

**E2SSB 5769** - H AMD 560

By Representative Upthegrove

ADOPTED 04/11/2011

1           Strike everything after the enacting clause and insert the  
2 following:

3           "NEW SECTION.   **Sec. 101.** (1) The legislature finds that generating  
4 electricity from the combustion of coal produces pollutants that are  
5 harmful to human health and safety and the environment. While the  
6 emission of many of these pollutants continues to be addressed through  
7 application of federal and state air quality laws, the emission of  
8 greenhouse gases resulting from the combustion of coal has not been  
9 addressed.

10           (2) The legislature finds that coal-fired electricity generation is  
11 one of the largest sources of greenhouse gas emissions in the state,  
12 and is the largest source of such emissions from the generation of  
13 electricity in the state.

14           (3) The legislature finds coal-fired electric generation may  
15 provide baseload power that is necessary in the near-term for the  
16 stability and reliability of the electrical transmission grid and that  
17 contributes to the availability of affordable power in the state. The  
18 legislature further finds that efforts to transition power to other  
19 fuels requires a reasonable period of time to ensure grid stability and  
20 to maintain affordable electricity resources.

21           (4) The legislature finds that coal-fired baseload electric  
22 generation facilities are a significant contributor to family-wage jobs  
23 and economic health in parts of the state and that transition of these  
24 facilities must address the economic future and the preservation of  
25 jobs in affected communities.

26           (5) Therefore, it is the purpose of this act to provide for the  
27 reduction of greenhouse gas emissions from large coal-fired baseload  
28 electric power generation facilities, to effect an orderly transition  
29 to cleaner fuels in a manner that ensures reliability of the state's  
30 electrical grid, to ensure appropriate cleanup and site restoration

1 upon decommissioning of any of these facilities in the state, and to  
2 provide assistance to host communities planning for new economic  
3 development and mitigating the economic impacts of the closure of these  
4 facilities.

5 **Sec. 102.** RCW 80.80.010 and 2009 c 565 s 54 and 2009 c 448 s 1 are  
6 each reenacted and amended to read as follows:

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

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

11 (2) "Auditor" means: (a) The Washington state auditor's office or  
12 its designee for consumer-owned utilities under its jurisdiction; or  
13 (b) an independent auditor selected by a consumer-owned utility that is  
14 not under the jurisdiction of the state auditor.

15 (3) "Average available greenhouse gas emissions output" means the  
16 level of greenhouse gas emissions as surveyed and determined by the  
17 energy policy division of the department of commerce under RCW  
18 80.80.050.

19 (4) "Baseload electric generation" means electric generation from  
20 a power plant that is designed and intended to provide electricity at  
21 an annualized plant capacity factor of at least sixty percent.

22 (5) "Cogeneration facility" means a power plant in which the heat  
23 or steam is also used for industrial or commercial heating or cooling  
24 purposes and that meets federal energy regulatory commission standards  
25 for qualifying facilities under the public utility regulatory policies  
26 act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

27 (6) "Combined-cycle natural gas thermal electric generation  
28 facility" means a power plant that employs a combination of one or more  
29 gas turbines and steam turbines in which electricity is produced in the  
30 steam turbine from otherwise lost waste heat exiting from one or more  
31 of the gas turbines.

32 (7) "Commission" means the Washington utilities and transportation  
33 commission.

34 (8) "Consumer-owned utility" means a municipal utility formed under  
35 Title 35 RCW, a public utility district formed under Title 54 RCW, an  
36 irrigation district formed under chapter 87.03 RCW, a cooperative  
37 formed under chapter 23.86 RCW, a mutual corporation or association

1 formed under chapter 24.06 RCW, or port district within which an  
2 industrial district has been established as authorized by Title 53 RCW,  
3 that is engaged in the business of distributing electricity to more  
4 than one retail electric customer in the state.

5 (9) "Department" means the department of ecology.

6 (10) "Distributed generation" means electric generation connected  
7 to the distribution level of the transmission and distribution grid,  
8 which is usually located at or near the intended place of use.

9 (11) "Electric utility" means an electrical company or a consumer-  
10 owned utility.

11 (12) "Electrical company" means a company owned by investors that  
12 meets the definition of RCW 80.04.010.

13 (13) "Governing board" means the board of directors or legislative  
14 authority of a consumer-owned utility.

15 (14) "Greenhouse ((~~gases~~) gas)" includes carbon dioxide, methane,  
16 nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur  
17 hexafluoride.

18 (15) "Long-term financial commitment" means:

19 (a) Either a new ownership interest in baseload electric generation  
20 or an upgrade to a baseload electric generation facility; or

21 (b) A new or renewed contract for baseload electric generation with  
22 a term of five or more years for the provision of retail power or  
23 wholesale power to end-use customers in this state.

24 (16) "Plant capacity factor" means the ratio of the electricity  
25 produced during a given time period, measured in kilowatt-hours, to the  
26 electricity the unit could have produced if it had been operated at its  
27 rated capacity during that period, expressed in kilowatt-hours.

28 (17) "Power plant" means a facility for the generation of  
29 electricity that is permitted as a single plant by a jurisdiction  
30 inside or outside the state.

31 (18) "Upgrade" means any modification made for the primary purpose  
32 of increasing the electric generation capacity of a baseload electric  
33 generation facility. "Upgrade" does not include routine or necessary  
34 maintenance, installation of emission control equipment, installation,  
35 replacement, or modification of equipment that improves the heat rate  
36 of the facility, or installation, replacement, or modification of  
37 equipment for the primary purpose of maintaining reliable generation

1 output capability that does not increase the heat input or fuel usage  
2 as specified in existing generation air quality permits as of July 22,  
3 2007, but may result in incidental increases in generation capacity.

4 (19) "Coal transition power" means the output of a coal-fired  
5 electric generation facility that is subject to an obligation to meet  
6 the standards contained in RCW 80.80.040(3)(c).

7 (20) "Memorandum of agreement" or "memorandum" means a binding and  
8 enforceable contract entered into pursuant to section 106 of this act  
9 between the governor on behalf of the state and an owner of a baseload  
10 electric generation facility in the state that produces coal transition  
11 power.

12 **Sec. 103.** RCW 80.80.040 and 2009 c 448 s 2 are each amended to  
13 read as follows:

14 (1) Beginning July 1, 2008, the greenhouse gas emissions  
15 performance standard for all baseload electric generation for which  
16 electric utilities enter into long-term financial commitments on or  
17 after such date is the lower of:

18 (a) One thousand one hundred pounds of greenhouse gases per  
19 megawatt-hour; or

20 (b) The average available greenhouse gas emissions output as  
21 determined under RCW 80.80.050.

22 (2) This chapter does not apply to long-term financial commitments  
23 with the Bonneville power administration.

24 (3)(a) Except as provided in (c) of this subsection, all baseload  
25 electric generation facilities in operation as of June 30, 2008, are  
26 deemed to be in compliance with the greenhouse gas emissions  
27 performance standard established under this section until the  
28 facilities are the subject of long-term financial commitments.

29 (b) All baseload electric generation that commences operation after  
30 June 30, 2008, and is located in Washington, must comply with the  
31 greenhouse gas emissions performance standard established in subsection  
32 (1) of this section.

33 (c)(i) A coal-fired baseload electric generation facility in  
34 Washington that emitted more than one million tons of greenhouse gases  
35 in any calendar year prior to 2008 must comply with the lower of the  
36 following greenhouse gas emissions performance standard such that one

1 generating boiler is in compliance by December 31, 2020, and any other  
2 generating boiler is in compliance by December 31, 2025:

3 (A) One thousand one hundred pounds of greenhouse gases per  
4 megawatt-hour; or

5 (B) The average available greenhouse gas emissions output as  
6 determined under RCW 80.80.050.

7 (ii) This subsection (3)(c) does not apply to a coal-fired baseload  
8 electric generating facility in the event the department determines as  
9 a requirement of state or federal law or regulation that selective  
10 catalytic reduction technology must be installed on any of its boilers.

11 (4) All electric generation facilities or power plants powered  
12 exclusively by renewable resources, as defined in RCW 19.280.020, are  
13 deemed to be in compliance with the greenhouse gas emissions  
14 performance standard established under this section.

15 (5) All cogeneration facilities in the state that are fueled by  
16 natural gas or waste gas or a combination of the two fuels, and that  
17 are in operation as of June 30, 2008, are deemed to be in compliance  
18 with the greenhouse gas emissions performance standard established  
19 under this section until the facilities are the subject of a new  
20 ownership interest or are upgraded.

21 (6) In determining the rate of emissions of greenhouse gases for  
22 baseload electric generation, the total emissions associated with  
23 producing electricity shall be included.

24 (7) In no case shall a long-term financial commitment be determined  
25 to be in compliance with the greenhouse gas emissions performance  
26 standard if the commitment includes more than twelve percent of  
27 electricity from unspecified sources.

28 (8) For a long-term financial commitment with multiple power  
29 plants, each specified power plant must be treated individually for the  
30 purpose of determining the annualized plant capacity factor and net  
31 emissions, and each power plant must comply with subsection (1) of this  
32 section, except as provided in subsections (3) through (5) of this  
33 section.

34 (9) The department shall establish an output-based methodology to  
35 ensure that the calculation of emissions of greenhouse gases for a  
36 cogeneration facility recognizes the total usable energy output of the  
37 process, and includes all greenhouse gases emitted by the facility in  
38 the production of both electrical and thermal energy. In developing

1 and implementing the greenhouse gas emissions performance standard, the  
2 department shall consider and act in a manner consistent with any rules  
3 adopted pursuant to the public utilities regulatory policy act of 1978  
4 (16 U.S.C. Sec. 824a-3), as amended.

5 (10) The following greenhouse gas emissions produced by baseload  
6 electric generation owned or contracted through a long-term financial  
7 commitment shall not be counted as emissions of the power plant in  
8 determining compliance with the greenhouse gas emissions performance  
9 standard:

10 (a) Those emissions that are injected permanently in geological  
11 formations;

12 (b) Those emissions that are permanently sequestered by other means  
13 approved by the department; and

14 (c) Those emissions sequestered or mitigated as approved under  
15 subsection (16) of this section.

16 (11) In adopting and implementing the greenhouse gas emissions  
17 performance standard, the department of (~~community, trade, and~~  
18 ~~economic development~~) commerce energy policy division, in consultation  
19 with the commission, the department, the Bonneville power  
20 administration, the western electricity (~~coordination~~ ~~[coordinating]~~)  
21 coordinating council, the energy facility site evaluation council,  
22 electric utilities, public interest representatives, and consumer  
23 representatives, shall consider the effects of the greenhouse gas  
24 emissions performance standard on system reliability and overall costs  
25 to electricity customers.

26 (12) In developing and implementing the greenhouse gas emissions  
27 performance standard, the department shall, with assistance of the  
28 commission, the department of (~~community, trade, and economic~~  
29 ~~development~~) commerce energy policy division, and electric utilities,  
30 and to the extent practicable, address long-term purchases of  
31 electricity from unspecified sources in a manner consistent with this  
32 chapter.

33 (13) The directors of the energy facility site evaluation council  
34 and the department shall each adopt rules under chapter 34.05 RCW in  
35 coordination with each other to implement and enforce the greenhouse  
36 gas emissions performance standard. The rules necessary to implement  
37 this section shall be adopted by June 30, 2008.

1 (14) In adopting the rules for implementing this section, the  
2 energy facility site evaluation council and the department shall  
3 include criteria to be applied in evaluating the carbon sequestration  
4 plan, for baseload electric generation that will rely on subsection  
5 (10) of this section to demonstrate compliance, but that will commence  
6 sequestration after the date that electricity is first produced. The  
7 rules shall include but not be limited to:

8 (a) Provisions for financial assurances, as a condition of plant  
9 operation, sufficient to ensure successful implementation of the carbon  
10 sequestration plan, including construction and operation of necessary  
11 equipment, and any other significant costs;

12 (b) Provisions for geological or other approved sequestration  
13 commencing within five years of plant operation, including full and  
14 sufficient technical documentation to support the planned  
15 sequestration;

16 (c) Provisions for monitoring the effectiveness of the  
17 implementation of the sequestration plan;

18 (d) Penalties for failure to achieve implementation of the plan on  
19 schedule;

20 (e) Provisions for an owner to purchase emissions reductions in the  
21 event of the failure of a sequestration plan under subsection (16) of  
22 this section; and

23 (f) Provisions for public notice and comment on the carbon  
24 sequestration plan.

25 (15)(a) Except as provided in (b) of this subsection, as part of  
26 its role enforcing the greenhouse gas emissions performance standard,  
27 the department shall determine whether sequestration or a plan for  
28 sequestration will provide safe, reliable, and permanent protection  
29 against the greenhouse gases entering the atmosphere from the power  
30 plant and all ancillary facilities.

31 (b) For facilities under its jurisdiction, the energy facility site  
32 evaluation council shall contract for review of sequestration or the  
33 carbon sequestration plan with the department consistent with the  
34 conditions under (a) of this subsection, consider the adequacy of  
35 sequestration or the plan in its adjudicative proceedings conducted  
36 under RCW 80.50.090(3), and incorporate specific findings regarding  
37 adequacy in its recommendation to the governor under RCW 80.50.100.

1 (16) A project under consideration by the energy facility site  
2 evaluation council by July 22, 2007, is required to include all of the  
3 requirements of subsection (14) of this section in its carbon  
4 sequestration plan submitted as part of the energy facility site  
5 evaluation council process. A project under consideration by the  
6 energy facility site evaluation council by July 22, 2007, that receives  
7 final site certification agreement approval under chapter 80.50 RCW  
8 shall make a good faith effort to implement the sequestration plan. If  
9 the project owner determines that implementation is not feasible, the  
10 project owner shall submit documentation of that determination to the  
11 energy facility site evaluation council. The documentation shall  
12 demonstrate the steps taken to implement the sequestration plan and  
13 evidence of the technological and economic barriers to successful  
14 implementation. The project owner shall then provide to the energy  
15 facility site evaluation council notification that they shall implement  
16 the plan that requires the project owner to meet the greenhouse gas  
17 emissions performance standard by purchasing verifiable greenhouse gas  
18 emissions reductions from an electric (~~generating~~) generation  
19 facility located within the western interconnection, where the  
20 reduction would not have occurred otherwise or absent this contractual  
21 agreement, such that the sum of the emissions reductions purchased and  
22 the facility's emissions meets the standard for the life of the  
23 facility.

24 **Sec. 104.** RCW 80.80.060 and 2009 c 448 s 3 and 2009 c 147 s 1 are  
25 each reenacted and amended to read as follows:

26 (1) No electrical company may enter into a long-term financial  
27 commitment unless the baseload electric generation supplied under such  
28 a long-term financial commitment complies with the greenhouse (~~gases~~  
29 ~~gas~~) gas emissions performance standard established under RCW  
30 80.80.040.

31 (2) In order to enforce the requirements of this chapter, the  
32 commission shall review in a general rate case or as provided in  
33 subsection (5) of this section any long-term financial commitment  
34 entered into by an electrical company after June 30, 2008, to determine  
35 whether the baseload electric generation to be supplied under that  
36 long-term financial commitment complies with the greenhouse (~~gases~~



1 ~~(gas))~~ gas emissions performance standard established under RCW  
2 80.80.040.

3 (3) In determining whether a long-term financial commitment is for  
4 baseload electric generation, the commission shall consider the design  
5 of the power plant and its intended use, based upon the electricity  
6 purchase contract, if any, permits necessary for the operation of the  
7 power plant, and any other matter the commission determines is relevant  
8 under the circumstances.

9 (4) Upon application by an electric utility, the commission may  
10 provide a case-by-case exemption from the greenhouse (~~(gases-[gas])~~)  
11 gas emissions performance standard to address: (a) Unanticipated  
12 electric system reliability needs; (b) extraordinary cost impacts on  
13 utility ratepayers; or (c) catastrophic events or threat of significant  
14 financial harm that may arise from unforeseen circumstances.

15 (5) Upon application by an electrical company, the commission shall  
16 determine whether the company's proposed decision to acquire electric  
17 generation or enter into a power purchase agreement for electricity  
18 complies with the greenhouse (~~(gases-[gas])~~) gas emissions performance  
19 standard established under RCW 80.80.040. The commission shall not  
20 decide in a proceeding under this subsection (5) issues involving the  
21 actual costs to construct and operate the selected resource, cost  
22 recovery, or other issues reserved by the commission for decision in a  
23 general rate case or other proceeding for recovery of the resource or  
24 contract costs.

25 (6) An electrical company may account for and defer for later  
26 consideration by the commission costs incurred in connection with a  
27 long-term financial commitment, including operating and maintenance  
28 costs, depreciation, taxes, and cost of invested capital. The deferral  
29 begins with the date on which the power plant begins commercial  
30 operation or the effective date of the power purchase agreement and  
31 continues for a period not to exceed twenty-four months; provided that  
32 if during such period the company files a general rate case or other  
33 proceeding for the recovery of such costs, deferral ends on the  
34 effective date of the final decision by the commission in such  
35 proceeding. Creation of such a deferral account does not by itself  
36 determine the actual costs of the long-term financial commitment,  
37 whether recovery of any or all of these costs is appropriate, or other  
38 issues to be decided by the commission in a general rate case or other

1 proceeding for recovery of these costs. For the purpose of this  
2 subsection (6) only, the term "long-term financial commitment" also  
3 includes an electric company's ownership or power purchase agreement  
4 with a term of five or more years associated with an eligible renewable  
5 resource as defined in RCW 19.285.030.

6 (7) The commission shall consult with the department to apply the  
7 procedures adopted by the department to verify the emissions of  
8 greenhouse gases from baseload electric generation under RCW 80.80.040.  
9 The department shall report to the commission whether baseload electric  
10 generation will comply with the greenhouse (~~gases~~[gas]) gas  
11 emissions performance standard for the duration of the period the  
12 baseload electric generation is supplied to the electrical company.

13 (8) The commission shall adopt rules for the enforcement of this  
14 section with respect to electrical companies and adopt procedural rules  
15 for approving costs incurred by an electrical company under subsection  
16 (4) of this section.

17 (9) This section does not apply to a long-term financial commitment  
18 for the purchase of coal transition power with termination dates  
19 consistent with the applicable dates in RCW 80.80.040(3)(c).

20 (10) The commission shall adopt rules necessary to implement this  
21 section by December 31, 2008.

22 **Sec. 105.** RCW 80.80.070 and 2007 c 307 s 9 are each amended to  
23 read as follows:

24 (1) No consumer-owned utility may enter into a long-term financial  
25 commitment unless the baseload electric generation supplied under such  
26 a long-term financial commitment complies with the greenhouse (~~gases~~)  
27 gas emissions performance standard established under RCW 80.80.040.

28 (2) The governing board shall review and make a determination on  
29 any long-term financial commitment by the utility, pursuant to this  
30 chapter and after consultation with the department, to determine  
31 whether the baseload electric generation to be supplied under that  
32 long-term financial commitment complies with the greenhouse (~~gases~~)  
33 gas emissions performance standard established under RCW 80.80.040. No  
34 consumer-owned utility may enter into a long-term financial commitment  
35 unless the baseload electric generation to be supplied under that long-  
36 term financial commitment complies with the greenhouse (~~gases~~) gas  
37 emissions performance standard established under RCW 80.80.040.

1 (3) In confirming that a long-term financial commitment is for  
2 baseload electric generation, the governing board shall consider the  
3 design of the power plant and the intended use of the power plant based  
4 upon the electricity purchase contract, if any, permits necessary for  
5 the operation of the power plant, and any other matter the governing  
6 board determines is relevant under the circumstances.

7 (4) The governing board may provide a case-by-case exemption from  
8 the greenhouse (~~gases~~) gas emissions performance standard to address:

9 (a) Unanticipated electric system reliability needs; or (b)  
10 catastrophic events or threat of significant financial harm that may  
11 arise from unforeseen circumstances.

12 (5) The governing board shall apply the procedures adopted by the  
13 department to verify the emissions of greenhouse gases from baseload  
14 electric generation under RCW 80.80.040, and may request assistance  
15 from the department in doing so.

16 (6) For consumer-owned utilities, the auditor is responsible for  
17 auditing compliance with this chapter and rules adopted under this  
18 chapter that apply to those utilities and the attorney general is  
19 responsible for enforcing that compliance.

20 (7) This section does not apply to long-term financial commitments  
21 for the purchase of coal transition power with termination dates  
22 consistent with the applicable dates in RCW 80.80.040(3)(c).

23 NEW SECTION. Sec. 106. A new section is added to chapter 80.80  
24 RCW to read as follows:

25 (1) By January 1, 2012, the governor on behalf of the state shall  
26 enter into a memorandum of agreement that takes effect on April 1,  
27 2012, with the owners of a coal-fired baseload facility in Washington  
28 that emitted more than one million tons of greenhouse gases in any  
29 calendar year prior to 2008. The memorandum of agreement entered into  
30 by the governor may only contain provisions authorized in this section,  
31 except as provided under section 108 of this act.

32 (2) The memorandum of agreement must:

33 (a) Incorporate by reference RCW 80.80.040, 80.80.060, and  
34 80.80.070 as of the effective date of this section;

35 (b) Incorporate binding commitments to install selective  
36 noncatalytic reduction pollution control technology in any coal-fired

1 generating boilers by January 1, 2013, after discussing the proper use  
2 of ammonia in this technology.

3 (3)(a) The memorandum of agreement must include provisions by which  
4 the facility owner will provide financial assistance:

5 (i) To the affected community for economic development and energy  
6 efficiency and weatherization; and

7 (ii) For energy technologies with the potential to create  
8 considerable energy, economic development, and air quality, haze, or  
9 other environmental benefits.

10 (b) Except as described in (c) of this subsection, the financial  
11 assistance in (a)(i) of this subsection must be in the amount of thirty  
12 million dollars and the financial assistance in (a)(ii) of this  
13 subsection must be in the amount of twenty-five million dollars, with  
14 investments beginning January 1, 2012, and consisting of equal annual  
15 investments through December 31, 2023, or until the full amount has  
16 been provided. Only funds for energy efficiency and weatherization may  
17 be spent prior to December 31, 2015.

18 (c) If the tax exemptions provided under RCW 82.08.811 or 82.12.811  
19 are repealed, any remaining financial assistance required by this  
20 section is no longer required.

21 (4) The memorandum of agreement must:

22 (a) Specify that the investments in subsection (3) of this section  
23 be held in independent accounts at an appropriate financial  
24 institution; and

25 (b) Identify individuals to approve expenditures from the accounts.  
26 Individuals must have relevant expertise and must include members  
27 representing the Lewis county economic development council, local  
28 elected officials, employees at the facility, and the facility owner.

29 (5) The memorandum of agreement must include a provision that  
30 allows for the termination of the memorandum of agreement in the event  
31 the department determines as a requirement of state or federal law or  
32 regulation that selective catalytic reduction technology must be  
33 installed on any of its boilers.

34 (6) The memorandum of agreement must include enforcement provisions  
35 to ensure implementation of the agreement by the parties.

36 (7) If the memorandum of agreement is not signed by January 1,  
37 2012, the governor must impose requirements consistent with the  
38 provisions in subsection (2)(b) of this section.

1 NEW SECTION. **Sec. 107.** A new section is added to chapter 80.80  
2 RCW to read as follows:

3 No state agency or political subdivision of the state may adopt or  
4 impose a greenhouse gas emission performance standard, or other  
5 operating or financial requirement or limitation relating to greenhouse  
6 gas emissions, on a coal-fired electric generation facility located in  
7 Washington in operation on or before the effective date of this section  
8 or upon an electric utility's long-term purchase of coal transition  
9 power, that is inconsistent with or in addition to the provisions of  
10 RCW 80.80.040 or the memorandum of agreement entered into under section  
11 106 of this act.

12 NEW SECTION. **Sec. 108.** A new section is added to chapter 80.80  
13 RCW to read as follows:

14 (1) A memorandum of agreement entered into pursuant to section 106  
15 of this act may include provisions to assist in the financing of  
16 emissions reductions that exceed those required by RCW 80.80.040(3)(c)  
17 by providing for the recognition of such reductions in applicable state  
18 policies and programs relating to greenhouse gas emissions, and by  
19 encouraging and advocating for the recognition of the reductions in all  
20 established and emerging emission reduction frameworks at the regional,  
21 national, or international level.

22 (2) The governor may recommend actions to the legislature to  
23 strengthen implementation of an agreement or a proposed agreement  
24 relating to recognition of investments in emissions reductions  
25 described in subsection (1) of this section.

26 **Sec. 109.** RCW 80.50.100 and 1989 c 175 s 174 are each amended to  
27 read as follows:

28 (1)(a) The council shall report to the governor its recommendations  
29 as to the approval or rejection of an application for certification  
30 within twelve months of receipt by the council of such an application,  
31 or such later time as is mutually agreed by the council and the  
32 applicant.

33 (b) In the case of an application filed prior to December 31, 2025,  
34 for certification of an energy facility proposed for construction,  
35 modification, or expansion for the purpose of providing generating  
36 facilities that meet the requirements of RCW 80.80.040 and are located

1 in a county with a coal-fired electric generating facility subject to  
2 RCW 80.80.040(3)(c), the council shall expedite the processing of the  
3 application pursuant to RCW 80.50.075 and shall report its  
4 recommendations to the governor within one hundred eighty days of  
5 receipt by the council of such an application, or a later time as is  
6 mutually agreed by the council and the applicant.

7 (2) If the council recommends approval of an application for  
8 certification, it shall also submit a draft certification agreement  
9 with the report. The council shall include conditions in the draft  
10 certification agreement to implement the provisions of this chapter,  
11 including, but not limited to, conditions to protect state or local  
12 governmental or community interests affected by the construction or  
13 operation of the energy facility, and conditions designed to recognize  
14 the purpose of laws or ordinances, or rules or regulations promulgated  
15 thereunder, that are preempted or superseded pursuant to RCW 80.50.110  
16 as now or hereafter amended.

17 ~~((+2))~~ (3)(a) Within sixty days of receipt of the council's report  
18 the governor shall take one of the following actions:

19 ~~((+a))~~ (i) Approve the application and execute the draft  
20 certification agreement; or

21 ~~((+b))~~ (ii) Reject the application; or

22 ~~((+c))~~ (iii) Direct the council to reconsider certain aspects of  
23 the draft certification agreement.

24 (b) The council shall reconsider such aspects of the draft  
25 certification agreement by reviewing the existing record of the  
26 application or, as necessary, by reopening the adjudicative proceeding  
27 for the purposes of receiving additional evidence. Such  
28 reconsideration shall be conducted expeditiously. The council shall  
29 resubmit the draft certification to the governor incorporating any  
30 amendments deemed necessary upon reconsideration. Within sixty days of  
31 receipt of such draft certification agreement, the governor shall  
32 either approve the application and execute the certification agreement  
33 or reject the application. The certification agreement shall be  
34 binding upon execution by the governor and the applicant.

35 ~~((+3))~~ (4) The rejection of an application for certification by  
36 the governor shall be final as to that application but shall not  
37 preclude submission of a subsequent application for the same site on  
38 the basis of changed conditions or new information.

1        NEW SECTION.    **Sec. 201.**    (1) A facility subject to closure under  
2 either RCW 80.80.040(3)(c) or a memorandum of agreement under section  
3 106 of this act, or both, must provide the department of ecology with  
4 a plan for the closure and postclosure of the facility at least twenty-  
5 four months prior to facility closure or twenty-four months prior to  
6 start of decommissioning work, whichever is earlier. This plan must be  
7 consistent with the rules established by the energy facility site  
8 evaluation council for site restoration and preservation applicable to  
9 facilities subject to a site certification agreement under chapter  
10 80.50 RCW and include but not be limited to:

11        (a) A detailed estimate of the cost to implement the plan based on  
12 the cost of hiring a third party to conduct all activities;

13        (b) Demonstrating financial assurance to fund the closure and  
14 postclosure of the facility and providing methods by which this  
15 assurance may be demonstrated;

16        (c) Methods for estimating closure costs, including full site  
17 reclamation under all applicable federal and state clean-up standards;  
18 and

19        (d) A decommissioning and site restoration plan that addresses  
20 restoring physical topography, cleanup of all hazardous substances on  
21 the site, potential future uses of the site following restoration, and  
22 coordination with local and community plans for economic development in  
23 the vicinity of the site.

24        (2) All cost estimates in the plan must be in current dollars and  
25 may not include a net present value adjustment or offsets for salvage  
26 value of wastes or other property.

27        (3) Adoption of the plan and significant revisions to the plan must  
28 be approved by the department of ecology.

29        NEW SECTION.    **Sec. 202.**    (1) A facility subject to closure under  
30 either RCW 80.80.040(3)(c) or a memorandum of agreement under section  
31 106 of this act, or both, must guarantee funds are available to perform  
32 all activities specified in the decommissioning plan developed under  
33 section 201 of this act. The amount must equal the cost estimates  
34 specified in the decommissioning plan and must be updated annually for  
35 inflation. All guarantees under this section must be assumed by any  
36 successor owner, parent company, or holding company.

1 (2) The guarantee required under subsection (1) of this section may  
2 be accomplished by letter of credit, surety bond, or other means  
3 acceptable to the department of ecology.

4 (3) The issuing institution of the letter of credit must be an  
5 entity that has the authority to issue letters of credit and whose  
6 letter of credit operations are regulated by a federal or state agency.  
7 The surety company issuing a surety bond must, at a minimum, be an  
8 entity listed as an acceptable surety on federal bonds in circular 570,  
9 published by the United States department of the treasury.

10 (4) A qualifying facility that uses a letter of credit or a surety  
11 bond to satisfy the requirements of this act must also establish a  
12 standby trust fund as a means to hold any funds issued from the letter  
13 of credit or a surety bond. Under the terms of the letter of credit or  
14 a surety bond, all amounts paid pursuant to a draft from the department  
15 of ecology must be deposited by the issuing institution directly into  
16 the standby trust fund in accordance with instructions from the  
17 department of ecology. This standby trust fund must be approved by the  
18 department of ecology.

19 (5) The letter of credit or a surety bond must be irrevocable and  
20 issued for a period of at least one year. The letter of credit or a  
21 surety bond must provide that the expiration date will be automatically  
22 extended for a period of at least one year unless, at least one hundred  
23 twenty days before the current expiration date, the issuing institution  
24 notifies both the qualifying facility and the department of ecology of  
25 a decision not to extend the expiration date. Under the terms of the  
26 letter of credit, the one hundred twenty days will begin on the date  
27 when both the qualifying plant and the department of ecology have  
28 received the notice, as evidenced by certified mail return receipts or  
29 by overnight courier delivery receipts.

30 (6) If the qualifying facility does not establish an alternative  
31 method of guaranteeing decommissioning funds are available within  
32 ninety days after receipt by both the qualifying facility plant and the  
33 department of ecology of a notice from the issuing institution that it  
34 has decided not to extend the letter of credit beyond the current  
35 expiration date, the department of ecology must draw on the letter of  
36 credit or a surety bond. The department of ecology must approve any  
37 replacement or substitute guarantee method before the expiration of the  
38 ninety-day period.



1 (7) If a qualifying facility elects to use a letter of credit as  
2 the sole method for guaranteeing decommissioning funds are available,  
3 the face value of the letter of credit must meet or exceed the current  
4 inflation-adjusted cost estimate. If a qualifying facility elects to  
5 use a surety bond as the sole method for guaranteeing decommissioning  
6 funds are available, the penal sum of the surety bond must meet or  
7 exceed the current inflation-adjusted cost estimate.

8 (8) A qualifying facility must adjust the decommissioning costs and  
9 financial guarantees annually for inflation and may use an amendment to  
10 increase the face value of a letter of credit or a surety bond each  
11 year to account for this inflation. A qualifying facility is not  
12 required to obtain a new letter of credit or a surety bond to cover  
13 annual inflation adjustments.

14 NEW SECTION. **Sec. 203.** Sections 201 and 202 of this act  
15 constitute a new chapter in Title 80 RCW.

16 **Sec. 301.** RCW 43.160.076 and 2008 c 327 s 8 are each amended to  
17 read as follows:

18 (1) Except as authorized to the contrary under subsection (2) of  
19 this section, from all funds available to the board for financial  
20 assistance in a biennium under this chapter, the board shall approve at  
21 least seventy-five percent of the first twenty million dollars of funds  
22 available and at least fifty percent of any additional funds for  
23 financial assistance for projects in rural counties.

24 (2) If at any time during the last six months of a biennium the  
25 board finds that the actual and anticipated applications for qualified  
26 projects in rural counties are clearly insufficient to use up the  
27 allocations under subsection (1) of this section, then the board shall  
28 estimate the amount of the insufficiency and during the remainder of  
29 the biennium may use that amount of the allocation for financial  
30 assistance to projects not located in rural counties.

31 (3) The board shall solicit qualifying projects to plan, design,  
32 and construct public facilities needed to attract new industrial and  
33 commercial activities in areas impacted by the closure or potential  
34 closure of large coal-fired electric generation facilities, which for  
35 the purposes of this section means a facility that emitted more than  
36 one million tons of greenhouse gases in any calendar year prior to

1 2008. The projects should be consistent with any applicable plans for  
2 major industrial activity on lands formerly used or designated for  
3 surface coal mining and supporting uses under RCW 36.70A.368. When the  
4 board receives timely and eligible project applications from a  
5 political subdivision of the state for financial assistance for such  
6 projects, the board from available funds shall give priority  
7 consideration to such projects.

8 NEW SECTION. Sec. 302. A new section is added to chapter 43.155  
9 RCW to read as follows:

10 The board shall solicit qualifying projects to plan, design, and  
11 construct public works projects needed to attract new industrial and  
12 commercial activities in areas impacted by the closure or potential  
13 closure of large coal-fired electric generation facilities, which for  
14 the purposes of this section means a facility that emitted more than  
15 one million tons of greenhouse gases in any calendar year prior to  
16 2008. The projects should be consistent with any applicable plans for  
17 major industrial activity on lands formerly used or designated for  
18 surface coal mining and supporting uses under RCW 36.70A.368. When the  
19 board receives timely and eligible project applications from a  
20 political subdivision of the state for financial assistance for such  
21 projects, the board from available funds shall give priority  
22 consideration to such projects.

23 NEW SECTION. Sec. 303. A new section is added to chapter 80.04  
24 RCW to read as follows:

25 The legislature finds that an electrical company's acquisition of  
26 coal transition power helps to achieve the state's greenhouse gas  
27 emission reduction goals by effecting an orderly transition to cleaner  
28 fuels and supports the state's public policy.

29 NEW SECTION. Sec. 304. A new section is added to chapter 80.04  
30 RCW to read as follows:

31 (1) On the petition of an electrical company, the commission shall  
32 approve or disapprove a power purchase agreement for acquisition of  
33 coal transition power, as defined in RCW 80.80.010, and the recovery of  
34 related acquisition costs. No agreement for an electrical company's

1 acquisition of coal transition power takes effect until it is approved  
2 by the commission.

3 (2) Any power purchase agreement for the acquisition of coal  
4 transition power pursuant to this section must provide for modification  
5 of the power purchase agreement to the satisfaction of the parties  
6 thereto in the event that a new or revised emission or performance  
7 standard or other new or revised operational or financial requirement  
8 or limitation directly or indirectly addressing greenhouse gas  
9 emissions is imposed by state or federal law, rules, or regulatory  
10 requirements. Such a modification to a power purchase agreement agreed  
11 to by the parties must be reviewed and considered for approval by the  
12 commission, considering the circumstances existing at the time of such  
13 a review, under procedures and standards set forth in this section. In  
14 the event the parties cannot agree to modification of the power  
15 purchase agreement, either party to the agreement has the right to  
16 terminate the agreement if it is adversely affected by this new  
17 standard, requirement, or limitation.

18 (3) When a petition is filed, the commission shall provide notice  
19 to the public and potentially affected parties and set the petition for  
20 hearing as an adjudicative proceeding under chapter 34.05 RCW. Any  
21 party may request that the commission expedite the hearing of that  
22 petition. The hearing of such a petition is not considered a general  
23 rate case. The electrical company must file supporting testimony and  
24 exhibits together with the power purchase agreement for coal transition  
25 power. Information provided by the facility owner to the purchasing  
26 electrical company for evaluating the costs and benefits associated  
27 with acquisition of coal transition power must be made available to  
28 other parties to the petition under a protective order entered by the  
29 commission. An administrative law judge of the commission may enter an  
30 initial order including findings of fact and conclusions of law, as  
31 provided in RCW 80.01.060(3). The commission shall issue a final order  
32 that approves or disapproves the power purchase agreement for  
33 acquisition of coal transition power within one hundred eighty days  
34 after an electrical company files the petition.

35 (4) The commission must approve a power purchase agreement for  
36 acquisition of coal transition power pursuant to this section only if  
37 the commission determines that, considering the circumstances existing  
38 at the time of such a review: The terms of such an agreement provide

1 adequate protection to ratepayers and the electrical company during the  
2 term of such an agreement or in the event of early termination; the  
3 resource is needed by the electrical company to serve its ratepayers  
4 and the resource meets the need in a cost-effective manner as  
5 determined under the lowest reasonable cost resource standards under  
6 chapter 19.280 RCW, including the cost of the power purchase agreement  
7 plus the equity component as determined in this section. As part of  
8 these determinations, the commission shall consider, among other  
9 factors, the long-term economic risks and benefits to the electrical  
10 company and its ratepayers of such a long-term purchase.

11 (5) If the commission has not issued a final order within one  
12 hundred eighty days from the date the petition is filed, or if the  
13 commission disapproves the petition, the power purchase agreement for  
14 acquisition of coal transition power is null and void. In the event  
15 the commission approves the agreement upon conditions other than those  
16 set forth in the petition, the electrical company has the right to  
17 reject the agreement.

18 (6)(a) Upon commission approval of an electrical company's power  
19 purchase agreement for acquisition of coal transition power in  
20 accordance with this section, the electrical company is allowed to earn  
21 the equity component of its authorized rate of return in the same  
22 manner as if it had purchased or built an equivalent plant and to  
23 recover the cost of the coal transition power under the power purchase  
24 agreement. Any power purchase agreement for acquisition of coal  
25 transition power that earns a return on equity may not be included in  
26 an imputed debt calculation for setting customer rates.

27 (b) For purposes of determining the equity value, the cost of an  
28 equivalent plant is the least cost purchased or self-built electric  
29 generation plant with equivalent capacity. In determining the least  
30 cost plant, the commission may rely on the electrical company's most  
31 recent filed integrated resource plan. The cost of an equivalent  
32 plant, in dollars per kilowatt, must be determined in the original  
33 process of commission approval for each power purchase agreement for  
34 coal transition power.

35 (c) The equivalent plant cost determined in the approval process  
36 must be amortized over the life of the power purchase agreement for  
37 acquisition of coal transition power to determine the recovery of the  
38 equity value.

1 (d) The recovery of the equity component must be determined and  
2 approved in the review process set forth in this section. The approved  
3 equity value must be in addition to the approved cost of the power  
4 purchase agreement.

5 (7) Authorizing recovery of costs under a power purchase agreement  
6 for acquisition of coal transition power does not prohibit the  
7 commission from authorizing recovery of an electrical company's  
8 acquisition of capacity resources for the purpose of integrating  
9 intermittent power or following load.

10 (8) Neither this act nor the commission's approval of a power  
11 purchase agreement for acquisition of coal transition power that  
12 includes the ability to earn the equity component of an electrical  
13 company's authorized rate of return establishes any precedent for an  
14 electrical company to receive an equity return on any other power  
15 purchase agreement or other power contract.

16 (9) For purposes of this section, "power purchase agreement" means  
17 a long-term financial commitment as defined in RCW 80.80.010(15)(b).

18 (10) This section expires December 31, 2025.

19 **Sec. 305.** RCW 19.280.030 and 2006 c 195 s 3 are each amended to  
20 read as follows:

21 Each electric utility must develop a plan consistent with this  
22 section.

23 (1) Utilities with more than twenty-five thousand customers that  
24 are not full requirements customers shall develop or update an  
25 integrated resource plan by September 1, 2008. At a minimum, progress  
26 reports reflecting changing conditions and the progress of the  
27 integrated resource plan must be produced every two years thereafter.  
28 An updated integrated resource plan must be developed at least every  
29 four years subsequent to the 2008 integrated resource plan. The  
30 integrated resource plan, at a minimum, must include:

31 (a) A range of forecasts, for at least the next ten years, of  
32 projected customer demand which takes into account econometric data and  
33 customer usage;

34 (b) An assessment of commercially available conservation and  
35 efficiency resources. Such assessment may include, as appropriate,  
36 high efficiency cogeneration, demand response and load management

1 programs, and currently employed and new policies and programs needed  
2 to obtain the conservation and efficiency resources;

3 (c) An assessment of commercially available, utility scale  
4 renewable and nonrenewable generating technologies including a  
5 comparison of the benefits and risks of purchasing power or building  
6 new resources;

7 (d) A comparative evaluation of renewable and nonrenewable  
8 generating resources, including transmission and distribution delivery  
9 costs, and conservation and efficiency resources using "lowest  
10 reasonable cost" as a criterion;

11 (e) The integration of the demand forecasts and resource  
12 evaluations into a long-range assessment describing the mix of supply  
13 side generating resources and conservation and efficiency resources  
14 that will meet current and projected needs at the lowest reasonable  
15 cost and risk to the utility and its ratepayers; and

16 (f) A short-term plan identifying the specific actions to be taken  
17 by the utility consistent with the long-range integrated resource plan.

18 (2) All other utilities may elect to develop a full integrated  
19 resource plan as set forth in subsection (1) of this section or, at a  
20 minimum, shall develop a resource plan that:

21 (a) Estimates loads for the next five and ten years;

22 (b) Enumerates the resources that will be maintained and/or  
23 acquired to serve those loads; and

24 (c) Explains why the resources in (b) of this subsection were  
25 chosen and, if the resources chosen are not renewable resources or  
26 conservation and efficiency resources, why such a decision was made.

27 (3) An electric utility that is required to develop a resource plan  
28 under this section must complete its initial plan by September 1, 2008.

29 (4) Resource plans developed under this section must be updated on  
30 a regular basis, at a minimum on intervals of two years.

31 (5) Plans shall not be a basis to bring legal action against  
32 electric utilities.

33 (6) Each electric utility shall publish its final plan either as  
34 part of an annual report or as a separate document available to the  
35 public. The report may be in an electronic form.

36 NEW SECTION. **Sec. 306.** A new section is added to chapter 80.70  
37 RCW to read as follows:

1 (1) An applicant for a natural gas-fired generation plant to be  
2 constructed in a county with a coal-fired electric generation facility  
3 subject to RCW 80.80.040(3)(c) is exempt from this chapter if the  
4 application is filed before December 31, 2025.

5 (2) For the purposes of this section, an applicant means the owner  
6 of a coal-fired electric generation facility subject to RCW  
7 80.80.040(3)(c).

8 (3) This section expires December 31, 2025, or when the station-  
9 generating capability of all natural gas-fired generation plants  
10 approved under this section equals the station-generating capability  
11 from a coal-fired electric generation facility subject to RCW  
12 80.80.040(3)(c).

13 NEW SECTION. **Sec. 307.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected."

17 Correct the title.

EFFECT: Greenhouse Gas Emissions Performance Standard

Removes parts of the intent section relating to the specific types of pollutants emitted from the combustion of coal; visual impacts due to the combustion of coal; the damage by-products from coal combustion causes to native America petroglyphs and pictographs and to fishing, gathering, and grazing; a previous legislative finding that greenhouse gas emissions contributes to climate change; and the planning and funding needed to ensure closure and postclosure activities that restore a site that once contained a coal-fired baseload generation facility.

Modifies the definition of coal transition power by removing the requirement that a facility must be located in Washington and by specifying the output of a coal-fired electric generation facility is subject to an obligation to meet the state's greenhouse gas emissions performance standard relating to a coal-fired electric generation facility.

Specifies that a coal-fired baseload electric generation facility is subject to the greenhouse gas emission performance standard if it emitted more than one million tons of greenhouse gases in any calendar year prior to 2008 (rather than in calendar year 2005) and replaces in the act the other references to "in calendar year 2005" with "any calendar year prior to 2008."

Memorandum of Agreement

Specifies that the memorandum of agreement entered into by the governor with the owners of a coal-fired baseload facility by January 1, 2012, does not take effect until April 1, 2012.

Requires the memorandum of agreement entered into by the governor with the owners of a coal-fired baseload facility may only contain provisions that are specified in the act.

Makes the correction that the Lewis economic development council is the Lewis county economic development council.

Adds that the memorandum of agreement must include a provision that allows for its termination if the department of ecology determines as a requirement of state law or regulation that selective catalytic reduction technology must be installed on any boiler of an applicable coal-fired baseload facility.

Specifies that the governor is not limited to only early emission reductions in recommending actions to the legislature to strengthen implementation of an agreement or a proposed agreement relating to recognition of investments in emissions reductions.

#### Prohibitions on Additional State and Local Government Greenhouse Gas Standards, Requirements, or Limitations

Provides that the prohibition on additional state and local greenhouse gas emissions standards, requirements, and limitations only applies to a coal-fired electric generation facility located in Washington that is in operation on or before the effective date of the act.

#### Closure and Postclosure of a Coal-fired Electric Generation Facility

Removes intent section relating to the closure and postclosure requirements of a very large coal-fired baseload electric generation facility.

Specifies that a coal-fired generation facility subject to the greenhouse gas emissions performance standard must provide the department of ecology with a plan for the closure and postclosure of the facility at least twenty-four months prior to facility closure or twenty-four months prior to start of decommissioning work, whichever is earlier.

#### Guarantee of Funds to Implement Decommissioning Plan

Requires a surety company issuing a surety bond that guarantees funds are available to perform activities in a coal-fired generation facility decommissioning plan to be, at a minimum, an entity listed as an acceptable surety on federal bonds in circular 570 of the United States department of the treasury.

Specifies that if a qualifying facility elects to use a surety bond as the sole method of guaranteeing decommissioning funds are available, the penal sum of the surety bond must meet or exceed the current inflation-adjusted cost estimate.

Clarifies that provisions relating to letters of credit such as: Establishing a standby trust, ensuring that a letter of credit is irrevocable, and adjusting the decommissioning cost for inflation, apply to surety bonds.

#### Assistance to Local Communities

Removes section that makes the statement that it is in the public interest to assist local communities in which very large energy generating facilities may be closed, in order to plan for future economic uses of the site and in the community surrounding the site.

Removes the requirement that the Public Works Board and the Community Economic Revitalization Board must give priority to funding



qualifying projects at specific minimum dollar levels each biennium from 2011 through 2023 from available funds. Instead, requires that each board give priority consideration to funding such projects.

#### Power Purchase Agreements for Acquisition of Coal Transition Power

Moves the legislative findings section pertaining to how an electrical company's acquisition of coal transition power helps to achieve the state's greenhouse gas emissions reduction goals from chapter 80.80 RCW relating to the state's greenhouse gas emissions performance standard to chapter 80.04 RCW relating to the utilities and transportation commission.

Requires the utilities and transportation commission (commission) when reviewing and approving power purchase agreements for coal transition power, to ensure that each agreement, including in the event of termination, leaves the ratepayers of an electrical company no worse off economically than they would have been without this act.

Specifies that any power purchase agreement for the acquisition of coal transition power must provide for modification of the power purchase agreement to the satisfaction of the parties in the event that a new or revised greenhouse gas emission standards, requirements, or limitation directly or indirectly addressing greenhouse gas emissions is imposed by state or federal law, rules, or regulatory requirements.

Provides that any modification to a power purchase agreement agreed to by the parties must be reviewed and considered for approval by the commission under procedures and standards set forth in the act.

Specifies that in the event the parties cannot agree to modification of the power purchase agreement, either party to the agreement has the right to terminate the agreement if it is adversely affected by new greenhouse gas emissions standards, requirements, or limitations.

Requires the commission when it receives a petition for the approval of the acquisition of coal transition power to hear the petition as an adjudicative proceeding under the administrative procedure act.

Allows any party to request that the commission expedite the hearing of that petition.

Specifies that the electrical company must file supporting testimony and exhibits together with the power purchase agreement for coal transition power.

Requires information provided by the facility owner to the purchasing electrical company for evaluating the costs and benefits associated with acquisition of coal transition power must be made available to other parties to the petition under a protective order entered by the commission.

Requires the commission when approving a power purchase agreement to include among other factors the cost of the power purchase agreement plus the equity component and the long-term economic risks and benefits to the electrical company and its ratepayers of a long-term purchase.

Provides that any power purchase agreement for acquisition of coal transition power that earns a return on equity may not be included in an imputed debt calculation for setting customer rates.

Clarifies that for the purposes of determining the equity value, the cost of an equivalent plant is the least cost purchased or self-built electric generation with equivalent capacity.

Provides that in determining the least cost plant, the commission may rely on the electrical company's most recent filed integrated resource plan.

Specifies that the cost of an equivalent plant, in dollars per kilowatt, must be determined in the original process of commission approval for each power purchase agreement for coal transition power.

Provides that the recovery of the equity component and of the cost of the coal transition power under the power purchase agreement must be determined and approved in the process set forth in applicable sections of this act.

Removes provisions relating to the acquisition of flexible capacity resources.

Specifies that by authorizing recovery of costs under a power purchase agreement for acquisition of coal transition power does not prohibit the commission from authorizing recovery of an electrical company's acquisition of capacity resources for the purpose of integrating intermittent power or following load.

Clarifies that neither this legislation nor the commission's approval of a power purchase agreement for the acquisition of coal transition power that includes the ability to earn the equity component of an electrical company's authorized rate of return establishes any precedent for an electrical company to receive an equity return on any other power purchase agreement or other power contract.

Defines power purchase agreement to have the same meaning as long-term financial commitment as the term is defined under the greenhouse gas emissions performance standard statute.

Expires, December 31, 2025, the authorization that allows an electrical company to petition the commission to approve a power purchase agreement and that allows the commission to process a petition to approve a power purchase agreement under terms provided in the act.

#### Integrated Resource Plans

Removes provision requiring an electric utility, when analyzing lowest reasonable cost resources as part of an integrated resource plan, to consider public policies adopted by the state to reduce greenhouse gases from thermal electric generation facilities in the long term through the temporary exemption of these facilities from the state's greenhouse emissions performance standard.

Removes as a requirement of an integrated resource plan that an assessment of commercially available, utility scale generating technologies must include a comparison of the benefits and risk of purchasing power from existing resources.

#### Carbon Dioxide Mitigation

Defines an applicant eligible to receive an exemption from carbon dioxide mitigation requirements as the owner of a coal-fired electric generation facility subject to the greenhouse gas emissions performance standard.

Provides that carbon dioxide mitigation exemption expires December 31, 2025, or when the station-generating capability of all natural gas-fired generation plants approved equals the station-generating capability from a coal-fired electric generation facility subject to the greenhouse gas emission performance standard.

#### Civil Liability

Removes section that specifies that no civil liability may be imposed by any court on the state, its officers, employees, instrumentalities, or subdivisions under sections of this act containing intent language.

--- END ---