

SENATE BILL REPORT

SB 6203

As of February 16, 2018

Title: An act relating to reducing carbon pollution by moving to a clean energy economy.

Brief Description: Reducing carbon pollution by moving to a clean energy economy. [**Revised for 1st Substitute:** Reducing carbon pollution by investing in rural economic development and a clean energy economy.]

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

Brief History:

Committee Activity: Energy, Environment & Technology: 1/16/18, 2/01/18 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/15/18.

Brief Summary of Substitute Bill

- Imposes a carbon pollution tax equal to \$12 per metric ton of carbon dioxide emissions on the sale or use of fossil fuels within the state of Washington and the generation or import of electricity in Washington generated using fossil fuels, beginning July 1, 2019.
- Increases the tax rate by \$1.80 per metric ton (MT), beginning July 1, 2021, until reaching \$30 per metric ton of carbon dioxide.
- Directs the carbon tax revenues to be allocated into four accounts for activities that reduce greenhouse gas (GHG) emissions connected to energy use and other activity in Washington; provide assistance to vulnerable communities and workers in fossil fuel industries; increase climate resilience; and support rural economic development.
- Establishes a Clean Energy Investment Program for both investor-owned utilities (IOUs) and consumer-owned utilities (COUs) to allow an electric or gas utility to claim a credit of up to 100 percent against the carbon tax for approved investment in projects that reduce or offset carbon emissions from the utility.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TECHNOLOGY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: That Substitute Senate Bill No. 6203 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; McCoy, Ranker, Sheldon and Wellman.

Minority Report: Do not pass.

Signed by Senators Ericksen, Ranking Member; Brown and Hobbs.

Minority Report: That it be referred without recommendation.

Signed by Senator Hawkins.

Staff: Kimberly Cushing (786-7421), Jeffrey Mitchell (786-7438)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: Washington's GHG Emission Reduction Targets. At the state level, GHGs are regulated by the Department of Ecology (Ecology) under the state Clean Air Act. In 2008 the Legislature set the following GHG reduction targets for the state:

- by 2020 reduce overall GHG emissions in the state to 1990 levels;
- by 2035 reduce overall GHG emissions in the state to 25 percent below 1990 levels; and
- by 2050 reduce overall GHG emissions in the state to 50 percent below 1990 levels, or 70 percent below the state's expected GHG emissions that year.

Fuel Mix Disclosure Program. Each retail electric utility in the state must disclose its actual or imputed annual fuel mix used to generate electricity. The disclosure must provide the percentage attributable to each of the following generation sources:

- coal;
- hydroelectric;
- natural gas;
- nuclear; or
- other.

Utilities may separately report a subcategory of natural gas generation to identify high efficiency cogeneration. Under the Fuel Mix Disclosure Program, any specifically identified source of electricity, such as wind or natural gas, is called a declared resource. Utilities that do not declare their resources must report the fuel mix of the Northwest power pool, called the net system power mix.

Renewable Energy and Energy Efficiency Projects. The Washington State Energy Office within the Department of Commerce (Commerce) has a variety of programs that help improve energy efficiency for homeowners, businesses, public facilities, and low-income residents; improve access to financing for energy-efficiency upgrades; and support the development and deployment of clean energy technologies.

Centers for Excellence. The State Board for Community and Technical Colleges (State Board), in consultation with business, industry, labor, state agencies, and the colleges, designates Centers of Excellence. These centers will employ strategies such as building a diverse, competitive workforce for strategic industries. Each center is funded through the State Board and is housed at a community or technical college. Currently, there are ten Centers of Excellence around the state, including The Pacific Northwest Center of Excellence for Clean Energy at Centralia College.

Fish Barrier Correction Projects. In 2001, 21 Western Washington treaty tribes filed suit in U.S. District Court, *United States v. Washington*, alleging that the existence of state-owned barrier culverts under roads that restrict or completely block salmon and trout access to historic spawning and rearing habitat is a violation of treaty rights. In March 2013, a permanent injunction was issued requiring the State of Washington to accelerate barrier correction on salmon and steelhead streams within specified areas. The Washington State Department of Transportation (WSDOT) is correcting fish passage barriers for dedicated fish passage projects and those completed as part of transportation projects.

Forest Health Treatment Assessment. The Department of Natural Resources (DNR) has direct charge of and supervision over all matters pertaining to the forest fire service of the state, specifically including the work of suppressing forest fires. In 2017, the Legislature directed DNR to establish a forest health assessment and treatment framework that consists of biennial forest health assessments, treatments, and progress review and reporting. A specific goal of the framework is to assess and treat one million acres by 2033.

Tribal Fuel Compacts. The director of the Department of Licensing (DOL), by delegated authority from the Governor, may enter into motor vehicle fuel tax compact agreements with any federally recognized Indian Tribe with a reservation in Washington. These agreements are limited to motor vehicle fuel—gasoline, and special fuel—diesel, taxes included in the price of fuel delivered to a tribally-licensed retail station entirely owned by a tribe, tribal enterprise, or tribal member on reservation or trust land.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): Carbon Pollution Tax (carbon tax). *Imposition.* Beginning July 1, 2019, a carbon pollution tax applies to:

- the sale or use of fossil fuels within the state of Washington; and
- the generation within or import for consumption to this state of electricity generated through the combustion of fossil fuels.

Beginning July 1, 2019, the tax rate is \$12 per MT of carbon dioxide emissions. Beginning July 1, 2021, the tax rate increases by \$1.80 per MT each year until reaching \$30 per MT of carbon dioxide emissions.

Ecology, in consultation with Commerce, will determine the amount of carbon dioxide emissions derived from the combustion or oxidation of various fossil fuels as part of a carbon calculation. The calculation will include a determination of the amount of carbon dioxide emitted from generating electricity. For the sale or consumption of electricity sourced from an asset controlling supplier (ACS) such as the Bonneville Power Administration, Ecology

will calculate a system emissions factor for all ACSs recognized by Ecology. A system emissions factor reflects the estimated average carbon intensity of power sourced from an ACS, i.e., metric tonnage of carbon dioxide emissions per megawatt hour (MWh). If the source used to generate electricity is unknown or unspecified, Ecology, in consultation with Commerce, must establish a default emission factor for electricity in a manner consistent with the default emission factors for other markets in the western interconnection. If Ecology has not adopted a default emission factor by rule, the default emission factor is 0.437 MT of carbon dioxide per MWh. Western interconnection means the area comprising those states and provinces, or portions thereof, in western Canada, northern Mexico, and the western United States in which the western electricity coordinating council operate synchronously connected transmission systems.

Point of Taxation. With several notable exceptions, the carbon tax is imposed on the first sale or use of fossil fuel in Washington. A sale of fossil fuel takes place in the state when the fossil fuel is delivered in this state to the purchaser or a person designated by the purchaser. A use of fossil fuel occurs in this state when the fuel is consumed by the taxpayer in the state or the taxpayer possesses or stores the fossil fuel in the state in preparation for actual consumption by the taxpayer.

For motor vehicle or special fuels, the carbon pollution tax would generally parallel the points of taxation used for fuel taxes where tax is imposed when fuel is removed from the terminal rack.

For sales of natural gas by a gas distribution business to a retail customer in the state, except sales to a light and power business, the carbon pollution tax is imposed on the gas distribution business when it sells natural gas to the retail customer. For natural gas sold to a light and power business, the carbon pollution tax is imposed on the light and power business as part of the light and power business's sale of the electricity as described below. 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 the natural gas.

For electricity produced in the state using fossil fuels, the carbon pollution tax is imposed on the business that owns or operates the electrical generation facility producing the electricity. For electricity produced outside the state and ultimately consumed in the state, the carbon pollution tax is imposed on the first person who imports or delivers the electricity into the state and is required to be registered with the Department of Revenue for purposes of paying state business taxes.

Exemptions. The carbon pollution tax does not apply to:

- fossil fuels brought into this state by means of the primary fuel supply tank of a motor vehicle, vessel, locomotive, or aircraft;
- fossil fuels or electricity exported from the state of Washington—export to Indian Country is not considered export outside this state;
- the sale or use of coal transition power;
- fuel used solely for agricultural purposes;
- aircraft fuel;
- fossil fuels and electricity used to manufacture timber products;

- eligible renewable resources;
- biogas, biodiesel, cellulosic ethanol, and renewable diesel;
- electricity or fossil fuels subject to a comparable carbon tax or charge on carbon content imposed by another jurisdiction, including allowances required to be purchased by another jurisdiction;
- electricity or fossil fuels subject to a comparable federal carbon tax or charge above the tax rate in Washington State;
- the portion of fossil fuels purchased in the state and combusted outside the state by interstate motor carriers and vessels used primarily in interstate or foreign commerce; and
- fossil fuels used on-site for manufacturing processes by an energy-intensive trade-exposed (EITE) facility based on either (1) objective numerical criteria and consideration of other jurisdictional approaches, or (2) a facility engaging in an activity described within one of 67 specified North American industry classification system codes.

A light and power business or gas distribution business may claim up to 100 percent credit against the carbon pollution tax for clean energy investments as part of a clean energy investment program.

Reporting. Commerce, with support from DOR, must annually report to the Joint Committee on Climate Programs Oversight (Joint Committee) by December 31, 2020. 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 modification or improvements to this act to ensure the goals are being met in addition to:

- the total carbon pollution tax collected during the reporting period and a list of taxpayers who paid the carbon tax;
- the estimated costs incurred by DOR, Commerce, Ecology, and the Washington State University Extension Energy Program (WSU Energy Program), associated with administration of the carbon tax, shown as a dollar amount and percentage of the revenues collected;
- the estimated overall net revenue gain or loss calculated by comparing total revenue with administration costs in dollar amounts and as a percentage of carbon tax revenues collected;
- the impact on the economic health of Washington, including data on emissions leakage and any job loss since the implementation of the carbon tax;
- an analysis of whether the point of taxation is appropriate;
- a review of refinery offsets under this act and whether this should be expanded to include industrial facilities;
- a summary of the investments made through Commerce's administration of the Energy Transformation Account and the Rural Economic Development Account; and
- a summary by Commerce of the utilities' progress implementing their plans under the Clean Energy Investment Programs.

By December 1, 2026, Commerce must provide specific recommendations to the Joint Committee on whether or not the current year's carbon tax rate will need to be adjusted

upward or downward to meet a reduction in GHG emissions of 25 percent below 1990 levels by 2035.

Rules and Technical Assistance. DOR, Ecology, and Commerce may adopt rules to administer the tax. Commerce, Ecology, and the WSU Energy Program must provide technical assistance to DOR, as necessary, to effectively implement the carbon tax.

Tribal Compacts. The DOR by delegated authority from the Governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within the state regarding carbon taxes included in the price of fuel delivered to a retail station wholly owned and operated by the tribe, tribal enterprise, or tribal member. The new compact authority does not repeal existing state and tribal fuel agreements. If a new agreement is negotiated, the agreement must:

- require that the tribe or the tribal retailer acquire all fuel only from persons or companies operating lawfully in accordance with the fuel tax provisions;
- provide that the tribe will expend carbon pollution tax proceeds or equivalent amounts on reducing greenhouse gas emissions or increasing the resilience of tribal lands to the impacts of climate change; and
- include provisions for audits or other means of ensuring compliance with the agreement.

Revenue Allocation. A Carbon Pollution Reduction Account (Account) is created in the State Treasury. All revenues generated from the carbon tax, and any other revenues directed by the Legislature, are deposited into the Account. First, funds must be appropriated to DOR and other agencies for administering the carbon tax, and then the remainder is distributed as follows:

- 50 percent to the Energy Transformation Account;
- 20 percent to the Water and Natural Resource Resilience Account;
- 15 percent to the Transition Assistance Account; and
- 15 percent to the Rural Economic Development Account.

Clean Energy Investment Program (Investment Program). Each electric utility or natural gas business may claim a credit of up to 100 percent against the carbon tax imposed in the same calendar year, beginning July 1, 2019. Separate Investment Programs are established for the investor-owned energy utilities (IOEUs) and the consumer-owned energy utilities (COEUs).

To be eligible for the credit under the Investment Program, an IOEU must receive approval of a clean energy investment plan (investment plan) from the Utilities and Transportation Commission (UTC). Beginning January 1, 2020, for electricity produced by a generating facility that burns coal as the primary fuel source and is not otherwise exempt from the carbon tax, the credit decreases on a pro rata basis annually until reaching 0 percent in 2036.

To be eligible for the credit under the Investment Program, a COEU must receive approval of an investment plan from its governing body authorizing it to reinvest an equivalent amount of

carbon tax revenues collected from customers during that year, the preceding year, or any of the three subsequent years.

Each electric and gas utility claiming a credit must establish a separate Clean Energy Investment Account (Investment Account) for the investment funds, and IOEUs may not earn a rate of return on these investment funds.

An IOEU or a COEU seeking a credit under the Investment Program must submit an investment plan that is approved by the UTC, for an IOEU, or by its governing body, for a COEU, and seeks to fully eliminate any carbon tax obligation associated with electricity.

Investment plans for IOEUs may include and for COEUs must include:

- programs for investments or expenditures that are incremental to the investment or expenditures already required under law and that either reduce the utility's carbon dioxide emissions or advance market transformation, educate consumers, develop new low-carbon fuels, and increase participation in programs that enable customers to choose low-carbon alternatives;
- a customer education and outreach program to promote widespread participation;
- sufficient funding, as determined by Commerce, to mitigate all increases in gas or electric costs to qualifying low-income customers as a result of the carbon tax; and
- demonstration that all funded activities were developed using the cumulative impact analysis and that expenditures prioritize highly impacted communities.

Additionally, an IOEU's investment plan may include:

- a demonstration portfolio of funded activities will achieve significant reduction in carbon dioxide emissions at a reasonable cost over the shortest reasonable time frame;
- an estimate, of the cost per ton of emission reduction for the portfolio of projects in the plan;
- a demonstration that expenditures in the investment plan will be additional to expenditures necessary to meet requirements already in law; and
- a fund of up to 10 percent of monies collected to be dedicated for research and development that will promote energy conservation, or the deployment of zero-emission energy resources.

A COEU's investment plan must additionally include:

- a demonstration that the portfolio of funded activities can reasonably be expected to achieve GHG emissions reductions;
- an estimate of the MTs of emissions reduction and the cost per MT of emissions reduction for the portfolio of projects in the investment plan; and
- a demonstration that expenditures in the investment plan will be additional, not to exceed an average cost per MT of GHG abated at 300 percent of the carbon tax rate or to be determined by Commerce or the UTC.

Additionally, both IOEUs and COEUs must include a summary of public input received during the development of the investment plan through public processes and a schedule for independent evaluation of activities financed through the investment plan, including verification of carbon emissions reductions.

The IOEU investment plans are authorized to include and the COEU investment plans are limited to the following types of investments or expenditures:

- additional conservation in excess of other obligations required by the state or the UTC;
- market transformation for energy efficiency products;
- eligible renewable energy resources in excess of state requirements;
- low-income weatherization;
- measures to support electrification of the transportation sector, including equipment for transmission and distribution, and incentives for car dealers to sell alternative vehicles, property owners to install charging equipment, and for electrification of vehicle fleets;
- clean distributed energy resources and grid modernization to facilitate distributed resources and improve resiliency;
- research and development to promote energy conservation or zero-emission energy resources;
- investment in renewable natural gas production;
- incentives for small businesses to support energy efficiency;
- self-directed investments for large industrial gas and electrical customers to support conservation, new renewable energy resources, behind-the-meter technology; infrastructure to support EVs and heating loads, or renewable natural gas production;
- reasonable administration costs of the Investment Program; and
- debt financing, for IOEUs, for the portion of capital projects identified in the investment plan if the UTC determines that such treatment would reduce the overall cost of the project to customers.

An IOEU must submit to and receive approval from the UTC an updated investment plan every two years to maintain eligibility for the tax credit and to continue to retain authority to expend investment funds. A COEU must submit to and receive approval from its governing body an updated investment plan every two years to maintain eligibility for the tax credit and to continue to retain authority to expend investment funds.

Additionally, an IOEU must submit an annual report to the UTC and a COEU must submit an annual report to Commerce that includes the status of projects approved; an accounting of GHG emissions and reductions achieved and the cost per MT of emissions reductions; and updated estimates of future GHG emissions reductions and the cost per MT. The UTC must annually report specific information about the credit to DOR. For the COEUs, the State Auditor or independent auditor is responsible for auditing compliance and the attorney general is responsible for enforcing noncompliance. If the UTC or Commerce determines the investment plan did not meet performance standards, the utility may have to remit remaining tax monies dedicated for the nonperforming plan or project to DOR.

A COEU may enter into an agreement with a Joint Operating Agency created on or before January 1, 2017, or a nonprofit or organization, to aggregate their claims against the carbon tax and to develop and implement a joint investment plan. The governing bodies of all member utilities must approve the plan through a public process before implementation of a joint investment plan may begin.

The UTC must create a Technical Standards Committee to provide advice to the UTC, other state agencies, the Legislature, and utilities and local governments on utility reinvestment funds. Commerce must create a Technical Advisory Committee to provide advice to Commerce and others. The committees must either develop or advise on standards and guidelines to evaluate, quantify, and verify GHG emissions reductions proposed by investment plans. The committee duties address: standard protocols for verification and evaluation of GHG emissions reductions from utility investments, common planning assumptions for investment plans, and a standard reporting format for all investment funds. Both committees expire on July 1, 2020. The UTC and Commerce may elect to work together to create one joint Committee.

Commerce must adopt rules for COEUs and the UTC must adopt rules for the IOEUs concerning the process, timelines, report, and documentation to implement the Investment Program, and evaluation of investment plans by July 1, 2019. To the extent practical, Commerce and the UTC must adopt similar rules to ensure a coordinated and consistent implementation of the Investment Program.

Energy Transformation Account. The Energy Transformation Account is created in the state treasury and, subject to appropriation. On a biennial basis, a minimum of 10 percent of the expenditures from this account must be for projects and activities that directly benefit highly impacted communities. Commerce must use funds in the account for projects and programs that reduce GHG emission or reduce emissions directly connected to energy use in Washington. Grant awards must be aligned to a strategy that is anticipated to achieve a net cumulative reduction of GHG emissions of 25 percent below 1990 levels by 2035. Commerce must consider the WSU Energy Program recommendations in determining the award amounts and the availability of other public incentives or credits. Commerce may not award amounts that exceed \$100 per MT of carbon dioxide equivalent or reduced GHG emissions.

Priority must be given to:

- projects and activities that benefit low-income communities, communities of color, and communities of indigenous peoples;
- applications from COUs with retained credit amounts of less than \$5 million annually for incentives for utility customers who would not otherwise have access to programs, services, and investments offered in a clean energy investment plan;
- consideration for procuring and using materials and content that have lower carbon emissions associated with their transportation and manufacturing;
- support for high quality labor standards, apprenticeship and pre-apprenticeships and preferred entry standards, community workforce agreements with priority local hire, procurement for women and minority-owned businesses, and contracts with entities complying with federal and state wage and hour laws and regulations;
- applications from entities subject to the carbon tax, but are not eligible for the Investment Program; and
- projects with a high leverage ratio of non-account funds to Energy Transformation Account funds.

Projects and incentive programs must meet the follow criteria to be eligible for funding:

- real, specific, identifiable, and quantifiable;
- permanent;
- enforceable by the state;
- verifiable; and
- not eligible for funding under current law.

Commerce must consider projects and incentive programs for the following categories: industrial energy efficiency, clean transportation, energy efficiency, agriculture and working lands emissions, and decarbonization of aviation fuels.

Funding recipients for projects must submit a progress report to Commerce with required information, including a summary of the investment made and verification of the avoided GHG emissions from a qualified third party. The third party must report on whether a project was built or implemented according to the approved funding contract, a verification plan detailing the methods of evaluating the project, a review of the recipient's accounting of current and projected emissions reductions, site visits by verifiers, and additional data that Commerce identifies to evaluate the project for emissions reductions.

Commerce must design project funding contracts, monitor project implementation, track contract performance, and identify qualified third party verifiers. Commerce may also suspend or terminate funding when projects do not achieve projected reductions as provided in the funding agreement or require a return of grant funding in cases of gross misuse of funds. Public entities and private entities are eligible to receive funds from the Energy Transformation Account.

To administer the projects and programs, funds may be appropriated to Commerce from the Energy Transformation Account and Commerce may adopt rules. Commerce must develop a public electronic database to track projects and incentive programs receiving funding under this account.

Energy Transformation Account funds may be used for carbon sequestration activities. The projects must be prioritized and ranked by considering the comparative need of the applicants, to satisfy a diversity of potential ecological benefits, and to achieve carbon sequestration in the following four categories:

- aquatic marine and freshwater resources — DNR must award grants for blue carbon projects;
- agricultural lands and soils — the Department of Agriculture must award grants for projects to increase soil sequestration and reduce emissions from the loss and disturbance of soils and conversion of grassland and cropland soils to urban development;
- terrestrial, riparian, and aquatic habitats — DNR will award grants for projects and activities to protect and prevent the loss of ecosystems; and
- the establishment of a working forest conservation easement program administered by DNR and designed to maximize carbon sequestration in working forests, ensure a sustainable supply of timber and the ecological longevity of working forests, and provide long-term sustainable jobs in rural communities.

Annually, 30 percent of Energy Transformation Account monies are deposited in a Clean Transportation Account, created as a subaccount of the Multimodal Transportation Account. Of the funds in the account,

- 85 percent of the funding is to offset the state fiscal impact for sales and use alternative fuel vehicle and commercial vehicle tax credits, expenditures under SSB 6080 (2018), and projects that reduce single-occupancy vehicle trips and increase transit ridership; and
- 15 percent of the funding supports electrification of transportation in rural communities.

Commerce must administer a grant program to support the electrification of transportation in rural communities with a legacy of nonfossil fuel generated electric power. Grants must be awarded in counties with a population of less than 250,000 based on 2010 census data and for electrification projects served by a COU with an electric resources portfolio that is at least 90 percent renewable resources.

Funding may be spent on the following GHG reducing activities: electrification of transportation in all industry sectors and programs or investments to support energy efficiency and conservation measures. Commerce must prioritize applications that demonstrate strong community partnership and leverage the participation and investment of private businesses.

Commerce must develop an implementation plan for the investment of the Energy Transformation Account by June 30, 2019. The planning and preparation must include:

- analysis, to be implemented in partnership with the WSU Energy Program, to determine overall carbon pollution abatement opportunities in Washington. By March 1, 2021, and every two years thereafter, the WSU Energy Program must update the recommended amounts per MT of emissions reductions;
- robust monitoring and evaluation systems to ensure the effects and cost-effectiveness of grants are used to strengthen the grant-making process;
- assessment and development of efficient and transparent grant-making strategies to ensure program objectives are met and taxpayer interests are protected;
- outreach and education to engage eligible recipients for grant funding; and
- assessment of relationships between priority areas of this account and carbon reduction policies and plans made by key sectors, including aviation.

Commerce must implement a performance management system, complete and independent audit every two years, and report the results of each assessment to the Joint Committee and the Legislature.

Water and Natural Resource Resilience Account.

The Water and Natural Resource Resilience Account is created in the state treasury and subject to appropriation. Within this account on a biennial basis, 50 percent of the funds are appropriated to Ecology for grants and loans for water-related projects and activities. On a biennial basis, a minimum of 10 percent of the expenditures from this account must be for projects and activities that directly benefit highly impacted communities. Of the remaining 50 percent, 25 percent must be deposited into the Fire Prevention and Suppression Account

and 75 percent must be deposited into the Forest Resilience Account. The funds may not be used for projects that would violate tribal treaty rights or result in long-term damage to critical habitat or ecological functions.

Ecology may provide grants and loans for projects and activities that include:

- planning, design, and construction projects that reduce stormwater impacts from existing infrastructure and development. Grants must be available to public and private entities for projects that are not required by a court order or as a permit requirement and have a substantial water quality benefit;
- restoring natural floodplain ecological functions to reduce the risk of flooding and protect against flood damage;
- improving the availability and reliability of water supplies for instream and out-of-stream uses, including groundwater mapping and modeling;
- constructing fish barrier correction projects at state highways;
- preparing for sea level rise and restoring and protecting estuaries, fisheries, marine shoreline and inland habitats; and
- increasing the ability to adapt to and remediate the impacts of ocean acidification.

Ecology must:

- provide information about projects with tribes as required under government-to-government consultation;
- adopt rigorous performance-based criteria and objectives for funding decisions. Ecology must also incorporate project implementation monitoring and evaluation requirements into the projects;
- require annual progress reports by funding recipients and provide summaries of the reports, assessment of achievement of performance-based criteria and objections to the Joint Committee;
- seek input from the Oversight Panel in development of funding program and the selection of projects.

DNR must develop an implementation plan for grants and loans using public involvement and in consultation with appropriate state agencies. DNR must consider the benefits of supporting cross-laminated timber and other mass timber technologies in its funding decisions and utilize the Forest Health Advisory Committee for forest health projects.

The Forest Resilience Account funds must be used to improve forest and natural lands health and resilience to climate change impacts. Thinning or prescribed fire projects and activities and small forest landowner fish passage barrier projects are eligible for grants and loans.

DNR, in partnership with the State Board, will develop a Center of Excellence to: research and promote renewable forest products, research improvement of forest health, and research ways to reduce fire risk.

The Fire Prevention and Suppression Account may be used for agency activities that prevent wildland fire that reduce the risk of wildland fires to communities and improve their ability to adapt to wildfires, and support fire prevention, suppression, and recovery for tribal communities impacted and potentially impacted by wildfires. DNR must:

- adopt rigorous performance-based criteria and objectives for funding decisions. Ecology must also incorporate project implementation monitoring and evaluation requirements into the projects;
- require annual progress reports by funding recipients and provide summaries of the reports, and periodically summarize its activities. The reports and an assessment of achievement of performance-based criteria and objections to the Joint Committee; and
- establish a citizen advisory group to provide input on the development of project funding criteria and project funding decisions with input from the Oversight Panel.

Transition Assistance Account. The Transition Assistance Account is created in the state treasury and, subject to appropriation, is to assist with the disproportionate energy expense impact on low-income households and energy transition assistance to displaced workers.

First, Commerce must provide an equitable transition to a clean energy economy by providing funds to low-income households during the transition of increased energy prices. Assistance may include grants, subsidy, rebates, or similar financial benefit that is provided through an expansion or increases to existing Department of Social and Health Services or regional community health programs, or new programs that enable direct financial assistance. Assistance programs include: energy bill pay subsidies, energy efficiency and weatherization assistance and service, affordable transportation services and options, affordable housing, improved community services, and reductions in vehicle licensing fees.

A person at or below 200 percent of the federal poverty line is not required to pay certain vehicle registration fees such as \$3.00 filing fee, vehicle license fee, and vehicle registration fee for vehicles under certain weights. The state treasurer must transfer the amount of money that what would have been distributed under the vehicle accounts from the Transition Assistance Account.

Commerce must form a Transition Assistance Advisory Group (advisory group) to develop an implementation plan that selects the most equitable delivery of transition assistance to low-income households across the state. Commerce must consult with and take into strong consideration recommendations from the advisory group. The advisory group must be comprised of appropriate state agencies, local governments, tribes, workers, representatives of vulnerable populations in highly impacted communities, and low-income and community advocacy organizations. A subcommittee of the Oversight Panel may be included as members of the advisory group.

Second, Commerce, with assistance from the Employment Security Department, and in consultation with fossil-fuel related businesses and labor organizations, and the Oversight Panel, must develop an assistance program for eligible displaced fossil fuel related industry workers. The assistance provided may include:

- wage, pension, and health benefits replacements for up to two years—and based on the worker's average last two years experience and for workers within five years of eligibility for union pension or social security—until the worker is eligible for pension or full social security benefits;
- training and education costs not to exceed the average two years' tuition and fees at Washington State's community colleges;

- peer counseling services;
- enhanced job placement services; and
- relocation expenses and assistance.

Commerce must provide reports on assistance provided to low-income persons and displaced fossil fuel related industry workers to the Joint Committee at intervals requested by the committee.

Third, using funds from the Transition Assistance Account, the Office of the Superintendent of Public Instruction may provide education programs and teacher professional development opportunities to expand awareness of and increase preparedness for the environmental, social, and economic impacts of climate changes and strategies to reduce carbon pollution and prepare students for employment opportunities in the clean energy economy.

Fourth, by December 31, 2018, the Department of Health (DOH) must conduct or adopt a cumulative impact analysis to designate communities highly impacted by fossil fuel pollution and climate change in the state. The analysis may integrate into or build upon other population tracking resources that DOH has used and analyses by the University of Washington, Department of Environmental and Occupational Health Sciences. The analysis must map, rank, and designate a percentile of census tracts as highly impacted communities. The criteria for the analysis include:

- socioeconomic factors such as unemployment, housing, transportation burden, linguistic isolation, and sensitivity such as low birth weight and hospitalizations;
- environmental burdens, including exposure to air and water pollution, environmental toxins, and toxic sites, hazardous waste, and climate change; and
- census tracts that are wholly or partly Indian country as defined in federal law at the effective date of this section.

DOH must conduct meaningful consultation with vulnerable communities and consult with the University of Washington, Department of Environmental and Occupational Health Sciences when developing or adopting a cumulative impact analysis.

Beginning March 1, 2023, and every two years thereafter, DOH must update the designation of highly impacted communities. The update must be completed under the advisement of the Oversight Panel. By March 1, 2025, and every four years thereafter, DOH must review and consider revisions to the methodology for designating highly impacted communities.

Rural Economic Development Account. The Rural Economic Development Account is created in the state treasury and subject to appropriation. Commerce must use funds in the account to provide assistance to rural communities, which includes support for low-carbon innovation and entrepreneurship, increased affordable transportation options, and telecommuting by funding the expansion of broadband and telecommunication services. Commerce must also develop a grant application process to competitively select small businesses with 50 or fewer employees that submit projects eligible for funding under the Energy Transformation Account.

The State Board must establish two clean energy Centers for Excellence located in rural counties, with once center each devoted to:

- renewable energy integration and generation development; and
- smart grid technology and the next generation of hydropower resources development.

The Legislature intends to appropriate \$30 million in fiscal year 2020 for the purpose of providing local governments, communities, public and private entities, federally recognized tribes, COUs, and IOUs funding to develop strategies and plans for deployment of broadband infrastructure and access to broadband services to unserved and underserved areas of the state.

Joint Committee. A seven-member Joint Committee is created to provide ongoing review of the implementation of the carbon tax and funding from the revenues to ensure the fairest, most efficient, and timely achievement of objectives in this act regarding GHG emissions reductions, transition assistance, jobs development, and climate resilience.

The Joint Committee must select a chair from among its members, which include the Governor, the Commissioner of Public Lands, the State Auditor, or their designees, and two members of the Senate, one from each major political party, and two members of the House of Representatives, one from each major political party. The Joint Committee is staffed by the Senate and House of Representatives and must meet at least quarterly beginning July 1, 2019.

The Joint Committee's responsibilities include reviewing Commerce's annual carbon tax report, plans for implementing the funding programs, criteria for funding allocations and project award decisions, projects and activity funding decisions, and providing recommendations for standards to measure emissions reeducation outcomes from the IOU and COU investment programs. The Joint Committee may contract for independent auditing and evaluation of programs. The Joint Committee has no appropriation authority.

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 and applicable tribal policies. At least annually, the Governor must invite Indian tribes with reserved rights within geographical boundaries of the state and the Joint Committee to share information, views, tribal knowledge and science, and recommendations regarding the progress of implementing the carbon tax and providing funding to reduce emissions, strengthen climate resilience, and ensure a just transition to a clean energy economy.

Indian Tribe Consultation. 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. No project that impacts tribal lands may be funded prior to meaningful consultation with affected Indian tribes. The goal of the consultation process is to obtain free, prior and informed consent for the project. The Indian tribe's government will provide the Advisory Board with a written resolution providing or withholding consent and the end of the consultation.

Community Climate Advisory Board (Advisory Board). A 21-member Advisory Board is established within the Governor's office to oversee implementation of the act toward reducing pollution and facilitating the transition to a clean energy economy equitably, sustainably, and efficiently. The Governor must appoint representatives from specified sectors by January 1, 2019. The board must provide advice and recommendations to the Governor, Legislature, Joint Committee, and state agencies regarding the implementation of the Act; monitor the implementation of the act to ensure it does not lead to inequitable environmental or economic impacts; and report periodically to the Legislature, Governor, and Joint Committee.

Oversight Panel.

The Oversight Panel is established as a subcommittee of the Advisory Board. The Oversight Panel must consist of at least nine people based on the nomination of statewide organizations representing specified interests. The purpose of the Oversight Panel is to provide a forum for analysis of whether the policies lead to improvements within highly impacted communities. The Oversight Panel is also tasked with making recommendations on the cumulative impact analysis and highly impacted communities designation required under the Transition Assistance Account, on the investment allocations, and to state agencies for meaningful consultation with vulnerable populations; and to evaluate the level of funding provided to assist low income individuals and displaced workers and the funding of projects and activities located within or benefiting highly impacted communities.

Adding Federal Incremental Hydroelectricity as an Eligible Renewable Resource Under Initiative 937 (I-937). Beginning January 1, 2019, a qualifying utility may use incremental electricity produced as a result of efficiency improvements to hydroelectric generation projects whose energy output is marketed by Bonneville Power Administration as an eligible renewable resource to comply with I-937, if the improvements are completed after March 31, 1999, and the additional generation does not result in new water diversions or impoundments. The qualifying utility may only use the portion of incremental electricity attributable to its share of the electricity output.

A qualifying utility may not transfer or sell this incremental electricity to another qualifying utility for compliance purposes under I-937.

Adding Incremental Hydroelectricity Renewable Energy Credits (RECs) Allocated by the Residential Exchange Program (REP) as an Eligible Renewable Resource Under I-937. Beginning January 1, 2019, a qualifying utility may use the environmental attributes of incremental hydroelectricity, including RECs, allocated to IOUs pursuant to the REP as an eligible renewable resource to comply with I-937.

RECs allocated under the REP may not be transferred or sold to another qualifying utility for compliance under I-937. The definition of REC is amended to recognize freshwater RECs allocated under the REP.

Repeal of Administrative Rules. Other than the carbon tax, state agencies may not adopt or enforce a statewide program that sets a GHG emissions cap or charge. Any rule, policy, or standard that was previously adopted may not be enforced.

State Preemption. No local government in the state may impose any comparable carbon tax, charge, or cap on the sale or use of fossil fuels or the retail sale or consumption of electricity generated through the combustion of fossil fuels.

No local government in Washington may levy any tax on the amounts received by a person with respect to a carbon tax liability. This restriction is not imposed on federally recognized Indian tribes.

Contingent Expiration Dates. This act expires if any statewide law or initiative measure is adopted that places a charge, tax, or cap on the level of carbon emissions within the state.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TECHNOLOGY COMMITTEE (First Substitute): The tax rate begins at \$10 per metric ton, beginning July 1, 2019. Beginning in 2021, the tax rate increases \$2 each year until it is capped at \$30 per metric ton. Natural gas is taxed at end use. Electricity is taxed at the utility level. For unspecified sources of electricity, carbon content is measured by a default standard adopted by the California Air Resources Board by regulation. Exemptions are added for manufacturers of renewable energy equipment, and specific North American Industry Classifications System (NAICS) code industries in addition to Commerce designations based on numeric criteria and considering other jurisdictions with carbon prices. Credit is provided for any federal carbon tax beyond the state carbon tax. Refineries may get credit for up to 10 percent of tax liability if they spend on specified purposes. Specific annual reports are required from Commerce. Commerce is required to review the tax rate in 2030 and report to the Legislature on whether or not to adjust the tax rate based on progress toward 2035 limits. Prior to distributing receipts from the Carbon Pollution Reduction account, \$100 million per year is transferred to the Multimodal Transportation Account. Of the remaining funds, the Water and Natural Resources Resilience Account is reduced from 35 percent to 20 percent. A Rural Economic Development Account is added with 15 percent of the remaining revenues.

The Clean Energy Investment Fund has different requirements for IOUs and COUs. An investment plan must be approved by the UTC for the IOUs and by the governing boards for the COUs. The IOUs and natural gas companies may claim up to 100 percent credit in the same year, except, for electricity generated by coal which, beginning Jan 1, 2020, decreases on a pro rata basis until reaching 0 percent in 2036. COUs may aggregate funds through agreement with a joint operating agency to develop a joint investment plan.

Grant awards from Commerce must be aligned with a strategy anticipated to achieve cumulative reduction of GHG emissions by 2035. Priority is also given to funding COUs with less than \$5 million in tax credits. Funding is allowed for carbon sequestration activities. An implementation plan is required by June 30, 2019.

The Department of Health is required to conduct or adopt a cumulative impact analysis to designate communities highly impacted by fossil fuel pollution. Car tab fees are reduced for

all low-income owners. Criteria for determining eligible workers is specified and types of assistance are listed.

Funding is divided between water and fires and forest health activities. Projects funded are prohibited from violating tribal treaty rights or damaging critical habitat or ecological functions. Ocean acidification adaptation is included in Ecology's implementation plan. Ecology and DNR are required to develop performance-based numeric criteria for project funding and progress reports.

The rural economic development account is created. Commerce is directed to provide financial assistance to rural communities including low-carbon innovation, transportation options, broadband, and telecom services. Competitive grants are created for small businesses. Intent to appropriate \$30 million for rural broadband projects in FY 2020 is included.

A seven-member Joint Committee on Climate Programs Oversight is created that will meet at least quarterly starting in July 2019. The 21-member Pollution Cleanup Fund and Advisory Board (Advisory Board) is created to oversee implementation of the act toward reducing pollution and facilitating the transition to a clean energy economy. An economic and environmental Justice Oversight Panel is created as a subcommittee of the Advisory Board to analyze whether policies lead to improvements within highly impacted communities. Government-to-government consultation is required on all programs under the act, at least annually.

Federal incremental hydroelectricity is added as an eligible renewable resource under Initiative 937. IOUs are allowed to use renewable energy credits (REC) generated from federal incremental hydroelectricity under an agreement with the Bonneville Power. Enforcement of the Clean Air Rule is prohibited. The Act expires if any other law is enacted, by Legislature or Initiative, that creates a GHG emissions charge, tax, or cap.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed, except section 2 which takes effect July 1, 2019.

Staff Summary of Public Testimony on Original Bill (Energy, Environment & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: Inaction is not an option and Washington citizens want a pollution tax to support projects that reduce emissions. This bill is the best way for the state to fulfill its clean energy commitments. Clean energy jobs are a growing sector of the economy, and this bill will continue the development of local green businesses and jumpstart new industries. This bill will promote carbon neutral buildings in Washington and create demand for skilled architects. This bill is not economy-crippling. The cost of renewable energy decreases the more we invest. The EITE exemption prevents negative impacts to the cost of business.

Effects of climate change, such as hurricanes, are much worse financially than any economic impact of this policy. This bill will aid in fostering equality: low income people, tribes who are relocated due to rising sea levels, fossil fuel workers facing dislocation. International research and modelling support this bill. A price on carbon is the only option that will achieve emissions goals. Outdoor recreation generates huge economic activity and creates clean jobs. Healthy waters and forests and access to parks are great benefits that this bill will protect. Ocean acidification has a large impact on business that relies on marine life, and it can be prevented by reducing GHGs. Climate change is impacting local bird populations. Climate change is a public health emergency.

CON: People of color, low income people, tribes, and workers must be included in decisions. A carbon tax will impact rural Washingtonians, who often commute to work. Funds collected by this bill should be put toward programs benefiting the disadvantaged. This bill is a step backward from previous efforts because it pushes the initial tax price up and fails to provide a cap or a floor. The point of taxation should shift to apply to a sale within the state, not fuel as it travels through the state. More research is needed on how this bill correlates with other carbon reduction policies to ensure that utilities are able to invest in a broad scope of carbon reductions without mandates on resource acquisitions. DNR should be allowed to undertake projects or provide grants to increase the ability to adapt to and remediate the impacts of ocean acidification. The bill fails to take leakage seriously; manufacturers will move production to another area where carbon is not restricted, causing a loss of Washington jobs, but no net positive impact on global emissions. This bill disproportionately impacts certain industries. The food industry and paper product sector are EITEs, and this bill could make local businesses' products unaffordable. EITE language needs clarifying throughout. Electricity companies cannot pass along costs of the tax to customers and remain competitive, but they also cannot afford to absorb the costs. The natural gas industry is already using the best fuel available, and electricity customers have no control over the sources used. The bill needs to account for the Bonneville Power Administration short term market purchases. For smaller public utility districts (PUDs), an aggregation of the tax exemption would be helpful. Collaboration between agencies could increase fiscal impact on businesses.

OTHER: The bill must address the interaction and impacts of the tax on energy markets and companies' ability to continue their participation in those markets. During the bill's transition period, the tax could become too high too quickly; a lower tax with a more gradual increase would allow for further study on the tax's impact. The bill adds too much bureaucratic complexity. Investments, not price, are the primary driver in reducing emissions, and the state should look to institute competitive grant projects. Incentives should be provided to promote uniformity across customer classes regardless of geography. Clarification is needed on who the taxable entity is. Utilities must be able to retain funds so that they can offset the cost of emissions. The Bonneville Power Administration short term market purchases should be considered. The right governance structure is needed for the collection and spending of customer's investments. A carbon policy for Washington should be proportional and must ensure that any future carbon pricing is executed in accordance with the standards and requirements of a regulated utility. The bill needs greater transparency for how the tax is collected. The end user must be aware of their carbon impacts when using the taxed gas. The protections in the bill for EITE industries are not secure enough and should be by NAICS code. Carbon regulation must value the carbon-free

resources available in Washington such as hydro power. Make the funds available to other technologies besides electric vehicles as there are a number of vehicles that can use natural gas as a lower carbon alternative. Some of the revenues should fund the Working Families Tax Rebate program to protect working class citizens. Centers of Excellence may not be able to help with the bill's goals.

Persons Testifying (Energy, Environment & Technology): PRO: Phyllis Farrell, League of Women Voters; Mike Massa, Carbon Washington; Gail Gattton, Audubon Washington; Lorrell Noahr, Washington Education Association; Jeff Johnson, Washington State Labor Council and President, AFL-CIO; Kim Powe, Interim Executive Director, Puget Sound Sage; Clifford Traisman, State Lobbyist, Environmental Priorities Coalition, Washington Environmental Council; Andrew Nicholas, Associate Director of Fiscal Policy, Washington Budget and Policy Center; Bill Dewey, Government Relations, Taylor Shellfish; Patti Case, Government Relations, Green Diamond; Tom Bugert, The Nature Conservancy, State Legislative Director; Jay McLaughlin, Executive Director, Mount Adams Resource Stewards; Perry England, VP Building Performance, MacDonald Miller; Stacy Smedley, Preconstruction Manager, Skanska; Marc Berejka, Director of Government and Community Affairs, REI; David McCaughey, Account Executive, Ameresco; Kent Palosaari, Mira's Garden; Cathryn Chudy, citizen; Alona Steinke, citizen; Mira Palosaari, Mira's Garden; Don Steinke, Alliance for Jobs & Clean Energy; Katie Wrubel, Makah Tribe; Cathy Carruthers; Mike Mallory, Climate Reality Leadership Corps; Marilyn Mallory, 350 Everett; Matthew Lang, Alliance for Jobs and Clean Energy; Elizabeth Rodrick, Olympia Unitarian Universalist Congregation; Meagan Murphy, citizen; Gretchen Chambers, citizen; Brian Gunn, Climate Reality; Gary Piazzon, Whidbey Environmental Action Network; Andrew Villeneuve, Northwest Progressive Institute; Carmen Mendez, Yakima City Councilwoman; Kirsten Smith, American Institute of Architects.

CON: Sheri Call, Washington Trucking Association; Kathleen Collins, PacifiCorp; Bill Stauffacher, Northwest Pulp and Paper Association; Mary Catherine McAleer, Association of Washington Business; Tim Boyd, Industrial Customers of Northwest Utilities, Northwest Industrial Gas Users Association; Sheri Call, Washington Trucking Association; Jim Halstrom, Washington State Tree Fruit Association.

OTHER: Katherine Mahoney, State Board of Community and Technical Colleges; Barbara Hins-Turner, State Board of Community and Technical Colleges, Center of Excellence Clean Energy; Pat Jablonski, Nucor Steel Seattle; Steve Secrist, Puget Sound Energy; Todd Myers, Washington Policy Center; John Rothlin, Avista Corporation; Dave Warren, Department of Natural Resources; Charlie Brown, Cascade Natural Gas; Pam Barrow, Northwest Food Processors Association; Kyle England, Kaiser Aluminum; Jessica Matlock, Snohomish County PUD; Eric Jacobson, citizen; George Caan, Washington PUD Association; Therese Hampton, Public Generating Pool; Kevin Tempest, Washington Business Alliance; Isaac Kastama, Benton & Franklin PUD; Irene Plenefisch, Microsoft.

Persons Signed In To Testify But Not Testifying (Energy, Environment & Technology):
OTHER: Dan Kirschner, Northwest Gas Association.