S-4742.1

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**SUBSTITUTE SENATE BILL 6203**

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

**By** Senate Energy, Environment & Technology (originally sponsored by Senators Carlyle, Ranker, Palumbo, Nelson, Pedersen, Frockt, Billig, Rolfes, McCoy, Keiser, Wellman, Liias, Hunt, Chase, Saldaña, and Kuderer; by request of Governor Inslee)

AN ACT Relating to reducing carbon pollution by investing in rural economic development and a clean energy economy; amending RCW 46.17.005, 46.17.350, 46.17.365, 19.285.030, and 19.285.040; adding new sections to chapter 43.31 RCW; adding a new chapter to Title 82 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 70 RCW; creating a new section; providing an effective date; providing a contingent expiration date; and providing expiration dates.

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

NEW SECTION. **Sec.**  (1) Greenhouse gas pollution, including carbon, is a significant contributor to climate change, and has devastating negative impacts on Washington's economy, environment, natural resources, and communities. Our state is already experiencing rising sea levels, depleting snowpack, increased flooding, acidifying oceans, and more frequent and severe wildfires. These impacts impair our prosperity and have already hurt our businesses and communities.

(2) Transitioning to a clean energy economy can help our citizens and businesses thrive without increasing carbon pollution that leads to climate change. Building a vibrant and successful clean energy economy can serve as an example to other regions, will put Washington on the cutting edge of twenty-first century economies, create new jobs, and support the health and prosperity of all residents of Washington.

(3) Washington state is home to some of the world's most innovative companies, a highly skilled workforce, and important industries. As our state transitions away from fossil fuels, we must do so in a way that protects these assets, and allows our businesses to thrive. By launching a bold new set of investments in carbon reduction infrastructure and natural resource resilience, we can reduce our state's carbon emissions while preparing our economy for the future. In doing so, we recognize that some industries are energy dependent and trade-exposed, and thus have independent incentive to be energy efficient. These industries are exempt from carbon taxation in order to allow them to remain globally competitive and ensure these industries and jobs remain in Washington.

(4) Fossil fuel combustion also is responsible for other pollutants, like NOx, carbon monoxide, benzene, and others that contribute to respiratory diseases like asthma and lung cancer that compromise public health and shorten life expectancy. This pollution burden overwhelmingly falls on low-income communities, communities of color, and the vulnerable parts of our population. Reducing our reliance on fossil fuels, therefore, will contribute to improved air quality and better public health.

(5) This act establishes a tax to account for the economic and environmental impacts of carbon pollution. The revenue will facilitate the transition from fossil fuels to clean energy and fund investments that will benefit our businesses, our families, and our communities. It will also invest in adapting to the impacts of climate change and protecting our rural communities and key economic sectors including agriculture, shellfish, and forestry.

(6) Further, in general, low-income rural and urban communities are disproportionately impacted by carbon pollution and are less able to respond to climate change. This act provides targeted economic stimulus to ensure that the job creation and health benefits of this measure are focused in the communities that can most benefit from these investments.

**Part I**

**Carbon Pollution Tax**

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) "Energy-intensive trade-exposed manufacturing business" means a manufacturing business that meets the numerical criteria established by the department of commerce in section 103(3)(b) of this act, or has a proper primary North American industry classification system code as provided in section 103(3)(c) of this act.

(14) "Fossil fuel" means motor vehicle fuel, special fuel, dyed special fuel, aircraft fuel, natural gas, coal, and any form of solid, liquid, or gaseous fuel derived from natural gas, coal, petroleum, or crude oil, including without limitation still gas, propane, and petroleum residuals including bunker fuel, provided, that any coal used in generating electricity that constitutes coal transition power as defined in RCW 80.80.010 is not "fossil fuel" for the purposes of this chapter.

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

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

(17) "Highly impacted communities" means those areas designated pursuant to section 502 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c)(i) The tax rate is equal to ten dollars per metric ton of carbon dioxide.

(ii) Beginning July 1, 2021, the department must adjust the previous year's tax rate by two dollars per metric ton until reaching thirty dollars per metric ton of carbon dioxide. The department must calculate tax rate adjustments under this subsection (1)(c)(ii) in July of each year and publish on its web site the tax rate for any year by January 1st of that year.

(2) For the purposes of this chapter:

(a) The carbon pollution tax is imposed:

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

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

(iii) Upon the first taxable person within this state, consistent with (b) of this subsection.

(b)(i) For electricity, the carbon pollution tax is imposed on a light and power business, as defined in RCW 82.16.010, when it sells electricity to a consumer of the electricity in this state.

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, for natural gas, the carbon pollution tax is imposed on a gas distribution business, as defined in RCW 82.16.010, when it sells natural gas to a consumer of the natural gas in this state.

(B) The carbon pollution tax on natural gas sold to or used by a light and power business for the purposes of generating electricity is imposed consistent with (b)(i) of this subsection.

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

(d) 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.

(e) 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).

(f) 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.

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

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

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

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

(c) For the sale or consumption of electricity where the source used to generate the electricity is unknown or unspecified, the carbon dioxide inherent in that electricity must be an amount, expressed in metric tons of carbon dioxide per megawatt-hour, equal to the default emission factor for unspecified electricity set forth in section 95111(b)(1) of the regulations for the mandatory reporting of greenhouse gas emissions of the California air resources board, California Code of Regulations, Title 17, section 95111(b)(1);

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

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

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

(5) Except for natural gas, the carbon pollution tax on the sale or use of fossil fuels is imposed on the seller or user of the fossil fuel.

(6) The carbon pollution tax on the sale or consumption of natural gas is imposed as follows:

(a) Natural gas transported through the state that is not produced or delivered in the state is exempt from the carbon pollution tax imposed by this section. Natural gas possessed or stored in this state is exempt from the carbon pollution tax imposed by this section unless taxed under (b), (c), or (d) of this subsection;

(b) For natural gas sold by a gas distribution business to a retail customer in the state, the carbon pollution tax is imposed on the gas distribution business upon the sale of such natural gas to the retail customer;

(c) For natural gas sold to a light and power business for the purpose of generation of electricity in the state, the carbon pollution tax is imposed on the light and power business upon the consumption of such natural gas by the light and power business for the generation of electricity; and

(d) For natural gas sold to a direct access gas customer in the state, the carbon pollution tax is imposed on the direct access gas customer upon the consumption of such natural gas by the direct access gas customer.

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

(a) Subject to (d) of this subsection, for electricity produced in the state, the carbon pollution tax on the sale or consumption of electricity is imposed on the person required to be registered with the department for purposes of paying taxes due under chapter 82.04 or 82.16 RCW that owns or operates the electrical generation facility producing the electricity;

(b) Subject to (d) of this subsection, for electricity produced outside the state and ultimately consumed in the state, the carbon pollution tax on the sale of electricity is imposed on the first person required to be registered with the department for purposes of paying taxes due under chapter 82.04 or 82.16 RCW that imports such electricity to or delivers such electricity in the state;

(c) Electricity transmitted through the state that is not produced or consumed in the state including, but not limited to, imports of electricity that are netted by exports of electricity by the same entity within the same hour, is exempt from the carbon pollution tax imposed by this section; and

(d) A light and power business with an approved clean energy investment plan that purchases electricity from a person subject to the carbon pollution tax under (a) or (b) of this subsection has the right of first refusal to assume the carbon pollution tax liability of such person. If the light and power business does not elect to assume the carbon pollution tax pursuant to such right of first refusal, the carbon pollution tax on the sale of electricity is imposed pursuant to (a) or (b) of this subsection, as applicable.

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

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

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

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

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

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

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

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

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

(g) Aircraft fuel as defined in RCW 82.42.010;

(h) Fossil fuels and electricity sold to or used by any business described in RCW 82.04.260(12); and

(i) Facilities that manufacture equipment used to generate electricity from eligible renewable resources as defined in RCW 19.285.030(21).

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

(b) If the federal government imposes a comparable carbon pollution tax or charge on the carbon content of any electricity or fossil fuels above what is imposed in section 102 of this act, the entity may take a credit for the difference against the tax imposed in section 102 of this act, provided that the taxpayer claiming the credit provides evidence acceptable to the department that the equivalent tax has been paid.

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

(i) Imposed on:

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

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

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

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

(b) The department of commerce will establish objective numerical criteria for both energy intensity and trade exposure for the purpose of identifying energy-intensive trade-exposed manufacturing businesses. The criteria will take into consideration approaches used by other jurisdictions with existing carbon reduction or carbon pricing programs, and the impact of the carbon pollution tax on manufacturing activity, including manufacturers with a 2017 North American industry classification system code 31-33 as developed by the office of management and budget. A manufacturing business that can demonstrate to the department of commerce that it meets the criteria must be issued a certificate denoting energy-intensive trade-exposed exempt status.

(c) Notwithstanding the criteria established in (b) of this subsection, the department must issue a certificate denoting energy-intensive trade-exposed exempt status to:

(i) Any business described in RCW 82.04.260(12); or

(ii) A manufacturing business with a proper primary North American industry classification system code based on the following activities:

112310: Chicken egg production;

112320: Broilers and other meat type chicken production;

112330: Turkey production;

112340: Poultry hatcheries;

112390: Other poultry production;

311211: Flour milling;

311221: Wet corn milling;

311224: Soybean and other oilseed processing;

311225: Fats and oils refining and blending;

311230: Breakfast cereal manufacturing;

311411: Frozen fruit, juice, and vegetable manufacturing;

311412: Frozen specialty food manufacturing;

311421: Fruit and vegetable canning;

311422: Specialty canning;

311423: Dried and dehydrated food manufacturing;

311511: Fluid milk manufacturing;

311512: Creamery butter manufacturing;

311513: Cheese manufacturing;

311514: Dry, condensed, and evaporated dairy product manufacturing;

311520: Ice cream and frozen dessert manufacturing;

311611: Animal (except poultry) processing;

311612: Meat processed from carcasses;

311613: Rendering and meat by-product processing;

311615: Poultry processing;

311710: Seafood product preparation and packaging;

311812: Commercial bakeries;

311821: Cookie and cracker manufacturing;

311824: Flour mixes and dough manufacturing from purchased flour;

311830: Tortilla manufacturing;

311911: Roasted nuts and peanut butter manufacturing;

311919: Other snack food manufacturing;

311930: Flavoring syrup and concentrate manufacturing;

311941: Mayonnaise, dressing, and other prepared sauce manufacturing;

311942: Spice and extract manufacturing;

311991: Perishable prepared food manufacturing;

311999: All other miscellaneous food manufacturing;

312112: Bottled water manufacturing;

322110: Pulp mills;

322121: Paper (except newsprint) mills;

322122: Newsprint mills;

322130: Paperboard mills;

324110: Petroleum refineries;

325188: All other basic inorganic chemical manufacturing;

325199: All other basic organic chemical manufacturing;

325311: Nitrogenous fertilizer manufacturing;

327211: Flat glass manufacturing;

327213: Glass container manufacturing;

327310: Cement manufacturing;

327410: Lime manufacturing;

327420: Gypsum product manufacturing;

331110: Iron and steel mills;

331312: Primary aluminum production;

331313: Aluminum refining and primary aluminum production;

331315: Aluminum sheet, plate, and foil manufacturing;

334413: Semiconductor and related device manufacturing;

336411: Aircraft manufacturing;

336413: Other aircraft parts and auxiliary equipment manufacturing.

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

NEW SECTION. **Sec.**  REFINERY OFFSETS. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

(b) "Petroleum refinery" or "refinery" means any industrial process plant where crude oil is transformed and refined into products including but not limited to petroleum naptha, gasoline, diesel fuel, asphalt base, heating oil, kerosene, liquefied petroleum gas, jet fuel, and fuel oils.

(2) Beginning July 1, 2019, a petroleum refinery may claim a credit against the carbon pollution tax imposed in section 102 of this act, not to exceed ten percent of the taxes owed in the same calendar year. To be eligible for this credit a petroleum refinery must have received approval by the department of an emissions reduction plan pursuant to this section.

(3) A refinery claiming this credit must establish and maintain a separate emissions reduction account into which it deposits amounts equal to the credit taken under this section. Moneys in this account may only be expended for implementation of an approved emissions reduction plan, and any funds not so expended within ten years of deposit will reduce eligibility for the credit by that amount.

(4) To be eligible for this tax credit a refinery must develop and maintain an approved emissions reduction plan, which identifies approved funding for emissions reductions. The plan may include:

(a) Emissions reductions to be achieved at the refinery facility through efficiency measures, changes to lower carbon intensity fuels, carbon dioxide capture, storage, or sequestration, or other measures;

(b) Carbon dioxide equivalent emissions reductions or offsets in areas within fifty miles of the facility; or

(c) Reduction of other pollutant emissions that will provide significant public health benefits, and that will also achieve carbon dioxide equivalent emissions reductions.

(5) In developing the plan the refinery must solicit public input including input from communities in areas near the refinery.

(6) The department must review a proposed plan within sixty days of receipt. It must approve the plan when it determines that the plan demonstrates that the proposed projects and activities will achieve significant reductions in carbon dioxide equivalent at a reasonable cost over a reasonable time frame, and that the cost of the emissions reductions and the time necessary to achieve the reductions are equivalent to the reductions to be achieved through investments from the energy transformation account created in section 401 of this act.

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

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

(3) The department must convene a stakeholder work group to examine the efficient and consistent integration of carbon pricing in electricity markets within the state and transactions with markets outside the state, including the market operated by the California independent system operator. To assist in its examination of the issues identified in this subsection, as well as any other issues pertinent to its review, the work group must, at a minimum, consist of light and power businesses, gas distribution businesses, stakeholders, and other agencies. The work group must prepare a report to the legislature of its findings and recommendations to improve the carbon transparency and market liquidity in electricity markets and submit the report, in compliance with RCW 43.01.036, by no later than December 1, 2020.

NEW SECTION. **Sec.**  REPORT BY THE DEPARTMENT OF COMMERCE. (1) On or before December 31, 2020, and each year thereafter, and in compliance with RCW 43.01.036, the department of commerce, with support from the department of revenue, must submit a report to the joint committee on climate programs oversight under section 801 of this act. The initial report must include recommendations for establishing a process to audit account uses and allow for public input. Each annual report must contain specific recommendations for modifications or improvements to this act to ensure the goals of this act are being met in addition to the following with respect to the annual period ending the December 31st immediately preceding the reporting date:

(a) The total carbon pollution tax collected during the reporting period and a list of the taxpayers who have paid the tax under section 102 of this act;

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

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

(d) The impact on the economic health of Washington state, including verifiable data on emissions leakage and any job loss since the implementation of the carbon pollution tax under section 102 of this act;

(e) An analysis of whether the point of taxation is appropriate under section 102 of this act;

(f) A review of refinery offsets under section 104 of this act and analysis of whether it should be expanded to include industrial facilities;

(g) A summary of the investments made through its administration of the energy transformation account created in section 401 of this act and the rural economic development account created in section 701 of this act. The summary must include amounts invested in each program area, project descriptions, names of grant recipients, an estimate of the greenhouse gas emissions reductions achieved or anticipated via the investments, and other pertinent information or information as periodically requested by the legislature; and

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

(2) On or before December 1, 2030, the department of commerce must provide specific recommendations to the joint committee on climate programs oversight under section 801 of this act on whether or not the current year's carbon pollution tax rate under section 102 of this act will need to be adjusted upward or downward or will be sufficient to meet the net cumulative reduction of greenhouse gas emissions of twenty-five percent below 1990 levels by the year 2035.

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

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

(1) One hundred million dollars to the multimodal transportation account;

(2) The remainder must be deposited by the state treasurer as follows:

(a) Fifty percent of the moneys to the energy transformation account created in section 401 of this act;

(b) Twenty percent of the moneys to the water and natural resources resilience account created in section 601 of this act;

(c) Fifteen percent of the moneys for the transition assistance account created in section 501 of this act;

(d) Fifteen percent of the moneys for the rural economic development account created in section 701 of this act.

**Part II**

**Clean Energy Investment Fund for Investor-Owned Energy Utilities**

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

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

(2) "Consumer-owned energy utility" means any consumer-owned gas distribution business or consumer-owned light and power business.

(3) "Consumer-owned gas distribution business" means any gas distribution business not subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any gas plant owned and operated by such gas distribution business.

(4) "Consumer-owned light and power business" means any light and power business not subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any electric plant owned and operated by such light and power business.

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

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

(7) "Investor-owned energy utility" means any investor-owned gas distribution business or investor-owned light and power business.

(8) "Investor-owned gas distribution business" means any gas distribution business subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any gas plant owned and operated by such gas distribution business.

(9) "Investor-owned light and power business" means any light and power business subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any electric plant owned and operated by such light and power business.

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

(11) "Low income" means at or below or below eighty percent of area median income or two hundred percent of the federal poverty level.

NEW SECTION. **Sec.**  CREDITS FOR CLEAN ENERGY INVESTMENTS OF INVESTOR-OWNED ENERGY UTILITIES. (1) Except as provided in subsection (2) of this section, beginning July 1, 2019, each investor-owned energy utility may claim a credit against the carbon pollution tax imposed in section 102 of this act for clean energy investments approved pursuant to this chapter, not to exceed one hundred percent of the taxes owed under section 102 of this act in the same calendar year.

(2) For electricity produced by a generating facility that burns coal as the primary fuel source and the electricity is not otherwise exempt from the carbon pollution tax imposed in section 102 of this act, the department of revenue will adopt a schedule for each facility to calculate the credits such that beginning January 1, 2020, the credit decreases on a pro rata basis annually until reaching zero percent in 2036.

(3) To be eligible for the credit under this section for clean energy investment, an investor-owned energy utility must, as of the date the credit is claimed, have received approval by the commission of a clean energy investment plan pursuant to section 205 of this act. Remaining revenues collected pursuant to the carbon pollution tax imposed in section 102 of this act, if any, must be remitted to the department of revenue and deposited in the carbon pollution reduction account created in section 108 of this act.

(4) Each investor-owned energy utility claiming a credit pursuant to this section must establish and maintain a separate clean energy investment account into which it must deposit amounts equal to the credit taken under this section. Moneys in the clean energy investment account must be deposited in an interest-bearing account in a financial institution as defined by RCW 30A.22.040 that is separate from other accounts and that credits all interest earned on the funds to that account. Moneys in the clean energy investment account may only be expended for the purposes identified in this chapter.

(5) An investor-owned energy utility may not earn a rate of return from the portion of investments paid for with moneys from the clean energy investment account.

(6) Moneys 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 purposes of chapters 82.04 and 82.16 RCW.

NEW SECTION. **Sec.**  TECHNICAL STANDARDS COMMITTEE CREATED. (1) The commission must create a technical standards committee for the purpose of advising the commission and other state agencies, the legislature, utilities, and local governments on utility reinvestment of moneys credited pursuant to section 202 of this act. The technical standards committee must develop standards and guidelines used by the commission to evaluate, quantify, and verify greenhouse gas emissions reductions proposed by utility plans pursuant to section 205 of this act. The duties of the technical standards committee include, but are not limited to:

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

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

(c) Developing a standard reporting format to be adopted by the commission 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.

(2) The technical standards committee established in this section constitutes a class one group under RCW 43.03.220. Expenses for the technical standards committee are an appropriate administrative expense for the purpose of section 205(7)(b)(x) of this act. Staff support must be provided by the commission.

(3) This section expires July 1, 2020.

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

NEW SECTION. **Sec.**  CLEAN ENERGY INVESTMENT PLANS FOR INVESTOR-OWNED ENERGY UTILITIES. (1) To be eligible for the tax credit under section 202 of this act, an investor-owned energy utility must develop and maintain an approved clean energy investment plan, which identifies approved funding for clean energy investments over a ten-year period, pursuant to subsection (5) of this section. The clean energy investment plan must seek to the maximum extent practicable to fully eliminate any tax obligation imposed by this act associated with electricity by the year 2050.

(2) When developing and updating its clean energy investment plan, an investor-owned energy utility must solicit public input through public processes under the oversight of the commission.

(3) Beginning July 1, 2019, an investor-owned energy utility seeking a credit under section 202 of this act must submit:

(a) A clean energy investment plan;

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

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

(4) An investor-owned energy utility's clean energy investment plan may use methods and calculations that deviate from the common protocols and planning assumptions recommended by the technical standards committee when approved by the commission.

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

(a) A demonstration that the portfolio of funded activities will achieve significant reductions in carbon dioxide emissions at a reasonable cost over the shortest reasonable time frame;

(b) An estimate, based on protocols developed by the technical standards committee, of the cost per ton of emissions 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, low-income programs, or renewable energy requirements in the absence of this act; and

(d) Sufficient funding, as determined by the commission, to mitigate any increase in gas or electric bills to qualifying low-income customers as a result of the carbon pollution tax imposed in section 102 of this act. Such moneys must be additional to other funding for low-income energy assistance.

(6) Each clean energy investment plan may include the following:

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

(b) Up to ten percent of the moneys collected by an investor-owned energy utility pursuant to this section may be dedicated for research and development by the investor-owned energy utility that will promote energy conservation, or the deployment of zero-emission energy resources.

(7)(a) A clean energy investment plan must include programs for investments or expenditures that are incremental to investments or expenditures that the investor-owned energy utility would have pursued in the absence of such clean energy investment plan; and

(i) Reduce or offset carbon dioxide emissions of the investor-owned energy utility; or

(ii) Advance market transformation, educate consumers, develop new low carbon fuels such as renewable natural gas, increase participation in programs that incentivize consumers to choose low carbon alternatives, or increase carbon sequestration.

(b) Eligible investments may include contributions in aid of construction or expenditures for the following:

(i) Additional conservation in excess of the target established under RCW 19.285.040(1), other state obligations, or other obligation established by the commission in effect on the effective date of this section;

(ii) Market transformation for energy efficiency products;

(iii) Eligible renewable resources as defined by RCW 19.285.030, in excess of the target established under RCW 19.285.040(2) in effect on the effective date of this section;

(iv) Low-income weatherization;

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

(A) 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;

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

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

(D) Incentives for the electrification of vehicle fleets;

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

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

(viii) Investments in renewable natural gas production, including equipment to condition biogas, or equipment used solely for the purpose of delivering biogas for consumption;

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

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

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

NEW SECTION. **Sec.**  CLEAN ENERGY INVESTMENT PROGRAM EXPENDITURE MONITORING, AUDITING, AND OVERSIGHT FOR INVESTOR-OWNED ENERGY UTILITIES. (1) Upon approval of a clean energy investment plan, an investor-owned energy utility must expend moneys from its clean energy investment account in accordance with the clean energy investment plan approved by the commission.

(2) In order to maintain eligibility for the tax credit under section 202 of this act and to retain authority to expend money from a clean energy investment account, an investor-owned energy utility must submit and receive approval of an updated clean energy investment plan every two years, and submit annual reports to the commission, including:

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

(b) Demonstration that the plan has met performance standards established by the commission by order;

(c) An accounting of verified emissions reductions, 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

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

(3) If the commission determines that the plan or any project in the plan did not meet performance standards, the commission may require the utility to remit remaining tax moneys dedicated for the nonperforming plan or project to the department of revenue.

(4) The commission must provide information upon request to the department of revenue to assist the department in administering the credit in section 202 of this act.

**Part III**

**Clean Energy Investment Fund for Consumer-Owned Energy Utilities**

NEW SECTION. **Sec.**  CARBON POLLUTION TAX CREDIT. (1) Beginning July 1, 2019, each consumer-owned energy utility may claim a credit against the carbon pollution tax imposed in section 102 of this act for clean energy investments approved pursuant to this chapter, not to exceed one hundred percent of the taxes owed under section 102 of this act in the same calendar year.

(2) To be eligible for the credit under this section for clean energy investment, a consumer-owned energy utility must, as of the date the credit is claimed, have a plan, approved by the governing body of a consumer-owned energy utility, to reinvest an equivalent amount of revenues collected from customers for the purposes of this chapter during that year, the preceding year, or any of the three subsequent years. Remaining revenues collected pursuant to the carbon pollution tax imposed in section 102 of this act must be remitted to the department of revenue and deposited in the carbon pollution reduction account created in section 108 of this act.

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

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

NEW SECTION. **Sec.**  TECHNICAL ADVISORY COMMITTEE CREATED. (1) The department must create a broadly representative technical advisory committee for the purpose of advising the department, other state agencies, the legislature, utilities, and local governments on consumer-owned energy utility reinvestment of moneys credited pursuant to section 301 of this act. The advisory committee will advise on guidelines developed or adopted by the department to evaluate, quantify, and verify greenhouse gas emissions reductions proposed by utility plans pursuant to section 304 of this act. The duties of the technical advisory committee include, but are not limited to:

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

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

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

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

(2) The technical advisory committee established in this section constitutes a class one group under RCW 43.03.220. Expenses for the technical advisory committee are an appropriate administrative expense for the purpose of section 304(6)(k) of this act. Staff support must be provided by the department.

(3) This section expires July 1, 2020.

NEW SECTION. **Sec.**  WASHINGTON CLEAN ENERGY INVESTMENT PROGRAMS ESTABLISHED—RULE MAKING. By July 1, 2019, the department must adopt rules concerning only the process, timelines, reporting, and documentation required to ensure the proper implementation of this chapter. Such rules may include rules associated with utility development, implementation, and evaluation of clean energy investment plans. The department and the commission must, to the extent practicable, adopt rules that are similar enough to ensure coordinated and consistent implementation of this chapter for consumer-owned and investor-owned energy utilities.

NEW SECTION. **Sec.**  CLEAN ENERGY INVESTMENT PLANS. (1) To be eligible for the tax credit under section 301 of this act, a consumer-owned energy utility must develop and maintain a clean energy investment plan that is approved by its governing body. The clean energy investment plan must seek to the maximum extent practicable to fully eliminate any tax obligation imposed by this act associated with electricity by the year 2050.

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

(3) Each clean energy investment plan must include:

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

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

(4) A consumer-owned energy utility's clean energy investment plan may use methods and calculations that deviate from the common protocols and planning assumptions recommended by the technical advisory committee when approved by the governing body.

(5) A clean energy investment plan must include:

(a) Programs for investments or expenditures that:

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

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

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

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

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

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

(e) A customer education and outreach program; and

(f) Sufficient funding, as determined by the department, to mitigate any increase in gas or electric bills to qualifying low-income customers as a result of the carbon pollution tax imposed in section 102 of this act. Such moneys must be additional to other funding for low-income energy assistance.

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

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

(b) Market transformation for energy efficiency products;

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

(d) Low-income weatherization;

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

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

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

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

(iv) Incentives for the electrification of vehicle fleets;

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

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

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

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

(j) Other measures determined by the governing body to meet the requirements of subsection (5) of this section; and

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

(7) In order to maintain eligibility for the tax credit under section 301 of this act and to continue to retain authority to expend money from the utility's clean energy investment account, a consumer-owned energy utility must submit and receive approval from the governing body of the consumer-owned energy utility of an updated clean energy investment plan every three years.

NEW SECTION. **Sec.**  AGGREGATION OF THE CARBON POLLUTION TAX CREDIT AND JOINT DEVELOPMENT OF CLEAN ENERGY INVESTMENT PLANS. (1) A consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW on or before January 1, 2017, to aggregate their claims against the carbon pollution tax imposed in section 102 of this act and to develop and implement a joint clean energy investment plan. Implementation of a joint clean energy investment plan may not begin until the governing bodies of all member utilities have approved the plan through a public process. The purpose of this section is to facilitate broad, equitable, and efficient use of the carbon pollution tax credit.

(2) Each utility that enters into an agreement authorized in subsection (1) of this section must empower the joint operating agency to, on their behalf, claim the credit against the carbon pollution tax imposed in section 102 of this act. The joint operating agency must establish and maintain a separate clean energy investment account and deposit into that account amounts equal to the credits taken under this section. Moneys in this account must be kept separate from other accounts, and may only be expended for the purposes identified in this chapter.

NEW SECTION. **Sec.**  CLEAN ENERGY INVESTMENT PROGRAM EXPENDITURE MONITORING AND OVERSIGHT. (1) A consumer-owned energy utility must submit annual reports to the department including, but not limited to:

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

(b) Using the protocols included in the approved clean energy investment plan:

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

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

(2) The state auditor is responsible for auditing compliance with the approved plan and the attorney general is responsible for enforcing that compliance.

(3) Penalties for noncompliance with an approved plan may include a reduction or elimination of the credit a utility may claim against the carbon pollution tax imposed in section 102 of this act for clean energy investments.

**Part IV**

**Energy Transformation Account Funds**

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

ENERGY TRANSFORMATION ACCOUNT.

(1) The energy transformation account is created in the state treasury. The account must receive moneys distributed to the account from the carbon pollution reduction account created in section 108 of this act as well as other moneys directed to the account by the legislature. Moneys in the account must be used for projects and incentive programs that yield verifiable reductions in carbon pollution in excess of current practices, and may only be spent after appropriation.

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

(a) Grant awards must be aligned to a strategy, which when combined with the utility clean energy investments plans in sections 205 and 304 of this act, are anticipated to achieve a net cumulative reduction of greenhouse gas emissions of twenty-five percent below 1990 levels by the year 2035 within the amounts as appropriated.

(b)(i) The department of commerce must consider the recommendation of the Washington State University extension energy program in section 403 of this act in determining the award amount offered for a given project and the appropriate process or method for awarding proposals in that program area.

(ii) The award amounts must reflect the impact of the carbon pollution tax in section 102 of this act, and the availability of other public incentives or credits to determine the minimum level necessary to catalyze investment of each project type but avoid windfall profits in projects.

(iii) Award amounts from the energy transformation account may not exceed one hundred dollars in 2017 dollars per ton of carbon dioxide equivalent or reduced emissions of greenhouse gases; however the total project cost may exceed that amount provided additional funding from another source.

(3) The department must consult with the department of ecology and the Washington State University extension energy program in the design and operation of the fund and must follow the guidelines and obligations set forth in the implementation plan created in section 403 of this act.

(4) Priority must be given to the following:

(a) Projects and activities that provide benefits to low-income communities, communities of color, and communities of indigenous peoples provided the projects achieve equivalent net emissions reductions and are cost-competitive compared to other proposals;

(b) Applications from consumer-owned energy utilities with retained credit amounts of less than five million dollars annually for comparable incentives for utility customers who otherwise would not have access to the programs, services, and investments offered in a clean energy investment plan as provided in sections 205 and 304 of this act; and

(c) Projects with a high leverage ratio of nonenergy transformation account funds to energy transformation account funds, excluding funding sourced from utility credits as provided in sections 205 and 304 of this act.

(5)(a) Projects and incentive programs must meet all of the following criteria to be eligible for funding. Emissions reductions from projects and incentive programs must be:

(i) Real, specific, identifiable, and quantifiable;

(ii) Permanent: The department will look to other jurisdictions in setting this standard and will make a reasonable determination on length of time recognizing the advantages of near-term reductions and the potential for future technology to mitigate the long-term release of greenhouse gas emissions into the atmosphere;

(iii) Enforceable by the state of Washington;

(iv) Verifiable; and

(v) Not eligible for funding, if an emissions reduction is required by another statute, rule, or other legal requirement, or is approved under a clean energy investment plan as provided in sections 205 and 304 of this act, or can be reasonably assumed to occur absent additional funding in the near future. Emissions reductions resulting in part or in whole from the policies listed in (a)(v)(A) through (D) of this subsection (5) are eligible under this program:

(A) Commute trip reduction programs as established through RCW 70.94.527 under WAC 173-442-160(3);

(B) Carbon dioxide emissions from the industrial combustion of biomass in the form of fuel wood, wood waste, wood by-products, and wood residuals are carbon neutral and result in zero CO2 emissions as defined under RCW 70.235.030(3);

(C) Washington's carbon dioxide mitigation standard for fossil-fueled electric generation facilities, through an energy facility site evaluation council site certificate or by chapter 80.70 RCW; and

(D) The acquisition of conservation and energy efficiency in excess of the targets required by the energy independence act under RCW 19.285.040.

(b) Funding may be provided for incremental carbon reductions from projects which have already secured funding, but can furnish more carbon reductions with additional resources.

(6) The department must consider projects and incentive programs for the following activities: Transportation activities; combined heat and power activities; energy activities; livestock and agricultural activities; waste and wastewater activities; industrial sector activities; certain energy facility site evaluation council recognized emissions reductions; sequestration activities, including wood product substitution; and other activities on a technology-neutral basis which conform to established protocols.

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

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

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

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

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

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

(iv) The site visits conducted by verifiers; and

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

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

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

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

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

(12) The department must develop an electronic database available to the public to track projects and incentive programs receiving funding under this section. Projects will be ranked and sortable based on quantitative performance metrics, including the avoided cost of a ton of carbon dioxide.

NEW SECTION. **Sec.**  SEQUESTRATION OF CARBON. Funds appropriated from the account created in section 401 of this act may be used for the following carbon sequestration activities:

(1) Sequestration of carbon in aquatic marine and freshwater natural resources. The department of natural resources must develop procedures and criteria for a program to provide grants for blue carbon projects, such as wetland and seagrass restoration projects that result in aquatic carbon sequestration outcomes and also provide multiple benefits for coastal and wetland habitat restoration;

(2) Sequestration of carbon in agricultural lands and soils. The department of agriculture must develop procedures and criteria for a program to increase soil sequestration and reduce emissions from the loss and disturbance of soils and conversion of grassland and cropland soils to urban development;

(3) Sequestration of carbon in terrestrial, riparian, and aquatic habitats. The recreation and conservation office must develop procedures and criteria for a program to protect and prevent the loss of ecosystems that provide fish and wildlife habitat and carbon sequestration values;

(4) Sequestration of carbon in working forests. The account may be used to fund grants through a working forest conservation program developed and administered by the recreation and conservation office. The office must consult with Indian tribes and develop procedures and criteria for the working forest conservation program to provide grants for conservation easements or fee simple title acquisitions with deed restrictions that result in enhanced carbon sequestration. The program must prioritize projects that implement improved forest management, provide compensation for agreements that sequester carbon on lands owned by small forest landowners as defined in RCW 76.09.450, and create economic benefits in rural communities including sustainable jobs, safeguard critical habitat, prevent conversion, and protect the forestland base. The program is not intended to fund legal responsibilities under the forest practices act or other applicable land use regulations, or land management responsibilities that are otherwise applicable. Procedures and criteria for the program must also provide sufficient flexibility to serve as a source of matching funds from other sources and a portion of individual grant awards may support long-term stewardship for lands conserved under this program.

(5) The projects funded under this section must prioritize and rank projects considering the comparative need of the applicants, to satisfy a diversity of potential ecological benefits, and to achieve carbon sequestration. Associated benefits that must also be considered include improving landscape scale ecological functions to protect water, soils, and provide improved fish and wildlife habitat.

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

IMPLEMENTATION PLAN FOR THE ENERGY TRANSFORMATION ACCOUNT.

(1) The department must, by June 30, 2019, develop an implementation plan for the investment of the energy transformation account. This planning and preparation must include:

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

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

(c) Assessment and development of efficient and transparent grant-making strategies designed to ensure program objectives are met and taxpayer interests are protected including, but not limited to, leveraging investments through partnerships, reverse auctions, and pay-for-performance mechanisms in which funding is released upon emissions reductions verifications and the development of incentive programs; and

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

(2) The department must implement a performance management system, complete an independent audit every two years, and report the results of each assessment to the joint committee on climate programs oversight created in section 801 of this act and to the appropriate committees of the legislature.

**Part V**

**Transition Assistance**

NEW SECTION. **Sec.**  TRANSITION ASSISTANCE ACCOUNT. (1) The legislature finds that increased energy expenses will have a disproportionate impact upon the finances of low-income households engaging in life-sustaining activities including but not limited to heating, cooling, and transportation. The legislature therefore creates the transition assistance account to provide a financially equitable transition to a clean energy economy by providing economic, financial, and public health supports, programs, services, and assistance to low-income households.

(2) The transition assistance account is created in the state treasury. The account must receive moneys distributed to the account from the carbon pollution reduction account created in section 108 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 sections 503 and 504 of this act, and may only be spent after appropriation.

NEW SECTION. **Sec.**  (1) By December 31, 2018, for the purposes of mitigating harm from climate change and dangerous air pollutants that impact human health or the environment and are regulated under the federal clean air act or chapter 70.94 RCW, the department of health must conduct or adopt a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington.

(2) The cumulative impact analysis must map, rank, and designate a percentile of census tracts as highly impacted communities based on an index of criteria, including:

(a) Vulnerable population characteristics including, but not limited to, socioeconomic factors, like unemployment, housing and transportation burden, and linguistic isolation, and sensitivity, such as low birth weight and hospitalizations; and

(b) Environmental burden characteristics including, but not limited to, exposures to air, water, and toxics and environmental effects such as toxic sites, hazardous waste, and climate impacts.

(3) The department of health must conduct meaningful consultation with vulnerable communities in Washington and consult the University of Washington department of environmental and occupational health sciences in developing the analysis, or adopt an analysis that included this consultation.

(4) The cumulative impact analysis may integrate with and build upon other population tracking resources used by the department of health and analysis done by the University of Washington department of environmental and occupational health sciences.

(5) By March 1, 2023, and every two years thereafter, the department of health, under advisement from the environmental justice panel, must update the designation of highly impacted communities pursuant to this section. By March 1, 2025, and every four years thereafter, the department of health must review and consider revisions to the cumulative impacts methodology for designating highly impacted communities to reflect best practices.

NEW SECTION. **Sec.**  ENERGY TRANSITION ASSISTANCE TO LOW-INCOME HOUSEHOLDS. (1) Using funds appropriated from the account created in section 501 of this act, the department of commerce must provide for an equitable transition to a clean energy economy by providing funding to assist low-income households during that transition with increased energy prices that will have a disproportionate impact upon such households. For the purposes of this section, the term "low income" means at or below eighty percent of area median income or two hundred percent of the federal poverty level.

(2) Transition assistance under this chapter may include direct financial assistance in the form of a grant, subsidy, rebate, or other similar financial benefit or product including:

(a) Through expansion of or increases to existing programs and authorizations administered by the department of social and health services;

(b) Expansion or increases to existing regional community health programs administered by the health care authority; or

(c) New programs that efficiently enable direct financial assistance.

(3) The assistance may include but is not limited to programs such as energy bill pay subsidies, energy efficiency and weatherization assistance and services, public health programs and services, affordable transportation services and options, affordable housing, improved community services, and reductions in vehicle fees as provided in sections 506, 507, and 508 of this act.

(4) The department must form a transition assistance advisory group comprised of appropriate state agencies, local governments, Indian tribes, social service agencies, and low-income and community advocacy organizations to develop an implementation plan that selects the most efficient and financially equitable delivery of transition assistance to low-income households across the state. The department must consult with and take into strong consideration the recommendations of the advisory group. The advisory group may consist of a subcommittee of the panel created under section 805 of this act. The implementation plan together with recommendations for appropriations and recommended legislative action must be provided to the joint committee on climate programs oversight created in section 801 of this act and to the governor and appropriate committees of the senate and house of representatives not later than December 31, 2018.

NEW SECTION. **Sec.**  ENERGY TRANSITION ASSISTANCE TO DISPLACED WORKERS. (1) Using funds appropriated from the account created in section 501 of this act, the department of commerce, with the assistance of the employment security department and in consultation with business and labor organizations, must develop a program and provide assistance to eligible displaced fossil fuel-related industries workers.

(2) The assistance provided for in subsection (1) of this section may include, but is not limited to:

(a) Wage, pension, and health benefits replacement for up to two years; the replacement assistance must be based on the average of the worker's previous two years' wages received, pension contributions made by the employer for the worker's benefit, and the cost to the employer of the worker's health insurance benefits while the worker was working in the fossil fuel-related industry;

(b) For a worker who is within five years of eligibility for a union pension or social security, the period of time the replacement assistance described in (a) of this subsection may be paid continues until the worker is eligible for the union pension or full social security benefits, whichever is later;

(c) Training and education costs not to exceed the average cost of two years tuition and fees at Washington state's community and technical colleges;

(d) Peer counseling services;

(e) Enhanced job placement services; and

(f) Relocation expenses and assistance.

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

(a) "Eligible displaced fossil fuel-related industries worker" means a fossil fuel-related industries worker who:

(i)(A) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for the individual's skills in that occupation or industry; or

(B) Is self-employed and has been displaced from the individual's business because of the diminishing demand for the business' services; and

(ii) Was working at a fossil fuel-related industries facility when at least one of the following situations occurs with respect to the facility:

(A) Any permanent fossil fuel facility or major portion thereof is permanently closed or curtailed, or closed or curtailed for more than six months;

(B) A facility reduces production by more than three percent relative to its average production over the previous three years; or

(C) A facility's production is replaced by an increase in fossil fuels imported into the state from foreign or domestic sources.

(b) "Fossil fuel-related industries" means petroleum refining, natural gas distribution, oil and gas pipeline construction and transportation, petroleum bulk stations and terminals, and fossil fuel-based electric power generation in Washington state.

(c) "Fossil fuel-related industries worker" means a full-time worker who is covered under a collective bargaining agreement, and is a nonsupervisory worker; or is a full-time independent contractor working in the fossil fuel-related industries.

NEW SECTION. **Sec.**  REPORTING. The department of commerce must provide reports on assistance provided to low-income persons under section 503 of this act and to displaced fossil fuel-related industry workers under section 504 of this act to the joint committee on climate programs oversight created under section 801 of this act at such intervals as the committee requests.

**Sec.**  RCW 46.17.005 and 2010 c 161 s 501 are each amended to read as follows:

(1)(a) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state ((~~shall~~)) must pay a three dollar filing fee in addition to any other fees and taxes required by law.

(b) Subsection (1)(a) of this section does not apply to a person with an income at or below two hundred percent of the federal poverty line. On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the transition assistance account created in section 501 of this act for distribution under RCW 46.68.400 a sum equal to the dollar amount that would otherwise have been distributed under subsection (3) of this section during the prior calendar quarter but for the exemption provided in this subsection (1)(b).

(2) A person who applies for a certificate of title shall pay a four dollar filing fee in addition to any other fees and taxes required by law.

(3) The filing fees established in this section must be distributed under RCW 46.68.400.

**Sec.**  RCW 46.17.350 and 2014 c 30 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, before accepting an application for a vehicle registration, the department, county auditor or other agent, or subagent appointed by the director ((~~shall~~)) must require the applicant, unless specifically exempt, to pay the following vehicle license fee by vehicle type:

|  |  |  |  |
| --- | --- | --- | --- |
| VEHICLE TYPE | INITIAL FEE | RENEWAL FEE | DISTRIBUTED UNDER |
| (a) Auto stage, six seats or less | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (b) Camper | $ 4.90 | $ 3.50 | RCW 46.68.030 |
| (c) Commercial trailer | $ 34.00 | $ 30.00 | RCW 46.68.035 |
| (d) For hire vehicle, six seats or less | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (e) Mobile home (if registered) | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (f) Moped | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (g) Motor home | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (h) Motorcycle | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (i) Off-road vehicle | $ 18.00 | $ 18.00 | RCW 46.68.045 |
| (j) Passenger car | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (k) Private use single-axle trailer | $ 15.00 | $ 15.00 | RCW 46.68.035 |
| (l) Snowmobile | $ 50.00 | $ 50.00 | RCW 46.68.350 |
| (m) Snowmobile, vintage | $ 12.00 | $ 12.00 | RCW 46.68.350 |
| (n) Sport utility vehicle | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (o) Tow truck | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (p) Trailer, over 2000 pounds | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (q) Travel trailer | $ 30.00 | $ 30.00 | RCW 46.68.030 |
| (r) Wheeled all-terrain vehicle, on-road use | $ 12.00 | $ 12.00 | RCW 46.09.540 |
| (s) Wheeled all-terrain vehicle, off-road use | $ 18.00 | $ 18.00 | RCW 46.09.510 |

(2) Subsection (1)(a), (d), (e), (h), (j), (n), and (o) of this section do not apply to an applicant with an income at or below two hundred percent of the federal poverty line. On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the transition assistance account created in section 501 of this act for distribution under RCW 46.68.030 a sum equal to the dollar amount that would otherwise have been distributed under subsection (1) of this section during the prior calendar quarter but for the exemption provided in this subsection (2).

(3) The vehicle license fee required in subsection (1) of this section is in addition to the filing fee required under RCW 46.17.005, and any other fee or tax required by law.

**Sec.**  RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person applying for a motor vehicle registration and paying the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e), (h), (j), (n), and (o) ((~~shall~~)) must pay a motor vehicle weight fee in addition to all other fees and taxes required by law.

(a) For vehicle registrations that are due or become due before July 1, 2016, the motor vehicle weight fee:

(i) Must be based on the motor vehicle scale weight;

(ii) Is the difference determined by subtracting the vehicle license fee required in RCW 46.17.350 from the license fee in Schedule B of RCW 46.17.355, plus two dollars; and

(iii) Must be distributed under RCW 46.68.415.

(b) For vehicle registrations that are due or become due on or after July 1, 2016, the motor vehicle weight fee:

(i) Must be based on the motor vehicle scale weight as follows:

|  |  |
| --- | --- |
| WEIGHT | FEE |
| 4,000 pounds | $ 25.00 |
| 6,000 pounds | $ 45.00 |
| 8,000 pounds | $ 65.00 |
| 16,000 pounds and over | $ 72.00; |

(ii) If the resultant motor vehicle scale weight is not listed in the table provided in (b)(i) of this subsection, must be increased to the next highest weight; and

(iii) Must be distributed under RCW 46.68.415 unless prior to July 1, 2023, the actions described in (b)(iii)(A) or (B) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in this subsection must be distributed to the connecting Washington account created under RCW 46.68.395.

(A) Any state agency files a notice of rule making under chapter 34.05 RCW for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(B) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(C) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(2) Subsection (1) of this section does not apply to a person with an income at or below two hundred percent of the federal poverty line, but only if the person's motor vehicle falls under the 4,000 pounds or 6,000 pounds fee schedule in subsection (1)(b)(i) of this section. On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the transition assistance account created in section 501 of this act for distribution under subsection (1)(b)(iii) of this section a sum equal to the dollar amount that would otherwise have been distributed under subsection (1)(b)(iii) of this section during the prior calendar quarter but for the exemption provided in this subsection (2).

(3) A person applying for a motor home vehicle registration ((~~shall~~)) must, in lieu of the motor vehicle weight fee required in subsection (1) of this section, pay a motor home vehicle weight fee of seventy-five dollars in addition to all other fees and taxes required by law. The motor home vehicle weight fee must be distributed under RCW 46.68.415.

((~~(3)~~)) (4) Beginning July 1, 2022, in addition to the motor vehicle weight fee as provided in subsection (1) of this section, the department, county auditor or other agent, or subagent appointed by the director must require an applicant to pay an additional weight fee of ten dollars, which must be distributed to the multimodal transportation account under RCW 47.66.070 unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in this subsection must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

((~~(4)~~)) (5) The department ((~~shall~~)) must:

(a) Rely on motor vehicle empty scale weights provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each motor vehicle; and

(b) Adopt rules for determining weight for vehicles without manufacturer empty scale weights.

**Part VI**

**Climate Resilience**

NEW SECTION. **Sec.**  WATER AND NATURAL RESOURCES RESILIENCE ACCOUNT. (1) The water and natural resources resilience account is created in the state treasury. The account must receive moneys distributed to the account from the carbon pollution reduction account created in section 108 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 sections 602 and 603 of this act. Within this account on a biennial basis, fifty percent of the funding appropriated from the account must be provided for the purposes set forth in section 602 of this act. The remaining moneys must be deposited to two subaccounts hereby created in the state treasury as follows:

(a) Twenty-five percent to the fire prevention and suppression account; and

(b) Seventy-five percent to the forest resilience account.

(2) Moneys in the account may not be used for projects that would violate tribal treaty rights or result in long-term damage to critical habitat or ecological functions.

(3) The departments of ecology and natural resources must prepare such progress reports as required by the joint committee on climate programs oversight created under section 801 of this act, and prepare information as necessary to inform the government-to-government consultation with Indian tribes required under section 802 of this act.

NEW SECTION. **Sec.**  WATER-RELATED PROJECTS AND ACTIVITIES. (1) From funds appropriated by the legislature from the account created in section 601 of this act, the department of ecology may provide grants and loans for water-related projects and activities described in this section. The department may not sign contracts or financially obligate funds from the account created in section 601 of this act before the legislature has appropriated funds for a specific list of project and activities. The department must develop an implementation plan for such expenditures using extensive public involvement. The department must consult with appropriate state agencies in developing the plan and making funding decisions.

(2) The department may fund projects and activities that include but are not limited to:

(a) Project-specific planning, design, and construction projects that reduce stormwater impacts from existing infrastructure and development. Grants must be made available to public and private entities for projects that reduce stormwater impacts from existing infrastructure and development, where there is a substantial water quality benefit and the project is not required by court order or required as a condition of a local or state permit;

(b) Reducing the risk of flooding by restoring natural floodplain ecological functions, 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, including groundwater mapping and modeling;

(d) Construction by the department of transportation of fish barrier correction projects at state highways required by the injunction entered in *United States v. Washington (Civ No CV9213RSM)*. Where the department determines that the amounts appropriated exceed the current biennial appropriation necessary to meet the overall timeline for compliance with the injunction, the department may provide funding 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 must obtain the recommendations of the fish passage barrier removal board created in RCW 77.95.160; and

(e) Increasing the ability to adapt to and remediate the impacts of ocean acidification. This may include the activities of the Kenneth K. Chew center for shellfish research and restoration. The department must consult with the recreation and conservation office, and the climate impacts group and ocean acidification center at the University of Washington in developing the implementation for investments under this subsection (2)(e).

(3) The department must provide information about the projects when the government-to-government consultation with Indian tribes is conducted under section 802 of this act.

(4) The department must adopt rigorous performance-based criteria and objectives for funding decisions, and incorporate project implementation monitoring and evaluation requirements into the projects. Examples of numeric performance criteria include the quantity of offstream water supplies made available or more secure during drought, the number of rivers and streams meeting minimum flow standards, miles of river and stream habitat made available through passage barrier removals, and the number of municipal stormwater discharges meeting state and federal standards.

(5) The department must require annual progress reports by all recipients of funding under this section, and provide summaries of those reports and assessment of achievement of the performance-based criteria and objectives to the joint committee on climate programs oversight created under section 801 of this act at such intervals as the committee requests.

(6) The department must establish a citizen advisory group to provide input on the development of project funding criteria and project funding decisions, and must seek input from the panel created under section 805 of this act.

NEW SECTION. **Sec.**  NATURAL RESOURCES-RELATED PROJECTS AND ACTIVITIES. (1) From funds appropriated by the legislature from the account created in section 601 of this act, the department of natural resources may provide grants and loans for natural resources-related projects and activities described in this section. The department must develop an implementation plan for such expenditures using extensive public involvement. The department must consult with appropriate state agencies in developing the plan and making funding decisions.

(2) Funds appropriated by the legislature from the forest resilience account must be used to improve forest and natural lands health and resilience to the impacts of climate change. The projects and activities that may be funded include but are not limited to thinning or prescribed fires, with priority given to projects prioritized subject to RCW 76.06.200 and 79.10.530 across any combination of local, state, federal, tribal, and private ownerships. The department must consider the benefits of supporting cross-laminated timber and other mass timber technologies in its funding decisions. The department may utilize the forest health advisory committee established in RCW 76.06.200 for input on forest health projects funded under this section. The department may also provide funding for small forest landowner fish passage barrier projects authorized under RCW 76.09.420.

(3) The department of natural resources in partnership with the board for community and technical colleges will develop a center of excellence to research and promote renewable forest products and research to improve forest health and reduce fire risk.

(4) Funds appropriated by the legislature from the fire prevention and suppression account may be used to undertake agency activities and provide grants for:

(a) Wildland fire prevention; and

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

(5) The department must adopt rigorous performance-based criteria and objectives for funding decisions, and incorporate project implementation monitoring and evaluation requirements into the projects. Examples of numeric performance criteria include the number of acres thinned or otherwise treated to improve forest health, acres of forest for which wildland fire prevention measures have been implemented, and the number of communities in the wildland urban interface for which wildfire resilience and defense measures have been implemented.

(6) The department must require annual progress reports by all recipients of funding under this section, and must also periodically summarize the department's activities. It must submit those reports and an assessment of the achievement of the performance-based criteria and objectives to the joint committee on climate programs oversight created under section 801 of this act at such intervals as the committee requests.

(7) The department may not provide funding to projects that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions. The department must provide information about the projects when the government-to-government consultation with Indian tribes is conducted under section 802 of this act.

(8) The department must establish a citizen advisory group to provide input on the development of project funding criteria and project funding decisions, and must seek input from the panel created under section 805 of this act.

**Part VII**

**Rural Economic Development Account**

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

RURAL ECONOMIC DEVELOPMENT ACCOUNT.

(1) The rural economic development account is created in the state treasury. The account must receive moneys distributed to the account from the carbon pollution reduction account created in section 108 of this act as well as other moneys directed to the account by the legislature. Moneys in the account may only be used for the purposes described in this section, and may only be spent after appropriation.

(2) Using funds appropriated from the account, the department must provide assistance to rural communities. The assistance may include support for low-carbon innovation and entrepreneurship, providing for increased affordable transportation options and services, and encouraging telecommuting by funding the expansion of broadband and telecommunication services as provided under section 702 of this act.

(3) The department must develop a grant application process to competitively select small businesses as defined under RCW 19.85.020(3) to receive grant awards to assist with projects eligible for funding under the energy transformation account in section 401 of this act.

(4)(a) The state board for community and technical colleges must use funds deposited into this account to establish two clean energy centers for excellence in the state community and technical college system located in rural counties, with one center each devoted to:

(i) Renewable energy integration and generation; and

(ii) Smart grid technology and the next generation of hydropower resources.

(b) The centers must work with industry to ensure their program offerings are aligned with local employer needs. In addition, the state's energy research institutions must facilitate research and development, help attract investment in clean energy, and promote clean energy jobs across a range of sectors.

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

NEW SECTION. **Sec.**  RURAL BROADBAND. The legislature intends that the sum of thirty million dollars, or as much thereof as may be necessary, be appropriated for the fiscal year ending June 30, 2020, from the rural economic development account to the department of commerce for the purpose of providing local governments, communities, public and private entities, and consumer-owned and investor-owned energy utilities to develop strategies and plans for deployment of broadband infrastructure and access to broadband services to unserved and underserved areas of the state.

**Part VIII**

**Oversight of Climate Programs**

NEW SECTION. **Sec.**  JOINT COMMITTEE ON CLIMATE PROGRAMS OVERSIGHT. (1) The joint committee on climate programs oversight is created. The committee must consist of:

(a) The governor or the governor's designee;

(b) The commissioner of public lands or the commissioner's designee;

(c) The state auditor or the auditor's designee;

(d) Two members of the senate, appointed by the president of the senate, one from each major political party; and

(e) Two members of the house of representatives, appointed by the speaker, one from each major political party.

(2) The committee must select a chair from among its members. The committee must have staff support from the senate and house of representatives. All state agencies must provide information and assistance as requested by the committee in order to perform its responsibilities.

(3) The committee is responsible for ongoing review of the implementation of the carbon pollution tax and funding from the revenues of that tax to ensure the fairest, most efficient, and timely achievement of objectives in this act regarding greenhouse gas emissions reductions, transition assistance, jobs development, and climate resilience. The committee's responsibilities include but are not limited to:

(a) Reviewing the report by the department of commerce under section 106 of this act;

(b) Reviewing the plans for implementing the funding programs authorized in sections 401, 501, 601, and 701 of this act;

(c) Reviewing the criteria for funding allocations and project award decisions;

(d) Reviewing project and activity funding decisions as well as summary reports and information regarding implementing projects; and

(e) Providing recommendations for standards by which to measure emissions reductions outcomes from investments of funds under sections 205 and 304 of this act.

(4) The committee may contract for independent evaluative expertise in its review of the performance of the carbon pollution tax and funding programs in meeting this act's objectives regarding greenhouse gas emissions reductions, transition assistance, job creation, rural economic development, and climate resilience.

(5) Beginning July 1, 2019, the committee must meet at least quarterly.

(6) The committee has no appropriation authority.

NEW SECTION. **Sec.**  GOVERNMENT-TO-GOVERNMENT CONSULTATION. To ensure mutual respect for the rights, interests, and obligations of each sovereign Indian tribe, the governor must develop a framework for government-to-government consultation with Indian tribes consistent with the centennial accord, chapter 43.376 RCW, and applicable tribal policies. The consultation must ensure meaningful tribal involvement in the implementation of this act, including programmatic and project level decisions. Within this framework, the governor at least once each year must invite all federally recognized Indian tribes to meet in government-to-government consultation. The governor must also invite the joint committee on climate programs oversight to the meeting. The purpose of the meeting is to share information, views, and recommendations regarding the progress of implementing the carbon pollution tax and providing funding from revenues of the tax to reduce emissions, to strengthen climate resilience in communities throughout the state, to strengthen climate resilience in the water and natural resources shared by all citizens in the state, and to ensure a just transition to a clean energy economy.

NEW SECTION. **Sec.**  INDIAN TRIBE CONSULTATION. (1) In order to achieve the goals set forth in this act, any state agency receiving carbon tax revenue must consult with Indian tribes on all decisions that may affect Indian tribes' rights and interests in their tribal lands. Such consultation must occur pursuant to chapter 43.376 RCW and must be independent of any public participation process required by state law, or by a state agency, and regardless of whether the agency receives a request for consultation from an Indian tribe. A consultation framework must be developed in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with Indian tribes.

(2) No project that impacts tribal lands may be funded prior to meaningful consultation with affected Indian tribes. If any project that impacts tribal lands is funded under this act without consultation with Indian tribes, an affected Indian tribe may request that all further action on the project cease until consultation with any directly impacted Indian tribe is completed.

NEW SECTION. **Sec.**  POLLUTION CLEANUP FUND ADVISORY BOARD. (1) The pollution cleanup fund advisory board is established within the executive office of the governor. The purpose of the board is to oversee implementation of this act toward reducing pollution and facilitating the transition to a clean energy economy equitably, sustainably, and efficiently.

(2)(a) The board must have twenty-one voting members. Voting members of the board must be appointed by the governor. The board must include, at a minimum, representatives from tribal, local government, business, environmental, labor, land conservation, and public health organizations. At least one-third of the appointees must be members of the panel established in section 805 of this act. The board may also appoint representatives from public agencies as nonvoting board members.

(b) The governor must appoint members of the board by January 1, 2019. Any member appointed by the governor may be removed by the governor for cause. The governor must appoint board members to achieve a board membership with balanced representation by geography, gender, and ethnicity.

(3) The board has the following powers and duties:

(a) Providing advice and recommendations to the governor, the legislature, the oversight committee created in section 801 of this act, and state agencies regarding the implementation of this act, including evaluating biannually the tax imposed pursuant to section 102 of this act;

(b) Monitoring the implementation of this act to ensure it furthers the intent and purposes of this act and does not lead to inequitable environmental or economic impacts, including but not limited to leakage of emissions related to energy-intensive trade-exposed manufacturing businesses; and

(c) Reporting periodically to the legislature, the governor, and the oversight committee created in section 801 of this act on such matters.

NEW SECTION. **Sec.**

(a) Five or more members, representative of vulnerable populations and residing in highly impacted communities, as identified in section 502 of this act; and

(b) Two members representing union labor with expertise in economic dislocation, clean energy economy, or energy-intensive trade-exposed industries.

(2) The purpose of the panel is to:

(a) Provide a forum for analysis of whether the policies adopted in this act lead to improvements within highly impacted communities. This subcommittee must also advise the board created in section 804 of this act in the performance of its responsibilities;

(b) Make recommendations on the cumulative impact analysis and highly impacted communities designation required by section 502 of this act;

(c) Make recommendations on the investment allocations authorized by parts II through VII of this act, including its evaluation of the projected performance of the investments to meet the criteria and objectives developed in specific implementation plans; and

(d) Provide recommendations to implementation agencies for meaningful consultation with vulnerable populations.

**Part IX**

**Preemption**

NEW SECTION. **Sec.**  (1) No state agency may adopt or enforce a statewide program that sets a greenhouse gas emissions cap or charge except as provided in this chapter.

(2) As of the effective date of this section, chapter 173-442 WAC (the clean air rule) and associated amendments to chapter 173-441 WAC previously adopted by the department of ecology may not be enforced by the department of ecology. Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a rule or policy establishing a statewide limit, cap, or standard to control the amount of greenhouse gas emissions occurring during a period of time.

NEW SECTION. **Sec.**  The carbon pollution tax levied in section 102 of this act is in lieu of any carbon tax upon the sale or use within this state of all fossil fuels, including fossil fuels used in generating electricity and the retail sale or consumption within this state of electricity generated through the combustion of fossil fuels. No city, town, county, township, or other subdivision or municipal corporation of the state may levy or collect any comparable carbon tax or charge upon the sale or use within this state of all fossil fuels, including fossil fuels used in generating electricity and the retail sale or consumption within this state of electricity generated through the combustion of fossil fuels.

**Part X**

**Incremental Electricity**

**Sec.**  RCW 19.285.030 and 2017 c 315 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor‑owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor‑owned utility.

(3)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(4) "Coal transition power" has the same meaning as defined in RCW 80.80.010.

(5) "Commission" means the Washington state utilities and transportation commission.

(6) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(7) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(8) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(9) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(10) "Department" means the department of commerce or its successor.

(11) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(12) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real‑time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest where the additional generation does not result in new water diversions or impoundments;

(c) Hydroelectric generation from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, water pipes whose primary purpose is for conveyance of water for municipal use, and wastewater pipes located in Washington where the generation does not result in new water diversions or impoundments;

(d) Qualified biomass energy;

(e) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months or more; ((~~or~~))

(f)(i) Incremental electricity produced as a result of a capital investment completed after January 1, 2010, that increases, relative to a baseline level of generation prior to the capital investment, the amount of electricity generated in a facility that generates qualified biomass energy as defined under subsection (18)(c)(ii) of this section and that commenced operation before March 31, 1999.

(ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of generation over a three-year period prior to the capital investment in order to calculate the amount of incremental electricity produced.

(iii) The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement;

(g) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville power administration where the additional generation does not result in new water diversions or impoundments; or

(h) The environmental attributes, including renewable energy credits, from (g) of this subsection transferred to investor-owned utilities pursuant to the Bonneville power administration's residential exchange program.

(13) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(14) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(15)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(16) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(17) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(18) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

(19) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty‑five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(20) "Renewable energy credit" means a tradable certificate of proof, except as provided in RCW 19.285.040(2)(m), of at least one megawatt-hour of an eligible renewable resource where, except as provided in subsection (12)(h) of this section, the generation facility is not powered by freshwater. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(21) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(22) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(23) "Year" means the twelve-month period commencing January 1st and ending December 31st.

**Sec.**  RCW 19.285.040 and 2017 c 315 s 2 are each amended to read as follows:

(1) Each qualifying utility ((~~shall~~)) must pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan as it existed on June 12, 2014, or a subsequent date as may be provided by the department or the commission by rule, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility ((~~shall~~)) must review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility ((~~shall~~)) must establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.

(ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage((~~,~~)) may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration ((~~shall~~)) must be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best‑commercially available technology combined‑cycle natural gas‑fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(e) The commission may determine if a conservation program implemented by an investor-owned utility is cost‑effective based on the commission's policies and practice.

(f) The commission may rely on its standard practice for review and approval of investor‑owned utility conservation targets.

(2)(a) Except as provided in (j) and (l) of this subsection, each qualifying utility ((~~shall~~)) must use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility ((~~shall~~)) must calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility ((~~shall be~~)) is considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit ((~~shall be~~)) is considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council ((~~shall~~)) must establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility ((~~shall be~~)) is considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather‑related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(j)(i) Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.

(ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

(l) Beginning January 1, 2019, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12) (g) and (h) to meet its compliance obligation under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

(m) Renewable energy credits allocated under RCW 19.285.030(12)(h) may not be transferred or sold to another qualifying utility for compliance under this chapter.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

**Part XI**

**Miscellaneous Provisions**

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

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

NEW SECTION. **Sec.**  Sections 402, 501 through 505, and 702 of this act and parts II, III, VIII, and IX of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec.**  Part VI of this act constitutes a new chapter in Title 70 RCW.

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

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

NEW SECTION. **Sec.**  CONTINGENT EXPIRATION DATE. (1) This act expires on the earlier of the date that any of the following statutes, rules, or measures takes effect:

(a) Any statewide law that places a charge, tax, or cap on the level of carbon emissions within the state; or

(b) A statewide initiative measure by the people that creates a charge, tax, or cap upon the emission of greenhouse gases that is imposed broadly upon those persons subject to the state carbon pollution tax imposed under section 102 of this act.

(2) The department must provide written notice of the expiration date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

**--- END ---**