
SENATE BILL 5930

State of Washington

65th Legislature

2017 Regular Session

By Senator Palumbo

1 AN ACT Relating to establishing a carbon pollution tax; adding a
2 new section to chapter 76.04 RCW; adding a new chapter to Title 82
3 RCW; adding a new chapter to Title 70 RCW; creating new sections;
4 repealing RCW 19.29A.060; prescribing penalties; providing an
5 effective date; and providing a contingent expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature intends to mitigate the
8 effects of climate change on Washington residents, and to take steps
9 to reduce our own contributions to global carbon emissions, through
10 the imposition of a carbon pollution tax.

11 **Part I**

12 **Carbon Pollution Tax**

13 NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

16 (1) "Aircraft fuel" has the same meaning as provided in RCW
17 82.42.010.

18 (2) "Carbon calculation" means a calculation made by the
19 department of commerce, in consultation with the department of

1 ecology, for purposes of determining the carbon content of fossil
2 fuels and the carbon content inherent in electricity as described in
3 section 102(3)(a) of this act, for use in calculating the tax
4 pursuant to section 102 of this act. Among other resources, the
5 department of commerce, in consultation with the department of
6 ecology, may consider carbon dioxide content measurements for fossil
7 fuels from the United States energy information administration or the
8 United States environmental protection agency.

9 (3) "Carbon content inherent in electricity" means the carbon
10 dioxide generated by the production of electricity from fossil fuels
11 as described in section 102(3)(a) of this act.

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

14 (5) "Coal" means coal of any kind, including anthracite coal,
15 bituminous coal, subbituminous coal, lignite, waste coal, syncoal,
16 and coke of any kind.

17 (6) "Commercial vehicle" means any vehicle including, but not
18 limited to, motor vehicles, vessels, locomotives, or aircraft, the
19 principal use of which is the transportation of commodities,
20 merchandise, produce, freight, animals, or passengers for hire.

21 (7) "Declared resources" means both specified and unspecified
22 sources of electricity that a qualifying utility provides to
23 consumers and whose declaration of source, whether specified or
24 unspecified, can be supported by information demonstrating ownership
25 of the generation sources providing, or purchases of, that
26 electricity. Declared resources include ownership of, or purchases
27 from, specified generators and purchases from the Bonneville power
28 administration or the market.

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

31 (9) "Dyed special fuel" has the same meaning referred to in RCW
32 82.38.020.

33 (10) "Energy-intensive trade-exposed manufacturing business"
34 means a manufacturing business that meets the numerical criteria
35 established by the department of commerce in section 104(1)(d)(ii) of
36 this act, or has a proper primary North American industry
37 classification system code as provided in section 104(1)(d)(iii) of
38 this act.

1 (11) "Fossil fuel" means natural gas, coal, motor vehicle fuel,
2 special fuel, dyed special fuel, aircraft fuel, kerosene, heating
3 oil, propane, and petroleum residuals including bunker fuel.

4 (12) "Highly affected communities" means areas with
5 concentrations of people disproportionately affected by environmental
6 pollution and other hazards that can lead to negative public health
7 effects, exposure, or environmental degradation, as supported by
8 reports and data provided by the United States energy information
9 administration, the United States environmental protection agency or
10 other reputable sources.

11 (13) "Motor vehicle fuel" has the same meaning as provided in RCW
12 82.38.020.

13 (14) "Natural gas" means naturally occurring mixtures of
14 hydrocarbon gases and vapors consisting principally of methane,
15 whether in gaseous or liquid form, including methane clathrate;
16 compressed natural gas; and liquefied natural gas.

17 (15) "On-site" means a manufacturing plant or facility located on
18 the premises of an energy-intensive trade-exposed manufacturing
19 business.

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

21 (17) "Qualified sequestration" means sequestration qualified for
22 credit pursuant to RCW 80.70.020 or in accordance with a method
23 established by the department of commerce, in consultation with the
24 department of ecology.

25 (18) "Qualifying utility" means any electric utility that is:

26 (a) An "electrical company" as defined in RCW 80.04.010;

27 (b) Operating under authority of chapter 35.92 or 87.03 RCW or
28 Title 54 RCW; or

29 (c) A profit, nonprofit, cooperative, or mutual corporation
30 operating within this state for the sale or distribution of
31 electricity to others.

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

33 (20) "Special fuel" has the same meaning as in RCW 82.38.020,
34 except that it includes fuels otherwise meeting that definition that
35 are sold or used to propel vessels or railroad cars.

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

38 (22) "Unspecified sources" means market purchases of electricity
39 where the origin of the electricity cannot be reasonably ascertained,
40 but information demonstrating such purchases of the electricity can

1 be provided. Purchases from the Bonneville power administration are
2 not unspecified sources, except for the portion of electricity sold
3 to a qualifying utility that the Bonneville power administration
4 identifies as market purchases whose source cannot be reasonably
5 ascertained.

6 (23)(a) "Use," "used," "using," or "put to use" means, with
7 respect to any fossil fuel, the combustion in this state of the
8 fossil fuel by the taxpayer or the possession or storage in this
9 state of the fossil fuel by the taxpayer preparatory to subsequent
10 combustion of the fossil fuel within this state by the taxpayer.

11 (b) For purposes of this subsection (23), "possession" means the
12 control of fossil fuel located within this state and includes both
13 actual and constructive possession. "Actual possession" occurs when
14 the person with control has physical possession. "Constructive
15 possession" occurs when the person with control does not have
16 physical possession. "Control" means the power to sell or use a
17 fossil fuel or to authorize the sale or use by another.

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

20 NEW SECTION. **Sec. 102.** CARBON POLLUTION TAX. (1)(a) A carbon
21 pollution tax is imposed on the sale or use within this state of all
22 fossil fuels including, but not limited to, fossil fuels used in
23 generating electricity. The measure of the carbon pollution tax is
24 the carbon content (i) of fossil fuels sold or used by the taxpayer
25 within this state or (ii) inherent in electricity sold or used within
26 this state by the taxpayer.

27 (b) The tax rate is equal to fifteen dollars per metric ton of
28 carbon dioxide as of July 1, 2018, increasing two and one-half
29 dollars per year until reaching thirty dollars per metric ton.

30 (2) For the purposes of this chapter:

31 (a) Except as otherwise provided in this subsection, the carbon
32 pollution tax is imposed only once with respect to the same fossil
33 fuel, at the time and place of the first taxable event within this
34 state, and upon the first taxable person within this state. For
35 purposes of the tax imposed in this section on the sale of regulated
36 natural gas, the first taxable event within this state is deemed to
37 be the sale in this state by a gas distribution business to the
38 person who will use the gas, otherwise referred to in this section as
39 the consumer of natural gas.

1 (b) The carbon pollution tax applies only to:

2 (i) Persons who are required to be registered with the department

3 under RCW 82.32.030(1);

4 (ii) The state, its political subdivisions, and municipal

5 corporations;

6 (iii) Persons who maintain a place of business in this state but

7 who are not required to be registered with the department under RCW

8 82.32.030(1);

9 (iv) The sale or use of fossil fuels in chapter 82.38 RCW at the

10 point of taxation as described in chapter 82.38 RCW; and

11 (v) The seller of regulated natural gas, when sold to the

12 consumer.

13 (c) A sale of fossil fuel takes place in this state when the

14 fossil fuel is delivered in this state to the purchaser or a person

15 designated by the purchaser, notwithstanding any contract terms

16 designating a location outside of this state as the place of sale.

17 (d) Each sale of a fossil fuel in this state, except sales of

18 regulated natural gas subject to subsection (7) of this section, must

19 indicate on the invoice or other document of sale the amount of

20 carbon pollution tax paid or to be paid with respect to the fossil

21 fuel and the rate of such tax paid or to be paid, who paid or is

22 liable to pay the tax, and any other information as may be prescribed

23 by the department by rule. If a purchaser of fossil fuels sold in

24 this state fails to obtain an invoice or document of sale that

25 complies with this subsection (2)(d), the department may collect the

26 carbon pollution tax from the purchaser.

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

28 the carbon calculation is determined as follows:

29 (a) For electricity consumed within the state, the department of

30 commerce, in consultation with the department of ecology, must

31 establish criteria for making the carbon calculation. The criteria

32 must be adopted with the intent that the carbon pollution tax be

33 calculated based upon a per kilowatt hour amount across all kilowatt

34 hours delivered to customers by that utility;

35 (b) For fossil fuels used to refine fossil fuels, the department

36 of commerce, in consultation with the department of ecology, must

37 adopt by rule criteria for making the carbon calculation; and

38 (c) For all other fossil fuels sold or used in Washington by any

39 person, the department of commerce, in consultation with the

1 department of ecology, must adopt by rule criteria for making the
2 carbon calculation.

3 (4) For taxpayers who are also subject to any of the taxes
4 imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW, the
5 frequency of reporting and payment of the carbon pollution tax must,
6 to the extent practicable, coincide with a taxpayer's reporting
7 periods for the taxes imposed under chapter 82.04, 82.08, 82.12, or
8 82.16 RCW.

9 (5) A commercial vehicle engaged in interstate or international
10 commerce and reporting under an existing state, interstate, or
11 international fuel tracking agreement reported to the department of
12 licensing or other state agency, is subject to the carbon pollution
13 tax only on fossil fuels consumed within the state, regardless of
14 where the fossil fuels were purchased. The department of licensing
15 must share information relevant to the carbon pollution tax upon
16 request from the department.

17 (6) Except as provided in subsection (7) of this section, the
18 carbon pollution tax on the sale or use of the fossil fuel is on the
19 seller or user of the fossil fuel.

20 (7) For purposes of this section, "regulated natural gas" means
21 natural gas sold to a gas distribution business as defined in RCW
22 82.16.010 for resale by the natural gas distribution business to
23 consumers within this state.

24 (8) Prior to July 1, 2023, a state agency may not adopt a rule or
25 policy establishing a statewide limit, cap, or standard to control
26 the amount of greenhouse gas emissions occurring during a period of
27 time, unless authority for the state agency to adopt such a rule or
28 policy is clearly expressed in legislation enacted after the
29 effective date of this section.

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

1 NEW SECTION. **Sec. 103.** CARBON REDUCTION AND ENVIRONMENTAL
2 RESILIENCY ACCOUNT. The carbon reduction and environmental resiliency
3 account is created in the state treasury. All receipts from the
4 carbon pollution tax under section 102 of this act must be deposited
5 into the account. Moneys in the account may be spent only after
6 appropriation. After allocating no more than three percent of the
7 receipts to the department and other state agencies to administer the
8 carbon pollution tax, expenditures from the account must be
9 distributed as follows:

10 (1) Four-hundred million dollars to the carbon reduction
11 solutions account created in section 601 of this act.

12 (2) The remainder must be deposited as follows:

13 (a) Fifteen percent each fiscal year into the general fund to be
14 used for the purpose of relieving the price of the tax imposed in
15 section 102 of this act including, but not limited to, providing
16 funding for the following programs:

17 (i) The aged, blind, or disabled cash assistance program;

18 (ii) The temporary assistance for needy families program;

19 (iii) The low-income home energy assistance program; and

20 (iv) The low-income carbon pollution mitigation tax grant created
21 in section 201 of this act;

22 (b) Twenty percent each fiscal year must be deposited into the
23 water infrastructure account created in section 301 of this act;

24 (c) Twenty percent each fiscal year must be deposited into the
25 forest resilience and fire suppression account created in section 401
26 of this act; and

27 (d) Forty-five percent each fiscal year must be deposited into
28 the carbon reduction investment fund account created in section 501
29 of this act.

30 NEW SECTION. **Sec. 104.** EXEMPTIONS, PHASE-INS, AND CREDITS. (1)
31 The carbon pollution tax does not apply to:

32 (a) Fossil fuels brought into this state by means of the fuel
33 supply tank of a motor vehicle, vessel, locomotive, or aircraft;
34 except for fossil fuels brought into the state by means of the fuel
35 supply tank of a commercial vehicle and consumed within the state,
36 when the commercial vehicle is engaged in interstate or international
37 commerce and reporting under an existing state, interstate, or
38 international fuel tracking agreement reported to the department of
39 licensing or other state agency;

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

4 (c) Electricity imported by way of wheeling or otherwise into
5 Washington or all Bonneville power administration Tier 1 products as
6 identified in the regional dialogue contracts.

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

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

22 (d)(i) Fossil fuels and electricity used on-site by an energy-
23 intensive trade-exposed manufacturing business.

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

36 (iii) Notwithstanding the criteria established in this subsection
37 (1)(d)(ii), the department must issue a certificate denoting energy-
38 intensive trade-exposed exempt status to a manufacturing business
39 with a proper primary North American industry classification system
40 code based on the following activities:

1 112310: Chicken egg production
2 112320: Broilers and other meat type chicken production
3 112330: Turkey production
4 112340: Poultry hatcheries
5 112390: Other poultry production
6 311211: Flour milling
7 311221: Wet corn milling
8 311224: Soybean and other oilseed processing
9 311225: Fats and oils refining and blending
10 311230: Breakfast cereal manufacturing
11 311411: Frozen fruit, juice, and vegetable manufacturing
12 311412: Frozen specialty food manufacturing
13 311421: Fruit and vegetable canning
14 311422: Specialty canning
15 311423: Dried and dehydrated food manufacturing
16 311511: Fluid milk manufacturing
17 311512: Creamery butter manufacturing
18 311513: Cheese manufacturing
19 311514: Dry, condensed, evaporated, dairy product manufacturing
20 311520: Ice cream and frozen dessert manufacturing
21 311611: Animal (except poultry) processing
22 311612: Meat processed from carcasses
23 311613: Rendering and meat byproduct processing
24 311615: Poultry processing
25 311710: Seafood product preparation and packaging
26 311812: Commercial bakeries
27 311821: Cookie, cracker manufacturing
28 311824: Flour mixes and dough manufacturing from purchased flour
29 311830: Tortilla manufacturing
30 311911: Roasted nuts and peanut butter manufacturing
31 311919: Other snack food manufacturing
32 311930: Flavoring syrup and concentrate manufacturing
33 311941: Mayonnaise, dressing, and other prepared sauce
34 manufacturing
35 311942: Spice and extract manufacturing
36 311991: Perishable prepared food manufacturing
37 311999: All other miscellaneous food manufacturing
38 312112: Bottled water manufacturing
39 322110: Pulp mills
40 322121: Paper (except newsprint) mills

1 322122: Newsprint mills
2 322130: Paperboard mills
3 324110: Petroleum refineries
4 325188: All other basic inorganic chemical manufacturing
5 325199: All other basic organic chemical manufacturing
6 315311: Nitrogenous fertilizer manufacturing
7 327211: Flat glass manufacturing
8 327213: Glass container manufacturing
9 327310: Cement manufacturing
10 327410: Lime manufacturing
11 327420: Gypsum product manufacturing
12 321111: Iron and steel mills
13 331312: Primary aluminum production
14 331315: Aluminum sheet, plate, and foil manufacturing
15 334413: Semiconductor and related device manufacturing
16 336411: Aircraft manufacturing
17 336413: Other aircraft parts and auxiliary equipment
18 manufacturing;

19 (e) The portion of fuels or electricity derived from wood, wood
20 waste, wood by-products, wood residuals, and agricultural residues;

21 (f) One hundred percent biofuels or the biofuel component of
22 blended fuels. For the purposes of this subsection, "biofuel"
23 includes, but is not limited to, biodiesel, biomethane, ethanol, and
24 ethanol blend fuels and renewable liquid natural gas or liquid
25 compressed natural gas made from biogas; and

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

29 (2)(a) The carbon pollution tax is phased-in as described in this
30 subsection for:

31 (i) Carbon content inherent in electricity.

32 (ii) Residential uses of natural gas.

33 (b) The tax rate for these fuels will be twenty-five percent of
34 the rate described in section 102 of this act on July 1, 2018, fifty
35 percent on July 1, 2020, seventy-five percent on July 1, 2022, and
36 one hundred percent of the rate on July 1, 2024.

37 (3)(a) A qualifying utility and gas distribution business, as
38 defined under RCW 82.16.010, is allowed a credit against the tax
39 imposed under section 102 of this act by a qualifying utility or gas

1 distribution business in an amount not to exceed seventy-five percent
2 of the taxes collected during the fiscal year.

3 (b) Subject to approval by the Washington utilities and
4 transportation commission, the commission of a district, or a
5 governing body, the amounts collected as credits under this section
6 by a qualifying utility or gas distribution business against the tax
7 imposed under section 102 of this act may be expended on the
8 following:

9 (i) Conservation, as defined under RCW 19.285.030, that is in
10 excess of the conservation target under RCW 19.285.040(1) and that is
11 not otherwise cost-effective, as defined under RCW 19.285.030(7);

12 (ii) Low-income weatherization;

13 (iii) Low-income energy assistance or uniform discounts within
14 specific rate classifications provided these expenditures do not
15 exceed twenty-five percent of the amounts collected as credits under
16 this section;

17 (iv) Infrastructure for reducing emissions in the transportation
18 sector by supplying compressed and liquefied natural gas to motor
19 vehicles, marine vessels, and trains;

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

22 (A) Equipment on an electrical company's transmission and
23 distribution system to accommodate electrical vehicle connections,
24 enable electronic interaction between the company and charging
25 systems, and facilitate company utilization of vehicle batteries for
26 system needs;

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

28 (C) Incentives for property owners to install charging equipment;
29 and

30 (D) Incentives for the electrification of school buses defined in
31 RCW 46.04.521 and used for pupil transportation or other school
32 purposes;

33 (vi) In addition to the purposes of this subsection, funds
34 distributed under this subsection (3)(b) may be used to minimize debt
35 that may be incurred by the company's investment in and development
36 of renewable resources, as defined under RCW 19.285.030, in order to
37 lower the cost of the resource's development to customers. Such
38 renewable resources may include utility-scale generation as well as
39 distributed energy resources; and

1 (vii) Any purpose other than those enumerated in this section, as
2 long as the expenditure would contribute to reducing greenhouse gas
3 emissions, provided the expenditure does not exceed one hundred
4 dollars in 2017 dollars per ton of carbon dioxide equivalent of
5 reduced emissions of greenhouse gases.

6 (c) The Washington utilities and transportation commission may
7 adopt rules to implement this section for a light and power business
8 and gas distribution business, as defined under RCW 82.16.010.

9 (d) A light and power business that is an investor-owned utility
10 may not earn a rate of return from the portion of investments paid
11 for with amounts collected as credits under this section.

12 (4) A declared resource in this state that generates electricity
13 through the combustion of natural gas is eligible to receive a credit
14 against any carbon tax paid under section 102 of this act to the
15 extent the taxpayer demonstrates that the declared resource replaces
16 or reduces the generation of electricity from out-of-state sources
17 fueled by coal, provided the declared resource commenced operation
18 after June 30, 2008, is located in the state of Washington, and meets
19 the greenhouse gas emissions performance standard in RCW 80.80.040(1)
20 (a) and (b). The credit must be derived by multiplying the carbon
21 content of the electricity produced by the coal-fueled resource
22 (calculated pursuant to section 102(3) of this act) by the number of
23 kilowatt-hours avoided and subtracting from this amount the carbon
24 content of the electricity produced by the in-state natural gas-
25 fueled resource (calculated pursuant to section 102(3) of this act)
26 multiplied by the same number of kilowatt hours.

27 (5) If a person pays the carbon pollution tax, or a similar
28 carbon pollution tax imposed by another state, on fossil fuels that
29 are consumed in the generation of electricity sold for consumption in
30 this state, the electricity so generated or used will not be subject
31 to the tax imposed under this chapter provided that the department
32 receives evidence, pursuant to rules adopted by the department, that
33 the tax has been paid by the person using the fossil fuels to
34 generate electricity.

35 (6) Credit is allowed against the carbon pollution tax for any
36 similar carbon pollution tax legally due and paid by the taxpayer or
37 other person to another state with respect to the same fossil fuel or
38 electricity. The amount of the credit may not exceed the tax
39 liability arising under this chapter with respect to that fossil fuel
40 or electricity.

1 (7) The carbon pollution tax must be reduced or refunded to the
2 extent that the person who paid the tax can demonstrate that the
3 fossil fuels or electricity in respect to which the tax was paid did
4 not contribute to increasing the atmospheric carbon dioxide
5 concentration by reason of qualified sequestration or such other
6 reason as may be provided by rule adopted by the department of
7 commerce in consultation with the department of ecology. The tax
8 reduction in such cases must be proportional to the fraction of
9 emissions that can be demonstrated not to contribute to increasing
10 the atmospheric carbon dioxide concentration. The department of
11 commerce, in consultation with the department of ecology, must adopt
12 by rule criteria for determining when a refund or reduction of carbon
13 pollution tax qualifies under this subsection. The right to carbon
14 pollution tax refund or reduction under this subsection may not be
15 transferred, traded, or banked.

16 (8) A commercial vehicle engaged in interstate or international
17 commerce and reporting under an existing state, interstate, or
18 international fuel tracking agreement reported to the department of
19 licensing or other state agency is eligible to receive a credit or
20 refund against any carbon tax paid under section 102 of this act on
21 fossil fuels purchased within the state that are transported in a
22 fuel supply tank and consumed outside the state.

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

25 (a) "Similar carbon pollution tax" means a tax:

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

30 (ii) That is measured by the carbon content of such fossil fuels,
31 or the carbon content inherent in such electricity, in terms of
32 carbon dioxide emissions.

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

37 NEW SECTION. **Sec. 105.** RULE MAKING AND OTHER ADMINISTRATIVE
38 AUTHORITY. (1) The provisions of chapter 82.32 RCW apply to this
39 chapter.

1 (2) The department may adopt rules as it deems necessary to
2 administer this chapter.

3 NEW SECTION. **Sec. 106.** REPORTS BY UTILITIES. (1) A qualifying
4 utility must file with the department of commerce an electricity
5 resource report. The report must be filed with the department of
6 commerce during the reporting period for the tax imposed under
7 section 102 of this act, as determined by the department. The
8 department of commerce must share the report with the department of
9 revenue.

10 (2) The department of commerce must adopt rules regarding the
11 content of the electricity resource report submitted under this
12 section. The electricity resource report rules must require the
13 submission of any information deemed necessary by the department of
14 commerce or by the department of revenue to administer the tax
15 imposed under this chapter.

16 (3) The department of commerce must adopt rules under which a
17 qualifying utility may specify the resources used to generate
18 electricity that is not a resource that is declared by the qualifying
19 utility. To the maximum extent practicable, the electricity source
20 specification requirements and procedures adopted by the department
21 of commerce must be consistent with the electric source specification
22 requirements that apply to electricity in other jurisdictions that
23 have adopted a policy that results in the imposition of a tax, price,
24 or other cost associated with the carbon content of electricity.

25 (4) For purposes of imposing the tax under this chapter, the
26 department of revenue must assume the carbon content for unspecified
27 sources as the lesser of the most recent emissions performance
28 standard calculated pursuant to RCW 80.80.080, or the net system
29 power calculated pursuant to RCW 19.29A.080(6)(b) for the same year.

30 (5) The department must specify that electricity that does not
31 meet the definition of declared resources will have an assumed carbon
32 content of one metric ton of carbon.

33 NEW SECTION. **Sec. 107.** RCW 19.29A.060 (Fuel mix disclosure—
34 Electricity product categories—Disclosure format) and 2000 c 213 s 4
35 are each repealed.

36 NEW SECTION. **Sec. 108.** REPORT BY DEPARTMENT. On or before
37 October 31st of each year from 2020 through 2025 and biennially

1 thereafter, the department must submit a report to the governor and
2 the legislature containing the following with respect to the annual
3 or biennial period ending December 31st immediately preceding the
4 reporting date, annualized if in a biennial report:

5 (1) The total carbon pollution tax collected during the reporting
6 period;

7 (2) The revenue foregone by the state resulting from the phase-
8 ins described in section 102 of this act;

9 (3) The revenue foregone by the state resulting from exemptions
10 claimed against the tax imposed under section 102 of this act by an
11 energy-intensive trade-exposed manufacturing business;

12 (4) The revenue foregone by the state resulting from credits
13 claimed against the tax imposed under section 102 of this act by a
14 qualifying utility and gas distribution business, as defined under
15 RCW 82.16.010;

16 (5) Estimated costs incurred by the department, the department of
17 commerce, the department of ecology, the Washington utilities and
18 transportation commission, and the Washington state university
19 extension energy program directly associated with administration of
20 the carbon pollution tax shown both in dollar amounts and as a
21 percentage of the state general fund. The department of commerce, the
22 department of ecology, the Washington utilities and transportation
23 commission, and the Washington state university extension energy
24 program must report its estimated administrative costs under this
25 subsection to the department each year at least two weeks before the
26 deadline for the report required under this section; and

27 (6) The estimated overall net revenue gain or loss calculated by
28 comparison of subsections (1) and (5) of this section in dollar
29 amounts and as a percentage of the state general fund.

30 NEW SECTION. **Sec. 109.** JOINT LEGISLATIVE AUDIT AND REVIEW
31 COMMITTEE REVIEW. (1) By December 31, 2025, the joint legislative
32 audit and review committee, in consultation with the department, the
33 department of commerce, and the department of ecology, must conduct a
34 review of the tax imposed under section 102 of this act.

35 (a) The committee review must include, but is not limited to, an
36 analysis of any net economic impacts on job creation or economic
37 activity that may have been directly or indirectly attributable to
38 this tax, the impact of the tax, if any, on total greenhouse gas
39 emissions, considering both in-state emissions and emissions

1 associated with economic activity occurring outside the state where
2 avoidance of this tax is a possible factor, the impact of the tax on
3 consumers of energy in Washington, including the proportion of the
4 impact on low-income households. The report must evaluate the
5 effectiveness of the use of revenues by the state in mitigating cost
6 impacts to consumers, including mitigating any disproportionate
7 impact on low-income households, the effectiveness in the use of
8 revenues to reduce and mitigate the impact of greenhouse gas
9 emissions and the effectiveness of investments in advancing
10 development and achieving commercialization of new clean technologies
11 and meeting the purposes of expenditures outlined in sections 103 and
12 401 through 601 of this act.

13 (b) The committee must also provide an analysis of the
14 effectiveness of investment of funds by qualifying utilities and gas
15 distribution businesses as provided in section 104(3) of this act,
16 including the amount of conservation achieved, the amount and results
17 of investments made in electrification of transportation and
18 infrastructure improvements and incentives to promote transportation
19 electrification or the use of other alternative fuels for
20 transportation, to the degree practicable a calculation of the
21 reduction in greenhouse gas emissions resulting from utility
22 investments of retained funds, and the amount of funds directed to
23 mitigate financial impacts on ratepayers, including low-income
24 households.

25 (2) The joint legislative audit and review committee must report
26 to the governor and the appropriate committees of the legislature and
27 make recommendations as to whether there should be adjustments to the
28 tax rate to provide appropriate incentives for reducing global
29 greenhouse gas emissions and meeting the other objectives stated in
30 this act without unnecessary negative economic outcomes on Washington
31 workers and consumers.

32 NEW SECTION. **Sec. 110.** TECHNICAL ASSISTANCE. Upon request of
33 the department, the department of commerce, the department of
34 ecology, the Washington utilities and transportation commission, and
35 the Washington state university extension energy program must provide
36 technical assistance to the department as may be necessary for the
37 department to effectively administer this chapter.

1 grant is sought, provided the adjusted gross income of a qualified
2 person does not exceed two hundred percent of the federal poverty
3 level.

4 (4) The cumulative grant amount may not exceed the available
5 funds as provided in section 103(2)(a)(iv) of this act.

6 (5) The grant under this section must be administered according
7 to this subsection (5):

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

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

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

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

25 (e) The department must, in conjunction with other agencies and
26 community-based nonprofit organizations, design and implement a
27 public information campaign that is language and culturally
28 appropriate to inform potentially eligible persons of the existence
29 and requirements of this grant and the process to apply for this
30 grant;

31 (f) Funds allocated to this rebate but unspent due to less than
32 full enrollment of eligible persons, must be carried forward into the
33 subsequent year; and

34 (g) The department may adopt any rules necessary to implement
35 this section.

36 (6) The low-income carbon pollution mitigation tax grant must be
37 excluded from consideration as income for the purpose of determining
38 eligibility and benefit levels of food stamp or benefit program
39 recipients to the maximum exclusion authorized by federal law.

Part III
Water Projects

1
2
3 NEW SECTION. **Sec. 301.** CREATION OF THE WATER INFRASTRUCTURE
4 ACCOUNT. The water infrastructure account is created in the state
5 treasury. All receipts from the carbon reduction and environmental
6 resiliency account specified in section 103(2)(b) of this act must be
7 deposited into the account. Moneys in the account may be spent only
8 after appropriation.

9 NEW SECTION. **Sec. 302.** PRIORITIES FOR WATER INFRASTRUCTURE
10 PROJECTS. Expenditures from the water infrastructure account may be
11 used only for projects and activities that significantly reduce risks
12 to Washington's public health and safety, economy, and environmental
13 vitality and are consistent with the following priorities:

14 (1) Reducing storm water pollution from existing infrastructure
15 and development, priority must be given to projects and activities
16 for highly affected communities;

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

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

22 (4) Fish barrier correction projects at state highways required
23 by the injunction entered in *United States v. Washington* (Civ. No.
24 CV9213RSM). Where the department of transportation determines that
25 the amounts appropriated exceed the current biennial appropriation
26 necessary to meet the overall timeline for compliance with the
27 injunction, the department may provide funding for fish barrier
28 correction projects on state or local roadways, with the highest
29 priority for funding to be accorded to projects with the greatest
30 restoration of fish habitat access. In making awards for projects not
31 subject to the injunction the department must obtain the
32 recommendations of the fish passage barrier removal board created in
33 RCW 77.95.160.

1 **Part IV**

2 **Forest Resilience and Fire Suppression**

3 NEW SECTION. **Sec. 401.** A new section is added to chapter 76.04
4 RCW to read as follows:

5 FOREST RESILIENCE AND FIRE SUPPRESSION ACCOUNT. (1) The forest
6 resilience and fire suppression account is created in the state
7 treasury. All receipts from the carbon reduction and environmental
8 resiliency account specified in section 103(2)(c) of this act must be
9 deposited into the account. Fifty percent of the expenditures from
10 the account may be used only for forest health activities and the
11 remaining fifty percent may be used only for fire suppression
12 activities set out in this chapter.

13 (2) The department must develop procedures and criteria for
14 allocation of money in the forest resilience and fire suppression
15 account for:

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

21 (b) Grants to support the army national guard and other entities
22 for their role in supporting fire suppression.

23 (3)(a) If Second Substitute Senate Bill No. 5546 is enacted by
24 June 30, 2017, the department must prioritize expenditures for forest
25 health activities based on the forest health treatment and assessment
26 framework developed in Second Substitute Senate Bill No. 5546.

27 (b) Grants to projects and activities for highly affected
28 communities and community preparedness organizations that reduce the
29 risk of wildfires and improve communities' ability to adapt to
30 wildfires must be given priority.

31 **Part V**

32 **Carbon Reduction Fund**

33 NEW SECTION. **Sec. 501.** CARBON REDUCTION INVESTMENT FUND
34 ACCOUNT. The carbon reduction investment fund account is created in
35 the state treasury. All receipts from the carbon reduction and
36 environmental resiliency account specified in section 103(2)(d) of
37 this act, and other moneys directed by the legislature, must be

1 deposited in the account. Moneys in the account may only be used for
2 the purposes described in this section, and may only be spent after
3 appropriation.

4 (1) The department of commerce must manage the fund and in the
5 role of manager must solicit proposals and award funding for projects
6 that reduce greenhouse gas emissions in Washington state, or projects
7 that reduce emissions directly connected to energy use and other
8 activity in Washington state. The manager of the fund must award
9 funding with the primary goal to maximize the net cumulative
10 reduction of greenhouse gas emissions within the amounts as
11 appropriated.

12 (2) The department of commerce must consult with the department
13 of ecology and the Washington State University extension energy
14 program in the design and operation of the fund. The fund must adhere
15 to the principles of technology neutrality, cost-effectiveness, and
16 competitive markets. Priority will be given to projects that return
17 direct benefits to highly affected communities, provided the projects
18 achieve equivalent net emission reductions and are cost competitive
19 compared to other proposals. The fund must consider projects in the
20 following program areas, including but not limited to:

21 (a) Industrial energy efficiency. Manufacturers as defined in RCW
22 82.04.110 may propose projects that increase the energy efficiency or
23 reduce the greenhouse gas emissions of its facility including, but
24 not limited to, proposals to implement combined heat and power,
25 district energy, on-site renewables, or to upgrade existing equipment
26 such as boilers to more efficient models and to switch to less carbon
27 intensive fuel sources. Projects that reduce process emissions may
28 also be considered;

29 (b) Clean transportation. Managers of transportation fleets,
30 transit agencies, and others may propose projects that reduce
31 transportation-related emissions including, but not limited to,
32 proposals that exceed workplace targets for commute trip reduction
33 under the authority of chapter 70.94 RCW; accelerate the
34 electrification of, or use of hydrogen fuel cell technology to fuel,
35 public transit vehicles, school buses used for per pupil
36 transportation, and light duty vehicle fleets; create integrated
37 transportation networks using pneumatic tube driven transportation
38 systems; create electric vehicle charging or hydrogen refueling
39 infrastructure; and proposals that implement biomethane or other

1 gaseous or liquid biofuels for transportation that result in reduced
2 greenhouse gas emissions;

3 (c) Energy efficiency for existing buildings. Building owners and
4 facility managers may propose projects that improve energy efficiency
5 and utilize demand side management of electricity, including the use
6 of natural gas and other fossil fuel consumption proposals when they
7 deliver emission reductions that meet the requirements set forth in
8 subsection (3) of this section; and

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

18 (3) The department of commerce must by rule develop the process
19 and mechanisms to solicit, review, approve, and award proposals. The
20 department of commerce must evaluate the suitability of multiple
21 approaches before selecting one or more approaches, including but not
22 limited to: Awarding funding based on the total net carbon reductions
23 achieved by the project; awarding funding based on the portion of
24 carbon reductions that are not cost-effective under current market
25 conditions; or by setting a fixed award amount for greenhouse gas
26 emission reductions or qualified sequestration based on a reverse
27 auction or some other market determined amount. The department of
28 commerce may also consider making an award in the form of upfront
29 payments, estimated annual payments, or payments only after the
30 carbon reductions have been measured and verified. Under no
31 circumstance will the department of commerce award an amount in
32 excess of one hundred dollars in 2017 per ton of carbon dioxide
33 equivalent or reduced emissions of greenhouse gases for any proposal.
34 Project proposals must be judged by criteria set in rule by the
35 department of commerce. The criteria must be predominantly weighted
36 based upon the following:

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

39 (i) Real, specific, quantifiable, and identifiable emission
40 reductions; and

1 (ii) Additional to existing law, statute, or legal requirement;
2 and

3 (b) Cost-competitive compared to other proposals submitted within
4 the same program area.

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

10 (b) By March 1, 2018, the Washington State University extension
11 energy program must complete a clean energy investment study to
12 recommend appropriate award amounts per ton of carbon dioxide
13 equivalent of greenhouse gas emission reductions for a variety of
14 clean energy, efficiency, and other project types. This study must
15 take into account greenhouse gas emission reduction project prices in
16 regulatory and voluntary carbon reduction programs operated in other
17 jurisdictions and be set at the minimum level deemed necessary to
18 catalyze investment of these project types. By March 1, 2020, and by
19 March 1st of each even-numbered year thereafter, the Washington State
20 University extension energy program and the department of commerce
21 must update the recommended award amounts for the following two-year
22 period.

23 (5) Recipients of funding for projects must submit to the
24 department of commerce a progress report at a date or dates to be
25 determined in the funding contract. The progress report must be
26 delivered in a format specified by the department of commerce and
27 must include the following in addition to any such information as the
28 department of commerce requires in the terms of the contract:

29 (a) Summary of the investments made and technology installed and
30 deployed;

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

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

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

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

3 (iv) The site visits conducted; and

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

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

12 NEW SECTION. **Sec. 502.** The department of commerce may adopt
13 rules as it deems necessary to administer this chapter.

14 **Part VI**

15 **Carbon Reductions Solutions Account**

16 NEW SECTION. **Sec. 601.** CARBON REDUCTIONS SOLUTIONS ACCOUNT. (1)
17 The carbon reductions solutions account is created in the state
18 treasury. All receipts from the carbon reduction and environmental
19 resiliency account specified in section 103(1) of this act must be
20 deposited in the account. Moneys in the account may be spent only
21 after appropriation.

22 (2) Expenditures from the account may only be expended for the
23 purpose of providing funding to offset some or all of the state
24 fiscal impacts of the following:

25 (a) School district programs under chapter 28A.160 RCW for per
26 pupil transportation;

27 (b) Credits against state taxes owing by retail electric
28 utilities for the renewable energy incentive payments made to
29 customers installing solar or other renewable energy facilities at
30 their premises, pursuant to RCW 82.16.130;

31 (c) The alternative fuel vehicle tax exemption pursuant to RCW
32 82.08.809 and 82.12.809;

33 (d) The alternative fuel commercial vehicle tax credit pursuant
34 to RCW 82.16.0496;

35 (e) Tax exemptions provided for natural gas when used as a
36 transportation fuel pursuant to RCW 82.08.02565 and 82.12.02565;

1 (f) Tax credits provided for biodiesel feedstock pursuant to RCW
2 82.08.0205 and 82.12.0205; and

3 (g) Funding for projects that provide a benefit to the public
4 through development, demonstration, and deployment of clean energy
5 technologies that save energy and reduce energy costs, reduce harmful
6 air emissions, or otherwise increase energy independence for the
7 state. In funding such projects, the department of commerce must be
8 guided by the project selection procedures and standards required by
9 the omnibus capital appropriations act in section 1028, chapter 3,
10 Laws of 2015 3rd sp. sess.

11 **Part VII**

12 **Miscellaneous Provisions**

13 NEW SECTION. **Sec. 701.** RCW 82.32.805 and 82.32.808 do not apply
14 to any provisions of this act.

15 NEW SECTION. **Sec. 702.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 703.** Part I of this act, with the exception
20 of section 107, constitutes a new chapter in Title 82 RCW.

21 NEW SECTION. **Sec. 704.** Parts II, IV, and V of this act
22 constitute a new chapter in Title 70 RCW.

23 NEW SECTION. **Sec. 705.** (1) Prior to July 1, 2023, if the people
24 of Washington enact a charge, tax, regulatory limit, or standard upon
25 the emission of greenhouse gases that is imposed broadly upon those
26 persons subject to the state tax imposed under section 102 of this
27 act, this act expires on the date that such law is enacted.

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

1 NEW SECTION. **Sec. 706.** This act takes effect January 1, 2018.

--- **END** ---