 described in subsection (4) of this section of the tax that would
18 have otherwise been due over the previous five calendar years, plus
19 interest assessed consistent with RCW 82.32.050. The board and the
20 department of commerce must also require a commensurate reduction in
21 tax exemption or cancellation of the exemption, effective with the
22 next taxable event occurring after the determination in subsection
23 (4) of this section is made.

24 (b) An EITE facility may appeal a tax exemption reduction or
25 cancellation determination to the board within twenty days of
26 receiving service of notice of the determination. The hearing and
27 review procedures must be conducted by the board in accordance with
28 chapter 34.05 RCW.

29 NEW SECTION. **Sec. 210.** IDENTIFICATION OF ENERGY-INTENSIVE AND
30 TRADE-EXPOSED FACILITIES. (1)(a) By July 1, 2018, the department of
31 commerce must adopt a rule that identifies energy-intensive and
32 trade-exposed facilities. An EITE facility identified by the
33 department of commerce under this section is exempt from the tax
34 imposed in chapter 82.--- RCW (the new chapter created in section 403
35 of this act), as applied to fossil fuels and electricity consumed by
36 the facility. If the tax was previously paid by a supplier or a light
37 and power business, the provisions of section 202(9) of this act
38 apply.

1 (b)(i) In adopting the July 1, 2018 rule for EITE facilities
2 under (a) of this subsection, the department of commerce must
3 designate as an EITE facility any facility that has both a greater
4 greenhouse gas emissions intensity of production and a greater trade
5 share of goods than facilities categorized by any single North
6 American industry classification system code listed in (c) of this
7 section. The department of commerce must also designate as EITE
8 facilities all facilities in a single North American industry
9 classification system code category, if that category has, on
10 average, both a greater greenhouse gas emissions intensity of
11 production and a greater trade share of goods than the corresponding
12 averages for any single North American industry classification system
13 code listed in (c) of this section.

14 (ii) The department of commerce may also designate other EITE
15 facilities with consideration given to their greenhouse gas emissions
16 intensity of production and trade share of goods. The goal of the
17 rules adopted under this section must be to reduce the leakage of
18 emissions and associated economic activity to jurisdictions in which
19 greenhouse gas emissions are not taxed or regulated.

20 (c) In adopting the rule for EITE facilities under (a) of this
21 subsection, in addition to any EITE facilities identified pursuant to
22 the criteria of (b) of this subsection, the department of commerce
23 must designate as EITE facilities all facilities with the following
24 primary North American industry classification system (NAICS) codes,
25 using the system in effect as of January 1, 2016:

- 26 (i) 112310: Chicken egg production;
- 27 (ii) 112320: Broilers and other meat type chicken production;
- 28 (iii) 112330: Turkey production;
- 29 (iv) 112340: Poultry hatcheries;
- 30 (v) 112390: Other poultry production;
- 31 (vi) 311211: Flour milling;
- 32 (vii) 311221: Wet corn milling;
- 33 (viii) 311224: Soybean and other oilseed processing;
- 34 (ix) 311225: Fats and oils refining and blending;
- 35 (x) 311230: Breakfast cereal manufacturing;
- 36 (xi) 311411: Frozen fruit, juice, and vegetable manufacturing;
- 37 (xii) 311412: Frozen specialty food manufacturing;
- 38 (xiii) 311421: Fruit and vegetable canning;
- 39 (xiv) 311422: Specialty canning;
- 40 (xv) 311423: Dried and dehydrated food manufacturing;

- 1 (xvi) 311511: Fluid milk manufacturing;
- 2 (xvii) 311512: Creamery butter manufacturing;
- 3 (xviii) 311513: Cheese manufacturing;
- 4 (xix) 311514: Dry, condensed, evaporated, dairy product
- 5 manufacturing;
- 6 (xx) 311520: Ice cream and frozen dessert manufacturing;
- 7 (xxi) 311611: Animal (except poultry) processing;
- 8 (xxii) 311612: Meat processed from carcasses;
- 9 (xxiii) 311613: Rendering and meat byproduct processing;
- 10 (xxiv) 311615: Poultry processing;
- 11 (xxv) 311710: Seafood product preparation and packaging;
- 12 (xxvi) 311812: Commercial bakeries;
- 13 (xxvii) 311821: Cookie, cracker manufacturing;
- 14 (xxviii) 311824: Flour mixes and dough manufacturing from
- 15 purchased flour;
- 16 (xxix) 311830: Tortilla manufacturing;
- 17 (xxx) 311911: Roasted nuts and peanut butter manufacturing;
- 18 (xxxi) 311919: Other snack food manufacturing;
- 19 (xxxii) 311930: Flavoring syrup and concentrate manufacturing;
- 20 (xxxiii) 311941: Mayonnaise, dressing, and other prepared sauce
- 21 manufacturing;
- 22 (xxxiv) 311942: Spice and extract manufacturing;
- 23 (xxxv) 311991: Perishable prepared food manufacturing;
- 24 (xxxvi) 311999: All other miscellaneous food manufacturing;
- 25 (xxxvii) 322110: Pulp mills;
- 26 (xxxviii) 322121: Paper (except newsprint) mills;
- 27 (xxxix) 322122: Newsprint mills;
- 28 (xl) 322130: Paperboard mills;
- 29 (xli) 325188: All other basic inorganic chemical manufacturing;
- 30 (xlii) 325199: All other basic organic chemical manufacturing;
- 31 (xliii) 315311: Nitrogenous fertilizer manufacturing;
- 32 (xliv) 327211: Flat glass manufacturing;
- 33 (xlv) 327213: Glass container manufacturing;
- 34 (xlvi) 327310: Cement manufacturing;
- 35 (xlvii) 327410: Lime manufacturing;
- 36 (xlviii) 327420: Gypsum manufacturing;
- 37 (xlix) 321111: Iron and steel mills;
- 38 (l) 331312: Primary aluminum production;
- 39 (li) 331315: Aluminum sheet, plate, and foil manufacturing;
- 40 (lii) 334413: Semiconductor and related device manufacturing;

1 (liii) 336411: Aircraft manufacturing; and

2 (liv) 336413: Other aircraft parts and auxiliary equipment
3 manufacturing.

4 (2) Beginning January 1, 2018, upon the request of an EITE
5 facility that meets the qualifying criteria adopted by rule pursuant
6 to subsection (1) of this section or, the department of commerce must
7 issue a certificate denoting EITE facility status. The department of
8 commerce must maintain a record of all EITE facility certificate
9 holders statewide, and must share its records with the department of
10 revenue to facilitate administration of the tax imposed under chapter
11 82.--- RCW (the new chapter created in section 403 of this act).

12 (3) The department of commerce must provide an expiration date
13 for certificates issued under this section that is no less than four
14 years and no more than six years from date of issuance. Where
15 possible, the department of commerce must set expiration at the close
16 of a fiscal biennium. The department of commerce must reissue a
17 certificate upon expiration, provided that the facility retains a
18 designation as an EITE facility at the time of the certificate's
19 expiration.

20 (4) By January 1, 2022, and every four years thereafter, the
21 department of commerce must review, and, as appropriate, amend the
22 rule adopted in (1) of this section. The rule review must include a
23 reevaluation of the trade exposure and energy intensity of EITE
24 facilities designated under subsection (1)(a) or (b) of this section,
25 and may include an amendment to the EITE designation of a facility,
26 as appropriate. The department of commerce may undertake new
27 evaluations of the trade exposure and energy intensity of an EITE
28 facility designated under (1)(c) of this section, but may not revoke
29 the EITE status of a facility designated under (1)(c) of this
30 section.

31 (5)(a) By December 31, 2026, the joint legislative audit and
32 review committee must conduct a review of the tax preferences
33 available to EITE facilities under this chapter and the tax
34 exemptions in section 208 of this act.

35 (b) The committee review must include, but is not limited to:

36 (i) An analysis of any net economic impacts on job creation or
37 economic activity attributable to the treatment of EITE facilities
38 under this act and the fuels exempted under section 208 of this act;

39 (ii) The impact of the exemptions in section 208 of this act and
40 EITE facility treatment under the tax on total greenhouse gas

1 emissions, including both in-state emissions and out-of-state
2 emissions that may be attributable to the leakage of economic
3 activity;

4 (iii) Whether technological or economic changes have increased or
5 reduced the necessity of continued exemption of EITE facility status;
6 and

7 (iv) The cost, in foregone revenue, associated with the treatment
8 of EITE facilities under this act and the exemptions in section 208
9 of this act.

10 (c) The committee must report to the governor and the appropriate
11 committees of the legislature and make recommendations as to whether
12 the exemptions and treatment of EITE facilities under the tax should
13 be amended to provide appropriate incentive for reducing global
14 greenhouse gas emissions and meeting other stated objectives in this
15 act without unnecessary and undesirable economic outcomes on
16 Washington workers and consumers.

17 NEW SECTION. **Sec. 211.** EITE FACILITY BENCHMARK SETTING. (1)
18 Beginning February 1, 2020, and each February 1st thereafter, each
19 EITE facility must provide the following data to the department of
20 ecology:

21 (a) Data that allows the department of ecology to calculate the
22 actual or projected emissions of the EITE facility, including
23 indirect emissions associated with the consumption of electricity by
24 the EITE facility;

25 (b) Actual or projected production data for the energy-intensive
26 and trade-exposed facility;

27 (c) Actual or projected operating hours and days of operation
28 during a calendar year;

29 (d) Information regarding an EITE facility's processes that
30 consume fossil fuels, use electricity, or otherwise are associated
31 with the emissions of greenhouse gases; and

32 (e) Any other information requested by the department of ecology
33 that is germane to calculations of the greenhouse gas intensity of
34 production at the EITE facility.

35 (2) The EITE facility must also make available personnel who can
36 assist the department of ecology in assigning a baseline greenhouse
37 gas emissions value for the facility. If the EITE facility does not
38 provide the department of ecology with information or access to
39 personnel in a timely manner, the department of ecology may use the

1 best information available to the department to conservatively
2 estimate any missing data and assign a baseline greenhouse gas
3 emissions value.

4 (3) For each EITE facility, the department of ecology must
5 establish two benchmark volumes of annual greenhouse gas emissions
6 based upon a determination of the greenhouse gas emissions associated
7 with the most efficient fifty percent of similar existing facilities
8 in the United States or Canada, adjusted for production volumes. One
9 benchmark volume must be based solely on the direct emissions of the
10 EITE facility, and one benchmark volume must be based on the sum of
11 the direct emissions of the EITE facility and the indirect emissions
12 associated with the consumption of electricity by the EITE facility.
13 In making the assessment of the greenhouse gas emissions intensity of
14 the fiftieth percentile of similar existing EITE facilities, the
15 department of ecology:

16 (a) Must attempt to find existing parties, either local or
17 otherwise, that are similar to the energy-intensive and trade-exposed
18 facility because they make or supply similar products using similar
19 processes as the EITE facility;

20 (b) May prorate emissions or production data to scale data from
21 similar facilities to the energy-intensive and trade-exposed facility
22 subject to the tax imposed under section 202 of this act;

23 (c) Must use average emissions data from the most recent three to
24 five-year period that such data is available for the energy-intensive
25 and trade-exposed facility and for similar facilities identified; and

26 (d) Must use best available engineering methods to estimate
27 greenhouse gas emissions from the EITE facilities, if similar
28 facilities do not exist.

29 (4) By June 1, 2020, and each June 1st thereafter, the department
30 of ecology must determine, based on both the production volume of the
31 EITE facility and the greenhouse gas emissions intensity of the
32 fiftieth percentile of similar existing EITE facilities as determined
33 in subsection (3) of this section, whether each EITE facility that
34 submitted information to the department of ecology under subsection
35 (1) of this section has exceeded the indirect and direct fiftieth
36 percentile benchmark emissions volumes during the preceding year.

37 (5) An EITE facility is eligible to submit project proposals to
38 the clean energy account detailed in section 109 of this act, in
39 order to work towards greater efficiency and to help those EITE
40 facilities below the fiftieth percentile to exceed that benchmark.

1 This provision does not limit the eligibility of other public or
2 private applicants to these funds.

3 (6) The department of ecology may adopt rules to implement this
4 section.

5 (7) Information submitted to the department of ecology pursuant
6 to subsection (1)(b), (c), or (d) of this section is not subject to
7 public disclosure under chapter 42.56 RCW.

8 (8) The failure to meet a benchmark emissions volume established
9 under this section does not have bearing on whether an EITE facility
10 is subject to the tax imposed under section 202 of this act.

11 NEW SECTION. **Sec. 212.** DEPARTMENT OF ECOLOGY CARBON
12 CALCULATIONS AND REPORTING. (1) By December 15, 2017, the department
13 of ecology must adopt rules specifying the basis for a carbon
14 calculation on the emissions of carbon dioxide equivalent inherent in
15 or associated with fossil fuels and of the emissions inherent in or
16 associated with imported electricity. In determining a carbon
17 calculation methodology, the department of ecology may consider,
18 among other resources, the reports filed in section 213 of this act,
19 the carbon dioxide content measurements for fossil fuels from the
20 United States energy information administration, and the United
21 States environmental protection agency.

22 (2) The department of ecology may periodically update the rules
23 specifying the carbon content of fossil fuels and imported
24 electricity. Department of ecology rule updates under this section
25 must be adopted by May 1st of a given year, and must take effect
26 beginning July 1st of that year.

27 NEW SECTION. **Sec. 213.** ELECTRIC SOURCE REPORTING AND
28 UNSPECIFIED POWER TO THE DEPARTMENT OF COMMERCE. (1) Each light and
29 power business must file with the department of commerce an
30 electricity resource report. The report must be filed with the
31 department of commerce during the reporting period for the tax
32 imposed under section 202 of this act, as determined by the
33 department. The department of commerce must share the report with the
34 department of revenue.

35 (2) The department of commerce must adopt rules regarding the
36 content of the electricity resource report submitted under this
37 section. The electricity resource report rules must require the
38 submission of any information deemed necessary by the department of

1 commerce or by the department of revenue to administer the tax
2 imposed under this chapter.

3 (3) The department of commerce must adopt rules under which a
4 light and power business may specify the resources used to generate
5 electricity that is not a resource that is declared by the light and
6 power business. To the maximum extent practicable, the electricity
7 source specification requirements and procedures adopted by the
8 department of commerce must be consistent with the electric source
9 specification requirements that apply to electricity in other
10 jurisdictions that have adopted a policy that results in the
11 imposition of a tax, price, or other cost associated with the carbon
12 content of electricity.

13 PART III

14 Amending Current Greenhouse Gas Limits in State Law per the 15 Department of Ecology's 2016 Report

16 **Sec. 301.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to
17 read as follows:

18 (1)(a) The state (~~shall~~) must limit emissions of greenhouse
19 gases to achieve the following emission reductions for Washington
20 state:

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

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

25 (iii) By 2050, the state will do its part to reach global climate
26 stabilization levels by reducing overall emissions to (~~fifty~~)
27 eighty percent below 1990 levels(~~(, or seventy percent below the~~
28 ~~state's expected emissions that year))~~).

29 (b) By December 1, 2008, the department (~~shall~~) must submit a
30 greenhouse gas reduction plan for review and approval to the
31 legislature, describing those actions necessary to achieve the
32 emission reductions in (a) of this subsection by using existing
33 statutory authority and any additional authority granted by the
34 legislature. Actions taken using existing statutory authority may
35 proceed prior to approval of the greenhouse gas reduction plan.

36 (c) Except where explicitly stated otherwise, nothing in chapter
37 14, Laws of 2008 limits any state agency authorities as they existed
38 prior to June 12, 2008.

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

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

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

9 (2)(a) By (~~December~~) October 31st of each even-numbered year
10 beginning in 2010, the department and the department of (~~community,~~
11 ~~trade, and economic development shall~~) commerce must report to the
12 governor and the appropriate committees of the senate and house of
13 representatives the total emissions of greenhouse gases for the
14 preceding two years, and totals in each major source sector. The
15 report must address both emissions from sources subject to the tax
16 imposed pursuant to section 202 of this act and emissions from
17 sources not subject to the tax. The report must also address and
18 distinguish, to the extent practicable, any progress towards meeting
19 the emission reductions established in (1) of this section that are
20 attributable to the price signal created by the tax, and any progress
21 towards meeting the emission reductions established in (1) of this
22 section that are attributable to the investments of tax.

23 (b) The report required in (a) of this subsection (2) must
24 include a declaration of whether entities subject to the tax imposed
25 in chapter 82.--- RCW (the new chapter created in section 403 of this
26 act) have met their combined share of emissions reductions as defined
27 in section 206 of this act. Beginning in 2024, the report must also
28 evaluate the efficacy of the tax rate adjustments occurring under
29 section 206 of this act, taking into account the rate of the tax that
30 was imposed over the preceding three biennia. If the department
31 determines that the entities subject to the tax did not meet their
32 combined share of emissions reductions towards the achievement of the
33 state limits established in subsection (1) of this section during the
34 previous biennium, the report must include a recommendation to the
35 legislature for an adjustment to the tax rate imposed in section 202
36 of this act that would be sufficient for the state to achieve the
37 limits established in subsection (1) of this section.

38 (c) By December 2021, the department must submit an additional
39 report to the legislature containing a determination of whether an
40 international consortium representing the aviation or maritime

1 transport industries has adopted a greenhouse gas emissions reduction
2 plan consistent with climate goals in this section. During the 2022
3 regular legislative session, the department must submit agency
4 request legislation if it determines that an international consortium
5 for the aircraft industry or the maritime transport industry, or
6 both, has not adopted a greenhouse gas emissions reduction plan by
7 December 31, 2021, that is consistent with the climate goals in this
8 section. The request legislation must be designed to reduce emissions
9 from aircraft fuel or maritime transport fuel, or both, to a level
10 consistent with the climate goals in this section. It is the intent
11 of the legislature to enact this request legislation upon its
12 introduction.

13 (d) The department (~~shall~~) must ensure the reporting rules
14 adopted under RCW 70.94.151 allow it to develop a comprehensive
15 inventory of emissions of greenhouse gases from all significant
16 sectors of the Washington economy.

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

22 NEW SECTION. Sec. 302. A new section is added to chapter 70.94
23 RCW to read as follows:

24 (1)(a) As of the effective date of this section, the department
25 does not have the authority to implement or enforce chapter 173-442
26 WAC, or the amendments to chapter 173-441 WAC that took effect
27 October 16, 2016.

28 (b) Nothing in this subsection (1) affects the greenhouse gas
29 emission reporting requirements of RCW 70.94.151.

30 (2) The department may adopt rules consistent with RCW 70.94.154
31 to require reasonably available control technology (RACT) to control
32 emissions of greenhouse gases. The department may adopt RACT rules to
33 apply to sources subject to the tax imposed in chapter 82.--- RCW
34 (the new chapter created in section 403 of this act) or to sources
35 that are not subject to the tax imposed in chapter 82.--- RCW (the
36 new chapter created in section 403 of this act), or both.

37 **PART IV**

38 **Miscellaneous Provisions**

1 **Sec. 401.** RCW 82.32.050 and 2008 c 181 s 501 are each amended to
2 read as follows:

3 (1) If upon examination of any returns or from other information
4 obtained by the department it appears that a tax or penalty has been
5 paid less than that properly due, the department (~~shall~~) must
6 assess against the taxpayer such additional amount found to be due
7 and (~~shall~~) must add thereto interest on the tax only. The
8 department (~~shall~~) must notify the taxpayer by mail, or
9 electronically as provided in RCW 82.32.135, of the additional amount
10 and the additional amount (~~shall~~) becomes due and (~~shall~~) must be
11 paid within thirty days from the date of the notice, or within such
12 further time as the department may provide.

13 (a) For tax liabilities arising before January 1, 1992, interest
14 shall be computed at the rate of nine percent per annum from the last
15 day of the year in which the deficiency is incurred until the earlier
16 of December 31, 1998, or the date of payment. After December 31,
17 1998, the rate of interest (~~shall~~) must be variable and computed as
18 provided in subsection (2) of this section. The rate so computed
19 (~~shall~~) must be adjusted on the first day of January of each year
20 for use in computing interest for that calendar year.

21 (b) For tax liabilities arising after December 31, 1991, the rate
22 of interest (~~shall~~) must be variable and computed as provided in
23 subsection (2) of this section from the last day of the year in which
24 the deficiency is incurred until the date of payment. The rate so
25 computed (~~shall~~) must be adjusted on the first day of January of
26 each year for use in computing interest for that calendar year.

27 (c) Interest imposed after December 31, 1998, (~~shall~~) must be
28 computed from the last day of the month following each calendar year
29 included in a notice, and the last day of the month following the
30 final month included in a notice if not the end of a calendar year,
31 until the due date of the notice. If payment in full is not made by
32 the due date of the notice, additional interest (~~shall~~) must be
33 computed until the date of payment. The rate of interest (~~shall~~)
34 must be variable and computed as provided in subsection (2) of this
35 section. The rate so computed (~~shall~~) must be adjusted on the first
36 day of January of each year for use in computing interest for that
37 calendar year.

38 (2) For the purposes of this section, the rate of interest to be
39 charged to the taxpayer (~~shall~~) must be an average of the federal
40 short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two

1 percentage points. The rate set for each new year (~~shall~~) must be
2 computed by taking an arithmetical average to the nearest percentage
3 point of the federal short-term rate, compounded annually. That
4 average (~~shall~~) must be calculated using the rates from four
5 months: January, April, and July of the calendar year immediately
6 preceding the new year, and October of the previous preceding year.

7 (3) During a state of emergency declared under RCW 43.06.010(12),
8 the department, on its own motion or at the request of any taxpayer
9 affected by the emergency, may extend the due date of any assessment
10 or correction of an assessment for additional taxes, penalties, or
11 interest as the department deems proper.

12 (4) No assessment or correction of an assessment for additional
13 taxes, penalties, or interest due may be made by the department more
14 than four years after the close of the tax year, except (a) against a
15 taxpayer who has not registered as required by this chapter, (b) upon
16 a showing of fraud or of misrepresentation of a material fact by the
17 taxpayer, (~~or~~) (c) where a taxpayer has executed a written waiver
18 of such limitation, or (d) with respect to the credit authorized in
19 section 113 of this act. The execution of a written waiver (~~shall~~)
20 also extends the period for making a refund or credit as provided in
21 RCW 82.32.060(2).

22 (5) For the purposes of this section, "return" means any document
23 a person is required by the state of Washington to file to satisfy or
24 establish a tax or fee obligation that is administered or collected
25 by the department of revenue and that has a statutorily defined due
26 date.

27 NEW SECTION. **Sec. 402.** Part I of this act constitutes a new
28 chapter in Title 70 RCW.

29 NEW SECTION. **Sec. 403.** Part II of this act constitutes a new
30 chapter in Title 82 RCW.

31 NEW SECTION. **Sec. 404.** Part II of this act is exempt from the
32 provisions of RCW 82.32.805 and 82.32.808.

33 NEW SECTION. **Sec. 405.** Except where explicitly stated
34 otherwise, nothing in this act limits the authority of any state
35 agency as it existed prior to the effective date of this section.

1 NEW SECTION. **Sec. 406.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- END ---