H-1546.1

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**HOUSE BILL 1577**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Hackney, Wicks, Ramel, Lekanoff, and Pollet

AN ACT Relating to meeting the greenhouse gas emissions targets established in Engrossed Second Substitute House Bill No. 2311, chapter 79, Laws of 2020, and creating a tax and a temporary bond program to fund transportation investments and projects that reduce greenhouse gas emissions; amending RCW 70A.15.1030 and 70A.15.3000; adding a new chapter to Title 82 RCW; and declaring an emergency.

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

NEW SECTION. **Sec.**  FINDINGS AND INTENT. (1) The legislature recognized in 2020, with the enactment of Engrossed Second Substitute House Bill No. 2311, chapter 79, Laws of 2020, that Washington state needs to make significant reductions in greenhouse gas emissions and adopted limits that are in line with both the scientific consensus and with the limits that have been adopted around the world. The targets adopted in Engrossed Second Substitute House Bill No. 2311 were a clear next step to build on past legislative efforts, and it is the intent of the legislature to adopt this act to help our state transition as quickly as possible to clean and renewable sources of energy and reduction of greenhouse gas emissions to meet the goals set in Engrossed Second Substitute House Bill No. 2311 in an economically sound way while placing environmental justice at the forefront. This act accomplishes those goals by putting a price on greenhouse gas emissions and dedicating the revenue to investments that deliver meaningful greenhouse gas reduction.

(2) The legislature recognizes that transportation emissions in the state account for 45 percent of the state's total greenhouse gas emissions and more than half of emissions covered under this act. Therefore, at least 60 percent of the revenue raised by the tax created in this act will be allocated for the miles ahead transportation investments that will reduce greenhouse gas emissions. Such investments are necessary to effectively address the greatest source of statewide greenhouse gas emissions while building a clean and just transportation system that will grow our economy and safely move people and goods across our state.

(3) Climate risk is economic risk and it is imperative that Washington act now to safeguard the state's communities and industries against future shocks and disasters by putting a price on practices that increase the state's exposure to risk and investing in those that increase resilience. From farmers whose business is directly threatened by the climate crisis, to coastal communities at risk of outright displacement, the state must act now by investing locally at the scale needed to move all Washingtonians toward a future of shared prosperity as we build the clean economy here in Washington state.

(4) Washington state is home to some of the world's most innovative companies, a highly skilled workforce, unique biodiversity and natural areas, valuable natural resource land, and important industries. As our state transitions away from a fossil fuel-based economy, we must do so in a way that protects these assets and allows our businesses to thrive. By launching a comprehensive fiscal program that incentivizes and invests in resilient infrastructure and climate-smart investments across all areas of development, we can reduce our state's carbon dioxide emissions while preparing our economy for the future.

(5) The legislature recognizes that rural areas are home to the state's working and natural lands, including forests and farms, and have both climate-related challenges and opportunities that differ from urban areas. Rural workers have further distances to travel to their jobs and the state must provide assistance in the transition to lower carbon transportation options. Rural areas may also have greater vulnerability to flooding, wildfires, and other events whose harm and frequency are increased by climate change, and state assistance should be directed toward increasing community resilience to these harms. Programs to reduce carbon pollution and to sequester carbon in the state's forests and farming soils also provide an opportunity to benefit the state's farmers and forestland owners.

(6) More than half of Washington is forested with 22,000,000 acres of forests covering the state, including natural and working lands, private lands, and state trust lands. Maintaining natural and working forestlands of all types is important to support both carbon sequestration and a major sector of Washington's economy. The private and state lands represent the foundation of a forest products industry. The legislature determined in RCW 70A.45.005 that maintaining and enhancing the state's ability to continue to sequester carbon through natural and working lands and forest products should be continued. These working forests are one of the state's greatest natural assets in combating global greenhouse gas emissions. A statewide carbon policy must support and maintain the ecosystem values provided by the forest products industry. Healthy, sustainable, and working forests maximize the forests' ability to absorb carbon dioxide with lumber and other forest products continuing to sequester that carbon dioxide in their useful life. For these reasons, this chapter exempts certain timber-related uses of fuels subject to the carbon pollution tax imposed under this chapter, and also creates a voluntary incentive program to increase carbon sequestration on both state and private lands.

(7) Washington is also home to one of the most productive and innovative agricultural sectors in the world. Agriculture is not only critical to our economy, but is also integral to our culture. With farmers and farmworkers on the front lines of climate-related disruption such as wildfire, flooding, drought, pests, and other threats to the land, labor, and business of farming, investing in practices that increase the natural and economic resilience of, and decrease the greenhouse gas emissions from, Washington agriculture is critical. Farmers have been leading the way on land stewardship and soil health for decades, while operating in a highly trade-exposed and price-constrained industry that imposes singular economic challenges. For these reasons, this chapter exempts certain agricultural uses of fuels subject to the carbon pollution tax imposed under this chapter.

(8) Washington is leading the transition to a clean energy economy and in 2019 adopted chapter 19.405 RCW, the Washington clean energy transformation act, to eliminate coal-fired electricity; to transition the state's electricity supply to 100 percent greenhouse gas neutral by 2030 and to 100 percent nonemitting and renewable resources by 2045; and to establish strong compliance mechanisms and significant penalties within chapter 19.405 RCW if a utility failed to meet the mandates. Because of the laws created in 2019 to transition the electricity sector to 100 percent carbon free, emissions from fossil fuels consumed in the electricity sector is not included in the requirements of this chapter.

(9) The legislature recognizes the concern from imposing the requirements of this chapter on energy-intensive, trade-exposed industries in our state and the possibility that it might provide a comparative advantage to producers in unregulated states or countries, leading to a migration of manufacturing to unregulated states or countries and generating a corresponding increase in greenhouse gas emissions that would undermine the efforts of this chapter. Because of the concern of leakage, the department of ecology must provide a report to the legislature by July 30, 2024, with recommendations on imposing the requirements of this chapter on energy-intensive, trade-exposed entities identified by the North American industry classification system code. The recommendations must include input from individual energy-intensive, trade-exposed industry stakeholders, allow for growth, recognize and provide credit for early actions, recognize the limits of best available control technology, allow for either internal or external benchmarking, and include an analysis of alternative fuels available that could be feasibly used in lieu of fossil fuels.

(10) Fossil fuel combustion is also responsible for other pollutants, such as nitrous oxide, carbon monoxide, benzene, particulate matter, and others that contribute to respiratory diseases like asthma and lung cancer, which compromise public health, shorten life expectancy, and strain our public health system. This pollution affects all Washingtonians, but falls disproportionately on low-income communities, communities of color, and the most vulnerable of our population. While reducing our reliance on fossil fuels will contribute to improved air quality and improved public health outcomes, it is the intent of this chapter to further advance the state's ability to reduce these other pollutants by prioritizing air pollution reduction investments and regulatory measures in these overburdened communities.

(11) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of environmental harm to overburdened communities and vulnerable populations; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency. It is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to overburdened communities and vulnerable populations.

(12) This chapter establishes a carbon pollution tax to account for a significant share of the economic and environmental impacts of greenhouse gas emissions. The revenue from the tax will facilitate the transition from fossil fuels to clean energy and fund investments that will benefit our businesses, our families, and our communities.

(13) Furthermore, this chapter establishes a 10-year climate finance program that provides much needed additional capacity to invest in a just transition that protects our communities and our economy from future disasters and builds the low-carbon future here in Washington state. This finance program mandates that investment decisions are made in a manner that provide accountability in government spending through a fiscally responsible bond program that invests at scale in climate priorities and delivers maximum returns in the form of both economic activity and carbon pollution reduction. These investments will not only save Washington taxpayers billions of dollars in avoidable future costs, but also foster growth and stability for rural and urban communities alike, across diverse economic sectors.

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

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

(2) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries, as well as the nonfossilized and biodegradable organic fractions of industrial waste, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

(3) "Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 50 percent lower greenhouse gas emissions based on a full life-cycle analysis when compared to petroleum fuels.

(4) "Carbon calculation" means a calculation made by the

department of ecology, in consultation with the department of

commerce, for purposes of determining the carbon dioxide emissions

from the complete combustion or oxidation of fossil fuels for use in

calculating the carbon pollution tax pursuant to section 3 of this

act. The carbon calculation also includes the life-cycle analysis of

emissions associated with these fuels determined under section 3 of

this act.

(5) "Carbon dioxide equivalent" means a metric measure used to

compare the emissions from various greenhouse gases based on their

global warming potential.

(6) "Carbon pollution tax" means the tax created in section 3 of

this act.

(7) "Coal" means a readily combustible rock of carbonaceous

material, including anthracite coal, bituminous coal, subbituminous

coal, lignite, waste coal, syncopal, and coke of any kind.

(8) "Cumulative environmental health impact" means the combined,

multiple environmental harms and health impacts on a vulnerable

population or overburdened community.

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

(10) "Direct access gas customer" means a person who purchases

natural gas for consumption from any seller other than a seller

registered with the department for purposes of paying taxes due under

chapter 82.04 or 82.16 RCW.

(11) "Emission," "emission standard," and "emission limitation,"

as applied to greenhouse gases as defined in RCW 70A.45.010, include

indirect emissions of greenhouse gases resulting from production or

distribution of petroleum products, natural gas, or other products,

where the release of air contaminants into the ambient air occurs

during the consumption, use, combustion, or oxidation of the

products.

(12) "Environmental harm" means the individual or cumulative

impacts and risks to communities caused by historic, current, and

projected:

(a) Exposure to conventional toxic hazards in the air, water, and

land;

(b) Adverse environmental effects, which are environmental conditions caused or made worse by contamination or pollution or that create vulnerabilities to climate impacts; and

(c) Impacts from climate change.

(13) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This includes using an intersectional lens to address disproportionate environmental and health impacts in all laws, regulations, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, equitably

distributing resources and benefits, and eliminating harm.

(14) "Facility" means any physical property, plant, building,

structure, source, or stationary equipment located on one or more

contiguous or adjacent properties in actual physical contact or

separated solely by a public roadway or other public right-of-way and

under common ownership or common control, that emits or may emit any

greenhouse gas.

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

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

(17) "Greenhouse gas" means carbon dioxide, methane, nitrogen trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated greenhouse gases.

(18) "Highly impacted community" has the same meaning as defined in RCW 19.405.020.

(19) "Motor vehicle fuel" has the same meaning as provided in RCW 482.38.020.

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

(21) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

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

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

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

(25) "Taxpayer" means a person subject to the carbon pollution tax created in section 3 of this act.

(26) "Tribal lands" has the same meaning as "Indian country" as provided in 18 U.S.C. Sec. 1151, and also includes sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

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

(b) "Use," "used," "using," or "put to use" means, with respect to natural gas, the consumption in this state of the fossil fuel by the taxpayer.

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

(28)(a) "Vulnerable populations" means population groups that may

be more likely to have adverse health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes racial or ethnic minority, low-income, tribal, or indigenous populations, and populations of workers experiencing environmental risks.

(29) "Year" means the 12-month period commencing January 1st and ending December 31st unless otherwise specified.

NEW SECTION. **Sec.**  ESTABLISHING A CARBON POLLUTION TAX. (1)(a) Beginning January 1, 2022, a carbon pollution tax is imposed on the sale or use within this state of all fossil fuels, except fossil fuels used to generate electricity.

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

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

(ii) For the purposes of measuring the tax rate under subsection (2) of this section only, from the entire life cycle of the fossil fuel.

(2) The tax rate as of January 1, 2022, is equal to $25.00 per metric ton of greenhouse gas emissions. The tax rate automatically increases annually each July 1st thereafter by five percent each year and is adjusted for inflation using the consumer price index.

(3) By January 1, 2026, the department of ecology shall make a determination of whether the sources of emissions covered by this tax are predicted to achieve their combined share of the emissions reductions necessary for the state to achieve the emissions limits established in RCW 70A.45.020. By January 1, 2026, the department of ecology must provide the legislature with a report detailing its determination with recommendations, pursuant to the tax and covered sources, for achieving the emissions limits established in RCW 70A.45.020.

(4) For the purposes of this chapter, the carbon pollution tax is imposed:

(a) Only once with respect to the same unit of fossil fuel;

(b) At the time and place of the first event within this state in which the tax is applicable, except as otherwise provided in this section, occurring on or after the effective date of this section, regardless of whether the fossil fuel was previously sold, used, or consumed within this state before the effective date of this section; and

(c) Upon the first person within this state upon which the tax would be applicable, except as otherwise provided in this section. Such a person includes:

(i) A person required to be registered with the department under RCW 82.32.030(1);

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

(iii) A person who maintains a place of business in this state, but who is not required to be registered with the department under RCW 82.32.030(1).

(5) As provided in this section, the carbon pollution tax on the sale or use of fossil fuels is imposed on the seller or user of the fossil fuel.

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

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

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

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

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

(8)(a) The carbon pollution tax may not be applied to the sale or use of any fossil fuels or consumption of electricity upon which the tax under this chapter has been previously imposed.

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

(c) All sales subject to the tax within this state of a fossil fuel must document the amount of carbon pollution tax paid in accordance with rules adopted by the department.

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

(a) The department must use a carbon calculation for all fossil fuels sold or used within the state that incorporates the life-cycle emissions associated with the consumption in the state of fossil fuels;

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

(c) The department of ecology may require additional information from sources as necessary, in consultation with the department of commerce, for determining the carbon calculation under this chapter.

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

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

(12) The department may require persons who produce or distribute fossil fuels or other products that emit greenhouse gases in Washington to comply with air quality standards, emission standards, or emission limitations on emissions of greenhouse gases.

(13) The carbon pollution tax created under this section is levied solely for the purposes of funding projects, activities, and programs that reduce greenhouse gas emissions and mitigate the environmental impacts of greenhouse gas emissions, associated copollutants, and climate change, and to reduce economic transition impacts associated with the tax on communities, household incomes with lower incomes, and fossil fuel workers. One hundred percent of receipts from the carbon pollution tax created under this section must be deposited in the climate finance account created in section 8 of this act.

NEW SECTION. **Sec.**  EXEMPTIONS. (1) The carbon pollution tax in section 3 of this act does not apply to:

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

(b) Fossil fuels that the state is prohibited from imposing a tax under the state Constitution or the Constitution or laws of the United States;

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

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

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

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

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

(g) Aircraft fuel as defined in RCW 82.42.010;

(h) 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. The department must provide a methodology by rule to apportion fossil fuels consumed inside the state of Washington by interstate motor carriers and vessels used primarily in interstate or foreign commerce;

(i) Activities or property of Indian tribes and individual Indians that are exempt from state imposition of a tax as a matter of federal law or state law, whether by statute, rule, or compact;

(j) Motor vehicle fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection (1)(j), "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865. The department shall determine a method for expanding this exemption to include fuels used for the purpose of transporting agricultural goods on public highways. The department shall maintain this expanded exemption for a period of five years in order to provide the agricultural sector with a feasible transition period; and

(k)(i) Motor vehicle fuel or special fuel that is used by the following: (A) Log transportation businesses; and (B) persons in the business of extracting timber. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. The department shall determine a method for expanding this exemption to include fuels used for the purpose of transporting timber on public highways. The department shall maintain this expanded exemption for a period of five years in order to provide the timber sector with a feasible transition period.

(ii) For the purposes of this subsection (1)(k), the following definitions apply: (A) "Log transportation business" has the same meaning as provided in RCW 82.16.010; and (B) "timber" means forest trees, standing or down, on privately owned or publicly owned land, and does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(2)(a) The carbon pollution tax in section 3 of this act does not apply to any fossil fuels consumed by an energy-intensive, trade-exposed business in a sector designated by the department by rule. By January 1, 2024, the department must adopt by rule objective criteria for both emissions' intensity and trade exposure for the purpose of identifying energy-intensive, trade-exposed manufacturing businesses. A manufacturing business that can demonstrate to the department that it meets this criteria, whether or not it is listed in subsection (1)(a) through (i) of this section, is eligible for treatment as an energy-intensive, trade-exposed industry.

(b) By July 30, 2026, the department of ecology must provide a report to the appropriate committees of the senate and house of representatives on whether to restrict or eliminate the exemption identified in (a) of this subsection. In developing the report, the department of ecology must solicit input and data from industry sectors and other interested persons. The report must include recommendations for alternatives that will minimize leakage, promote the growth of Washington industries and a highly skilled workforce, capitalize on the state's competitive advantage in the production of low-carbon goods and advanced clean energy technologies, recognize and provide credit for early actions to reduce emissions, make available alternative fuels, and incorporate performance benchmarking of emissions intensity in production processes.

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

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

NEW SECTION. **Sec.**  REPORT TO THE LEGISLATURE. (1) On or before December 31, 2024, and on or before December 31st of each even-numbered year thereafter, and in compliance with RCW 43.01.036, the department of commerce, with support from the department, must submit a report as required by this subsection. The initial report must include recommendations for establishing a process to audit uses of the account created in section 17 of this act. The report must contain recommendations for modifications or improvements to this chapter to ensure the goals of this act are being met in addition to (a) through (d) of this subsection with respect to the implementation of this chapter for the period since the last report:

(a) The total carbon pollution taxes collected during the reporting period and a list of the taxpayers and the amount of carbon pollution tax paid by those taxpayers. The department must provide the information required under this subsection (1)(a), which is not confidential information under RCW 82.32.330;

(b) Estimated costs incurred by the department, the department of commerce, and the department of ecology, directly associated with administration of the carbon pollution tax, shown both in dollar amounts and as a percentage of the total amount of carbon pollution tax revenues collected;

(c) The impact on the economic health of Washington state, including verifiable data on emissions leakage and any job losses since the implementation of the carbon pollution tax implemented in section 3 of this act; and

(d) A summary of the investments made through the department of commerce's administration of the greenhouse gas emissions reduction account created in section 17 of this act. The summary must include amounts invested in each program area, project descriptions, names of grant recipients, an estimate of the greenhouse gas emissions reductions achieved or anticipated via the investments, and other pertinent information or information as periodically requested by the legislature.

(2) The department of ecology must provide a report to the legislature by July 30, 2026, with recommendations on imposing the requirements of this chapter on emissions in the agricultural sector. The recommendations must include input from individual agricultural stakeholders, allow for growth, recognize and provide credit for early actions, recognize the limits of best available control technology, allow for either internal or external benchmarking, and include an analysis of alternative fuels available that could be feasibly used in lieu of fossil fuels.

(3) The department of ecology must provide a report to the legislature by July 30, 2026, with recommendations on imposing the requirements of this chapter on emissions in the log transportation and extraction of timber sector. The recommendations must include input from individual timber stakeholders, allow for growth, recognize and provide credit for early actions, recognize the limits of best available control technology, allow for either internal or external benchmarking, and include an analysis of alternative fuels available that could be feasibly used in lieu of fossil fuels.

(4) The department of commerce must provide information on its website regarding the impacts of the carbon pollution tax under this chapter on the price of natural gas and vehicle fuels by sector.

(5) The department of commerce, supported by the department and the department of health, must provide an environmental justice analysis that reports on environmental, health, and economic impacts on highly impacted communities and vulnerable populations from climate impacts and state measures taken to meet Washington's greenhouse gas emissions limits, including the tax and investments authorized by this chapter.

(6) The department of commerce must consult with the environmental justice and economic equity panel established in section 18 of this act in the development of this report.

NEW SECTION. **Sec.**  TECHNICAL ASSISTANCE. (1) Upon request of the department, the department of commerce, the department of ecology, and the Washington State University extension energy program must provide technical assistance to the department as may be necessary for the department to effectively administer this chapter.

(2) The department of commerce may contract with the Washington academy of sciences established under chapter 70A.40 RCW for independent expertise in establishing the criteria for monitoring and evaluating programs, projects, and activities funded by this chapter that must be based on greenhouse gas emissions reduction and other sustainable, environmental, resiliency, and environmental justice considerations.

NEW SECTION. **Sec.**  CLIMATE FINANCE ACCOUNT. The climate finance account is created in the state treasury. One hundred percent of all receipts from the carbon pollution tax created in section 3 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation.

(1) Moneys in the account must be used first and foremost for the payment of principal and interest on bonds authorized in section 10 of this act. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing 12 months to meet the bond retirement and interest requirements on the bonds authorized under section 10 of this act. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal and interest on the bonds.

(2) On July 1st of each year, the state treasurer shall transfer from the climate finance account to the climate bond retirement account or climate taxable bond proceeds account, as appropriate, an amount equal to the amount certified by the state finance committee in this section.

(3)(a) Moneys remaining in the climate finance account after the transfer made pursuant to subsection (2) of this section may be used only for projects and programs that achieve the purposes of the carbon pollution tax as expressed in section 3 of this act. Moneys in the account as described in this subsection (3) must first be appropriated for the administration of the requirements of this chapter, in an amount not to exceed five percent of the total receipt of funds from the carbon pollution tax imposed under section 3 of this act. Beginning July 1, 2023, and annually thereafter, the state treasurer shall distribute funds remaining in the account after the transfer required in subsection (2) of this section as follows: 100 percent of the moneys to the greenhouse gas emissions reduction account created in section 17 of this act.

(b) The allocation specified in (a) of this subsection must be reviewed by the legislature on a biennial basis based on the changing needs of the state in meeting its clean economy and greenhouse gas reduction goals in a timely, economically advantageous, and equitable manner.

NEW SECTION. **Sec.**  SPECIAL TAX OBLIGATION BONDS. (1) The state finance committee is authorized to issue special tax obligation bonds of the state of Washington in amounts not to exceed the sum of $4,943,000,000, or as much thereof as may be required, payable from receipts from the carbon pollution tax created in section 3 of this act deposited in the climate finance account created in section 8 of this act, to finance project categories as described under section 17 of this act, and all costs incidental thereto.

(2) Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

(3) The state finance committee may determine and include in any resolution authorizing the issuance of any bonds authorized by this chapter such terms, provisions, covenants, and conditions as it may deem appropriate in order to assist with the marketing and sale of the bonds, confer rights upon the owners of bonds, and safeguard rights of the owners of bonds including, among other things:

(a) Provisions that the bonds shall be payable solely from, and secured solely by, the carbon pollution tax revenues received in the climate finance account created in section 8 of this act;

(b) The conditions that must be satisfied prior to the issuance of any additional bonds that are to be payable from, and secured by, the carbon pollution tax revenues received in the climate finance account created in section 8 of this act on equal basis with previously issued and outstanding bonds payable from carbon pollution tax revenues received in the climate finance account created in section 8 of this act;

(c) Provisions regarding reserves and credit enhancements;

(d) Whether bonds may be issued as tax-exempt bonds or must be issued as taxable bonds under the applicable provisions of the federal internal revenue code; and

(e) Whether the state will pursue third-party certification of bonds authorized by this chapter as green bonds, climate bonds, or any other appropriate certification that the state finance committee determines will increase marketability or minimize the cost of the bonds. Regardless of whether the state pursues third-party certification, bond proceeds must be used for projects that produce measurable climate mitigation or adaptation benefits.

NEW SECTION. **Sec.**  BOND ISSUANCE PERIOD. (1) The authorization to issue special tax obligation bonds provided under section 9 of this act will expire on December 31, 2030, or once the full authorization has been issued and dispersed, whichever occurs first. The state finance committee may choose to decrease the period of issuance based on updated forecasts and fiscal needs, but any increase in the period of issuance beyond the 10-year period authorized under this section requires the approval of the legislature.

(2) On a quarterly annual basis, and in compliance with RCW 43.01.036, the state treasurer may submit a report to the legislature that provides recommendations on the level of issuances over the 10-year period based on updated revenue forecasts, market factors, and fiscal needs. No bond issuance may be structured such that debt service obligations remain past December 31, 2050.

NEW SECTION. **Sec.**  DEDICATED REVENUE. Bonds authorized under this chapter are not a general obligation of the state and the full faith, credit, and taxing powers of the state are not pledged for their payment. Each bond issued under the authority of this chapter shall distinctly state that payment or redemption of the bond and payment of the interest and any premium thereon is payable solely from, and secured solely by, a pledge of the carbon pollution tax revenues received in the climate finance account created in section 8 of this act, and is not a general obligation of the state. The legislature pledges to appropriate the carbon pollution tax revenues pledged to the payment of the bonds issued under this chapter. The state finance committee shall include this pledge and agreement of the state to owners of any bonds issued under this chapter. The owner of any bond or the trustee of the owner of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of pledged funds as directed in this section.

NEW SECTION. **Sec.**  CLIMATE BOND PROCEEDS ACCOUNT. The climate bond proceeds account is created in the state treasury. Proceeds from the sale of tax-exempt bonds authorized in section 10 of this act must be deposited in the account. The climate taxable bond proceeds account is created in the state treasury. Proceeds from the sale of taxable bonds authorized in section 9 of this act must be deposited in the account. Moneys in the climate bond proceeds account or climate taxable bond proceeds account may be spent only after appropriation and only for project categories as described under sections 17 and 18 of this act and for the payment of expenses incurred in the issuance and sale of the bonds.

NEW SECTION. **Sec.**  NONTAXABLE AND TAXABLE BOND PROCEEDS. Portions of the appropriation authority granted by this act from the climate bond proceeds account may be transferred to the climate taxable bond proceeds account as deemed necessary by the state finance committee to comply with the federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds. Portions of the special tax obligation bond proceeds authorized by this chapter for deposit into the climate taxable bonds proceeds account that are in excess of amounts required to comply with the federal internal revenue service rules and regulations shall be deposited into the climate bond proceeds account. The state treasurer shall submit written notification to the director of financial management if it is determined that a shift of appropriation authority between the climate bond proceeds account and the climate taxable bond proceeds account is necessary, or that a shift of appropriation authority from the climate taxable bond proceeds account to the climate bond proceeds account may be made.

NEW SECTION. **Sec.**  CLIMATE BOND RETIREMENT ACCOUNT. The climate bond retirement account is created in the state treasury. Moneys in the account must be used only for the payment of principal and interest on bonds authorized in section 9 of this act. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal and interest on the bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing 12 months to meet the bond retirement and interest requirements on the bonds authorized in section 9 of this act.

NEW SECTION. **Sec.**  BOND REDEMPTION. The state finance committee may issue bonds to refund outstanding bonds issued under this chapter, including the payment of any redemption premiums on the bonds and any interest accrued to the first redemption date after delivery of the refunding bonds. The proceeds of the refunding bonds may, at the discretion of the committee, be applied to the purchases or payment at maturity of the bonds to be refunded, or the redemption of the outstanding bonds on the first redemption date after delivery of the refunding bonds and may, until so used, be placed in escrow to be applied to the purchase, retirement, or redemption. Refunding bonds issued under this section must be issued and secured in the manner provided by the state finance committee.

NEW SECTION. **Sec.**  INVESTMENT GUIDELINES. (1) Each year, the total investments made through the climate finance account created in section 8 of this act shall support investments that facilitate, directly or indirectly, meaningful reductions of greenhouse gas emissions. Eligible projects shall include, but not be limited to, investments in public transit, low-carbon buses and trucks, electric vehicles, electric vehicle charging infrastructure, and other modes of clean transportation; transit-oriented affordable housing; expansion of in-state renewable energy, battery storage, and community microgrids; energy efficiency, electrification, and renewable energy investments in housing, municipal infrastructure and public school buildings, technology research, and clean energy and climate change investments in rural communities.

(a) At least 35 percent of total investments authorized under this chapter must provide direct and meaningful benefits to vulnerable populations within the boundaries of highly impacted communities, as designated by the department of health under RCW 19.405.140;

(b) At least 25 percent of total investments authorized under this chapter must be for the benefit of projects located in rural areas of the state. For the purposes of this subsection (1)(b), "rural counties" has the same meaning as in RCW 82.14.370; or

(c) At least 10 percent of the total investments authorized under this chapter must be used for programs, activities, or projects formally supported by a resolution of an Indian tribe, with priority given to otherwise qualifying projects directly administered or proposed by an Indian tribe. An investment that meets the requirements of (b) and (c) of this subsection may count toward the requisite minimum percentage for this subsection.

(2) The expenditure of moneys under this chapter must be consistent with applicable federal, state, and local laws, and treaty rights including, but not limited to, prohibitions on uses of funds imposed by the state Constitution.

(3) For the purposes of this section, "benefits" means investments or activities that:

(a) Reduce vulnerable population characteristics, environmental burdens, or associated risks that contribute significantly to the cumulative impact designation of overburdened communities;

(b) Meaningfully protect an overburdened community and vulnerable populations from, or support community response to, the impacts of air pollution or climate change; or

(c) Meet a community need identified by vulnerable members of the community that is consistent with the intent of this chapter aligned with guidance or the evaluation of the environmental justice and economic equity panel.

(4) Programs, activities, or projects that meet more than one of the criteria as expressed in subsection (1)(a), (b), and (c) of this section must receive greater priority for funds as determined by the department of commerce.

(5) If the environmental justice and economic equity panel determines that an adequate number of suitable applications for categories of projects specified in subsection (1)(a), (b), and (c) of this section during any given funding cycle was not received, the department may allocate unused moneys for projects in other areas of the state.

(6) The environmental justice and economic equity panel, in consultation with representatives from affected lower income households, workers, and communities affected by the tax, shall provide recommendations for the expenditure of these funds, including ensuring consumers of taxable carbon receive the benefits of investments, as well as identifying additional policy solutions.

NEW SECTION. **Sec.**  GREENHOUSE GAS EMISSIONS REDUCTION ACCOUNT. (1) The greenhouse gas emissions reduction account is created in the state treasury. The account must receive moneys distributed to the account from the climate finance account created in section 8 of this act. Moneys in the account may be spent only after appropriation. Moneys in the account must be used by the department of commerce for projects and incentive programs that are physically located in Washington state and that yield verifiable reductions in greenhouse gas emissions in excess of baseline practices, for community engagement to support decision making for priority investments, and with high priority placed upon funding projects that directly benefit economically distressed areas as defined in RCW 43.168.020. Projects may include, but are not limited to, the following:

(2) Forty percent of the funds must be invested in projects and programs that include, but are not limited to, the following:

(a) Fire prevention activities to restore and improve forest health and reduce vulnerability to drought, insect infestation, disease, and other threats to healthy forests including, but not limited to, silvicultural treatments, seedling development, thinning and prescribed fire, and postfire recovery activities to stabilize and prevent unacceptable degradation to natural and cultural resources and minimize threats to life and property resulting from the effects of a wildfire. Funding priority under this subsection must be given to programs, activities, or projects aligned with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and the forest action plan across any combination of local, state, federal, tribal, and private ownerships;

(b) Supplementing the growth management planning and environmental review fund established in RCW 36.70A.490 for the purpose of making grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, or 36.70A.600, for costs associated with RCW 36.70A.610, and to cover costs associated with the adoption of optional elements of comprehensive plans consistent with RCW 43.21C.420 and transportation improvement plans consistent with RCW 35.77.010 for cities and RCW 36.81.121 for counties;

(c)(i) Programs, activities, or projects that deploy renewable energy resources, such as energy conservation, solar and wind power, renewable hydrogen, geothermal, and projects to deploy distributed generation, energy storage, demand side technologies and strategies, and other grid modernization projects;

(ii) Programs, activities, or projects within the department of commerce's clean energy fund;

(d) Programs, activities, or projects that increase the energy efficiency or reduce greenhouse gas emissions of industrial facilities including, but not limited to, proposals to implement combined heat and power, district energy, or on-site renewables, such as solar and wind power, to upgrade the energy efficiency of existing equipment, to reduce process emissions, and to switch to less emissions intensive fuel sources;

(e) Programs, activities, or projects that: (i) Achieve energy efficiency or emissions reductions in the agricultural sector, including fertilizer management, soil management, bioenergy, and biofuels; and (ii) preserve or increase carbon sequestration and storage benefits in agricultural soils, marine and freshwater riparian and shoreline areas through forest management and planting, and other terrestrial and aquatic areas, forests, and forest products consistent with RCW 70A.45.090, including funding the sustainable farms and fields grant program established under RCW 89.08.615 to assist participants with increasing the quantity of organic carbon in soils and reducing or avoiding carbon dioxide equivalent emissions in or from soils;

(f)(i) Programs, activities, or projects that increase energy efficiency in new and existing buildings, including weatherization and other retrofits and rehabilitations, or that promote low-carbon architecture, including use of newly emerging alternative building materials that result in a lower carbon footprint in the built environment over the life cycle of the building and component building materials;

(ii) Programs, activities, or projects within the department of commerce's weatherization plus health initiative consistent with RCW 70A.35.010;

(g) Programs, activities, or projects that promote the electrification and decarbonization of new and existing buildings, including residential, commercial, and industrial buildings;

(h) Programs, activities, or projects that improve energy efficiency, including district energy, and investments in market transformation of energy efficiency products; and

(i) Incentives and technical assistance to stationary sources to reduce greenhouse gas emissions and copollutants.

(3) Sixty percent of the funds must be invested into miles ahead transportation investments for programs, activities, or projects that reduce greenhouse gas emissions or mitigate the impact of greenhouse gas emissions from the transportation sector including, but not limited to, the following:

(a) Reduce vehicle miles traveled, including transportation demand management, nonmotorized transportation such as pedestrian and bike program grants and safe routes to school projects, affordable transit-oriented housing, and high-speed rural broadband to facilitate telecommuting options such as telemedicine or online job training;

(b) Increase public transportation services, including investing in public transit;

(c) The deployment of clean alternative fuel vehicle charging and refueling infrastructure with a strong emphasis on underserved communities and low to moderate-income members of the workforce not readily served by transit, or located in transportation corridors with emissions that exceed federal or state emissions standards;

(d) The support of clean alternative fuel car sharing programs to provide clean alternative fuel vehicle use opportunities to underserved communities and low to moderate-income members of the workforce not readily served by transit, or located in transportation corridors with emissions that exceed federal or state emissions standards;

(e) The provision of financing assistance to facilitate the purchase of battery and fuel cell electric vehicles by lower income residents of the state;

(f) The provision of grants to transit authorities in the state to fund cost-effective capital projects that reduce the carbon intensity of the Washington transportation system including, but not limited to, electrification of vehicle fleets, modification or replacement of capital facilities in order to facilitate fleet electrification or renewable hydrogen refueling, upgrades to electrical transmission and distribution systems, and construction of charging and fueling stations;

(g) The provision of support to small trucking firms in conversion of vehicles to cleaner alternative fuels and acquisition and access to necessary fueling infrastructure, and assistance in mitigating the costs of the transition to cleaner fuel vehicles;

(h) The electrification and decarbonization of the state's vehicle and passenger ferry fleet;

(i) The conversion to clean alternative fuel fleets for the state, counties, cities, and public transit agencies;

(j) Investments focused on reducing or mitigating the impacts of copollutant emissions in overburdened communities or vulnerable populations, including the expansion of monitoring networks for copollutants across the state managed by communities or agencies;

(k) Reducing emissions from vessels and onshore equipment and vehicles, including provision of shore power to vessels, reducing vehicle congestion and excessive idling, and installation of clean fuel infrastructure;

(l) Investment in rail and high-speed rail with the incremental installation of rail electrification integrated with local power generation; and

(m) The provision of support to the agricultural sector in conversion of farm vehicles to cleaner alternative fuels, acquisition of, and access to, necessary fueling infrastructure, and assistance in mitigating the costs of the transition to cleaner fuel vehicles.

(4) Public entities including, but not limited to, state agencies, municipal corporations, and federally recognized Indian tribes, as well as private entities, both not for profit and for profit, subject to constitutional limitations, are eligible to receive funds authorized by this section.

(5) Projects, activities, and programs must meet criteria that reduce greenhouse gas emissions to be established by the department of commerce. In developing criteria, the department of commerce must consult with the environmental justice and economic equity panel and provide processes and funding for meaningful consultation with vulnerable populations.

(6) Projects or activities funded under this section that meet high labor standards will be prioritized. These include, but are not limited to: Prevailing wage rates determined by local collective bargaining and apprenticeship and preapprenticeship utilization and preferred entry standards; community workforce agreements with priority local hire; procurement from women, veteran, and minority-owned businesses; procurement from, and contracts with, entities that have a history of complying with federal and state wage and hour laws and regulations plus other related labor and worker safety standards; and family level wages and providing benefits, including healthcare and pensions, access to career development opportunities, and maximize access to economic benefits from such projects for local workers and diverse businesses.

(7) Funding may be provided for incremental greenhouse gas emissions reductions from projects that have already secured funding, but which can achieve more emissions reductions with additional resources.

(8) Recipients of funding for projects must submit to the department of commerce a progress report at a date or dates to be determined by the department of commerce. The progress report must provide information as may be required by the department of commerce by rule.

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

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

(11) The department of commerce must apply recommendations through iterative consultation with the environmental justice and economic equity panel in the development of policies and procedures for the allocation of funding under this section, as well as the implementation plan required by subsection (12) of this section and to detail and report why recommendations from the environmental justice and economic equity panel are not followed by the department of commerce, if applicable.

(12) The department of commerce must develop an implementation plan for providing funding under this section. The implementation plan must be provided to the governor and the appropriate committees of the legislature by December 31, 2022.

NEW SECTION. **Sec.**  ENVIRONMENTAL JUSTICE AND ECONOMIC EQUITY PANEL. (1) An environmental justice and economic equity panel is established to provide guidance and recommendations to the department of commerce in the development and implementation of the programs, projects, and activities on greenhouse gas emissions reduction and natural climate solutions authorized under this chapter. The departments of commerce, ecology, health, and transportation, the office of equity, and if established by chapter . . . (Engrossed Second Substitute Senate Bill No. 5141), Laws of 2021, the environmental justice council and interagency work group, as well as other state agencies as the governor may determine must coordinate and assist the panel.

(2) The governor must appoint the members of the environmental justice and economic equity panel, which must be cochaired by at least one tribal leader and one person that is a representative of the interests of overburdened communities identified by the department of health in its health disparities map. The membership of the panel must consist of at least 11 persons, based on the nomination of statewide organizations, that represent the following interests:

(a) Five members, including at least one tribal leader, representing the interests of vulnerable populations residing in overburdened communities in different geographic areas of the state and from rural as well as urban areas;

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

(c) A member in addition to at least one tribal leader in (a) of this subsection to represent tribal governments;

(d) Two members representing low-income and community advocacy organizations; and

(e) A member representing the agricultural community.

(3) The governor may fill any position designated under subsection (2) of this section with a person who also serves upon the environmental justice council created in chapter . . . (Engrossed Second Substitute Senate Bill No. 5141), Laws of 2021, provided that such a person also meets the representative requirements of subsection (2) of this section.

(4) The purpose of the panel is to:

(a) Provide recommendations in the development of investment plans and funding proposals for greenhouse gas emissions reduction, and natural climate solutions authorized under this chapter;

(b) Provide a forum to analyze policies adopted under this chapter to determine if the policies lead to improvements within overburdened communities and among vulnerable populations;

(c) Recommend procedures and criteria for evaluating programs, activities, or projects for funding consideration under this act that ensure broad access and avoid competition between communities;

(d) Evaluate the level of funding provided to assist vulnerable populations, low-income individuals, and displaced workers and their communities, and the funding of projects and activities located within or benefiting overburdened communities and among vulnerable populations;

(e) Provide recommendations to implementation agencies for meaningful consultation with vulnerable populations; and

(f) Periodically conduct an evaluation of the economic impacts on, and outcomes for, low-income and middle-income households and vulnerable populations, including communities of color and Indian tribal communities, of the emissions reduction policies required in this chapter and the financial assistance provided under this chapter.

(5) Nongovernmental members of the panel must be compensated and reimbursed in accordance with RCW 43.03.050, 43.03.060, and 43.03.250.

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

(2) No project that impacts tribal lands may be funded prior to meaningful consultation with affected Indian tribes. For projects that directly impact tribal lands, the goal of the consultation process is to obtain free, prior, and informed consent for the project, and at the end of such consultation, the project may not be funded unless the state agency first receives a written resolution providing consent or withholding consent. If any project that impacts tribal lands is funded under this chapter without consultation with Indian tribes, an affected Indian tribe may request that all further action on the project cease until consultation with any directly impacted Indian tribe is completed.

NEW SECTION. **Sec.**  CODIFICATION DIRECTIVE. Sections 1 through 19 and 23 through 25 of this act constitute a new chapter in Title 82 RCW.

**Sec.**  RCW 70A.15.1030 and 2020 c 20 s 1081 are each amended to read as follows:

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

(1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(2) "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property. For the purpose of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW.

(3) "Air quality standard" means an established concentration, exposure time, and frequency of occurrence of an air contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(4) "Ambient air" means the surrounding outside air.

(5) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(6) "Best available control technology" (BACT) means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under this chapter emitted from or that results from any new or modified stationary source, that the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such a source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such a pollutant. In no event shall application of "best available control technology" result in emissions of any pollutants that will exceed the emissions allowed by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they exist on July 25, 1993, or their later enactments as adopted by reference by the director by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this subsection shall not be allowed to increase above levels that would have been required under the definition of BACT as it existed prior to enactment of the federal clean air act amendments of 1990.

(7) "Best available retrofit technology" (BART) means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility that might reasonably be anticipated to result from the use of the technology.

(8) "Board" means the board of directors of an authority.

(9) "Control officer" means the air pollution control officer of any authority.

(10) "Department" or "ecology" means the department of ecology.

(11) "Emission" means a release of air contaminants into the ambient air.

(12) "Emission," "emission standard," and "emission limitation," as applied to greenhouse gases as defined in RCW 70A.45.010, includes indirect emissions of greenhouse gases resulting from production or distribution of petroleum products, natural gas, or other products, where the release of air contaminants into the ambient air occurs during the consumption, use, combustion, or oxidation of the products.

(13) "Emission standard" and "emission limitation" mean a requirement established under the federal clean air act or this chapter that limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice, or operational standard adopted under the federal clean air act or this chapter.

((~~(13)~~)) (14) "Fine particulate" means particulates with a diameter of two and one-half microns and smaller.

((~~(14)~~)) (15) "Lowest achievable emission rate" (LAER) means for any source that rate of emissions that reflects:

(a) The most stringent emission limitation that is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation that is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

((~~(15)~~)) (16) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

((~~(16)~~)) (17) "Multicounty authority" means an authority which consists of two or more counties.

((~~(17)~~)) (18) "New source" means (a) the construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted, and (b) any other project that constitutes a new source under the federal clean air act.

((~~(18)~~)) (19) "Permit program source" means a source required to apply for or to maintain an operating permit under RCW 70A.15.2260.

((~~(19)~~)) (20) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision of the state, municipality, or governmental agency.

((~~(20)~~)) (21) "Reasonably available control technology" (RACT) means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for a source or source category shall be adopted only after notice and opportunity for comment are afforded.

((~~(21)~~)) (22) "Silvicultural burning" means burning of wood fiber on forestland consistent with the provisions of RCW 70A.15.5120.

((~~(22)~~)) (23) "Source" means all of the emissions units including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, whose activities are ancillary to the production of a single product or functionally related group of products.

((~~(23)~~)) (24) "Stationary source" means any building, structure, facility, or installation that emits or may emit any air contaminant.

((~~(24)~~)) (25) "Trigger level" means the ambient level of fine particulates, measured in micrograms per cubic meter, that must be detected prior to initiating a first or second stage of impaired air quality under RCW 70A.15.3580.

**Sec.**  RCW 70A.15.3000 and 2020 c 20 s 1103 are each amended to read as follows:

(1) The department shall have all the powers as provided in RCW 70A.15.2040.

(2) The department, in addition to any other powers vested in it by law after consideration at a public hearing held in accordance with chapters 42.30 and 34.05 RCW shall:

(a) Adopt rules establishing air quality objectives and air quality standards;

(b) Adopt emission standards which shall constitute minimum emission standards throughout the state. An authority may enact more stringent emission standards, except for emission performance standards for new woodstoves and opacity levels for residential solid fuel burning devices which shall be statewide, but in no event may less stringent standards be enacted by an authority without the prior approval of the department after public hearing and due notice to interested parties;

(c) Adopt by rule air quality standards and emission standards for the control or prohibition of emissions to the outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. Such requirements may be based upon a system of classification by types of emissions or types of sources of emissions, or combinations thereof, which it determines most feasible for the purposes of this chapter. The department may require persons who produce or distribute fossil fuels or other products that emit greenhouse gases in Washington to comply with air quality standards, emission standards, or emission limitations on emissions of greenhouse gases. If the program review in section 6 of this act finds that greenhouse gases and criteria pollutants are not being reduced in communities identified as highly impacted by the department of health's environmental health disparities map, then, as a means of ensuring that the investments identified in section 16 of this act achieve reductions in greenhouse gas emissions and other criteria pollutants in overburdened communities highly impacted by pollution, the department shall prioritize the adoption of air quality standards, emission standards, or emission limitations on fuel suppliers or covered entities located in those areas. However, an industry, or the air pollution control authority having jurisdiction, can choose, subject to the submittal of appropriate data that the industry has quantified, to have any limit on the opacity of emissions from a source whose emission standard is stated in terms of a weight of particulate per unit volume of air (e.g., grains per dry standard cubic foot) be based on the applicable particulate emission standard for that source, such that any violation of the opacity limit accurately indicates a violation of the applicable particulate emission standard. Any alternative opacity limit provided by this section that would result in increasing air contaminants emissions in any nonattainment area shall only be granted if equal or greater emission reductions are provided for by the same source obtaining the revised opacity limit. A reasonable fee may be assessed to the industry to which the alternate opacity standard would apply. The fee shall cover only those costs to the air pollution control authority which are directly related to the determination on the acceptability of the alternate opacity standard, including testing, oversight and review of data.

(3) The air quality standards and emission standards may be for the state as a whole or may vary from area to area or source to source, except that emission performance standards for new woodstoves and opacity levels for residential solid fuel burning devices shall be statewide, as may be appropriate to facilitate the accomplishment of the objectives of this chapter and to take necessary or desirable account of varying local conditions of population concentration, the existence of actual or reasonably foreseeable air pollution, topographic and meteorologic conditions and other pertinent variables.

(4) The department is directed to cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(5) The department is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants and conduct or cause to be conducted a program to determine the quantity of emissions to the atmosphere.

(6) The department shall enforce the air quality standards and emission standards throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state.

(7) The department shall encourage local units of government to handle air pollution problems within their respective jurisdictions; and, on a cooperative basis provide technical and consultative assistance therefor.

(8) The department shall have the power to require the addition to or deletion of a county or counties from an existing authority in order to carry out the purposes of this chapter. No such addition or deletion shall be made without the concurrence of any existing authority involved. Such action shall only be taken after a public hearing held pursuant to the provisions of chapter 34.05 RCW.

(9) The department shall establish rules requiring sources or source categories to apply reasonable and available control methods. Such rules shall apply to those sources or source categories that individually or collectively contribute the majority of statewide air emissions of each regulated pollutant. The department shall review, and if necessary, update its rules every five years to ensure consistency with current reasonable and available control methods. The department shall have adopted rules required under this subsection for all sources by July 1, 1996.

For the purposes of this section, "reasonable and available control methods" shall include but not be limited to, changes in technology, processes, or other control strategies.

NEW SECTION. **Sec.**  (1) By October 30, 2025, the department of ecology shall determine whether the sources of emissions covered by the tax imposed under section 3 of this act is likely to achieve the proportionate share of the emissions reductions by entities subject to the tax that is necessary for the state to achieve the emissions limits established in RCW 70A.45.020. The department of ecology may exercise this authority prior to this determination. Nothing in this chapter limits authority under chapter 70A.15 RCW. If the department of ecology determines that such reductions are not likely to meet these limits, the department of ecology shall exercise the authority provided in RCW 70A.15.3000 to adopt emissions limitations upon such entities sufficient to meet such limits.

(2) By January 1, 2026, the department of ecology must provide the legislature with a report detailing its determination with recommendations, pursuant to the tax and covered sources, for achieving the emissions limits established in RCW 70A.45.020.

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

NEW SECTION. **Sec.**  EMERGENCY CLAUSE. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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