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**SENATE BILL 6096**

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

**By** Senators Ranker, Darneille, Dhingra, and Hunt

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

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

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

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

(2) "Carbon calculation" means a calculation made by the department of commerce, in consultation with the department of ecology, for purposes of determining the carbon dioxide emissions from the complete combustion or oxidation of fossil fuels and the carbon dioxide emissions in electricity for use in calculating the tax pursuant to section 2 of this act. Among other resources, the department of commerce may consider carbon dioxide content measurements for fossil fuels from the United States energy information administration and the United States environmental protection agency. For electricity consumed within the state, the department of commerce must adopt criteria for making the carbon calculation with the intent that it is based upon a per kilowatt hour amount across all kilowatt hours delivered to customers within the state by that utility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) For the purposes of this chapter:

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

(b) The carbon pollution tax applies only to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) 311423: Dried and dehydrated food manufacturing;

(c) 311611: Animal slaughtering, except poultry;

(d) 315311: Nitrogenous fertilizer manufacturing;

(e) 321111: Iron and steel mills;

(f) 322110: Pulp mills;

(g) 322121: Paper mills, except newsprint;

(h) 322122: Newsprint mills;

(i) 322130: Paperboard mills;

(j) 325188: All other basic inorganic chemical manufacturing;

(k) 325199: All other basic organic chemical manufacturing;

(l) 327211: Flat glass manufacturing;

(m) 327213: Glass container manufacturing;

(n) 327310: Cement manufacturing;

(o) 327410: Lime manufacturing;

(p) 327420: Gypsum product manufacturing;

(q) 331312: Primary aluminum production;

(r) 331315: Aluminum sheet, plate, and foil manufacturing;

(s) 331419: Primary smelting and refining of nonferrous metal, except copper and aluminum; and

(t) 334413: Semiconductor and related device manufacturing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An estimate, based on protocols developed by the technical advisory committee, of the cost per ton of emission reductions for the portfolio of projects in the clean energy investment plan;

(c) A demonstration that expenditures in the clean energy investment plan will be additional to expenditures necessary to meet other emissions reduction, energy conservation, or renewable energy requirements;

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

(e) A provision that no less than twenty percent of the moneys collected by a utility pursuant to this section must be dedicated for low-income energy assistance, which may include discounted rates for qualifying customers and grants to qualifying customers with high utility bills. Such moneys are additional to other funding for low-income energy assistance.

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

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

(b) Market transformation for energy efficiency products;

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

(d) Low-income weatherization;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  TAXPAYER REPORTS. (1) As part of a taxpayer's tax reporting obligation, each taxpayer remitting the carbon pollution tax on electricity as provided in section 2(1)(a)(ii) of this act must file with the department a carbon content report containing the information contained in RCW 19.29A.060 and such other information as the department may require for purposes of this chapter, together with the tax calculated thereon based on tax tables adopted by the department pursuant to section 2(7) of this act. If the taxpayer cannot identify the resources, the department must assume the carbon content inherent in that electricity to be one metric ton of carbon dioxide per megawatt-hour.

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

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

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

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

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

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

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

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

(2) By December 31, 2024, the joint legislative audit and review committee in consultation with the departments of commerce and ecology must conduct a review of the tax imposed under section 2 of this act. The review must include but is not limited to analysis and evaluation of:

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

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

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

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

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

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

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

CARBON POLLUTION REDUCTION ACCOUNT.

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

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

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

(i) To the climate impacts account created in section 13 of this act, three hundred fifty million dollars in fiscal years 2020 and 2021, four hundred fifty million dollars in fiscal years 2022 and 2023, five hundred fifty million dollars in fiscal years 2024 and 2025, and six hundred fifty million dollars in each fiscal year thereafter; and

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

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

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

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

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

CARBON PRICE IMPACT ASSISTANCE ACCOUNT.

(1) The carbon price impact assistance account is created in the state treasury. The account must receive moneys transferred to the account pursuant to section 11 of this act as well as other moneys directed to the account by the legislature. The account is subject to appropriation.

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

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

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

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

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

(4) Moneys in the account may also be used to provide for a just transition to a clean energy economy by providing assistance to impacted workers in fossil fuel as well as energy intensive trade-exposed industries, where workers are dislocated due to the impacts of the tax imposed under section 2 of this act. The assistance may include, but is not limited to, wage replacement or wage insurance, health benefits, pension contributions, retraining costs, peer counseling services, employment placement services, relocation expenses, and other services. The department of commerce in coordination with the employment security department may adopt rules to implement this subsection.

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

CLIMATE IMPACTS ACCOUNT.

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

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

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

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

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

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

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

CARBON REDUCTION INVESTMENT FUND ACCOUNT.

(1) The carbon reduction investment fund account is created in the state treasury. The account must receive moneys transferred to the account pursuant to section 11 of this act as well as other moneys directed to the account by the legislature. Moneys in the account may only be used for the purposes described in this section, and the account is subject to appropriation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) The site visits conducted; and

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

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

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

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

WATER AND FORESTS RESILIENCE ACCOUNT.

(1) The water and forests resilience account is created in the state treasury. The account must receive moneys transferred to the account pursuant to section 2 of this act as well as other moneys directed to the account by the legislature. The account is subject to appropriation.

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

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

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

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

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

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

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

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

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

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

(e) The establishment and funding of a working forest conservation easement program. The program's primary goal is to maximize the amount of carbon sequestered over an easement's first one hundred years. The program must be designed to permanently prevent the development or conversion of working forests, and to provide long-term, sustainable jobs in rural communities, including jobs in forest restoration and ecologically focused thinning and low intensity timber harvesting.

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

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

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

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

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

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

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

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

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

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

(2) By December 31st of each even-numbered year beginning in 2010, the department and the department of ((~~community, trade, and economic development shall~~)) commerce must report to the governor and the appropriate committees of the senate and house of representatives the total emissions of greenhouse gases for the preceding two years, and totals in each major source sector. The department ((~~shall~~)) must ensure the reporting rules adopted under RCW 70.94.151 allow it to develop a comprehensive inventory of emissions of greenhouse gases from all significant sectors of the Washington economy.

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

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

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

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

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

**--- END ---**