

**SENATE BILL 5509**

**State of Washington                      65th Legislature                      2017 Regular Session**

**By Senators Carlyle, Ranker, Frockt, Hunt, and Saldaña**

Read first time 01/26/17.              Referred to Committee on Energy,  
Environment & Telecommunications.

1            AN ACT Relating to promoting an equitable clean energy economy by  
2            creating a carbon tax that allows investment in clean energy, clean  
3            air, healthy forests, and Washington's communities; amending RCW  
4            70.235.020; adding a new chapter to Title 70 RCW; adding a new  
5            chapter to Title 82 RCW; and creating new sections.

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

7    **PART I**  
8    **Disposition of Carbon Tax Revenues**

9            NEW SECTION.      **Sec. 101.**      **INTENT.** (1)(a) The legislature finds  
10            that Washington state is poised to be a leader in cutting greenhouse  
11            gas emissions and transitioning to a clean energy economy. Our  
12            emissions, while only a fraction of those produced globally, also add  
13            to the impacts of climate change, which is already causing harm to  
14            our state: Weather that brings more frequent drought and more severe  
15            storms, and environmental effects that range from ocean acidification  
16            in Puget Sound to a lack of snow pack in the mountains to support  
17            hydropower, agriculture, and winter recreation. These impacts are not  
18            felt proportionally by all, and often hit rural communities hardest.

19            (b) To address the challenges posed by climate change, and to  
20            seize the opportunities offered by the transition to a clean energy

1 economy, the health, environment, and economic well-being of  
2 Washington will benefit most from enacting a carbon policy that makes  
3 strategic investments in clean energy, clean water, forest health,  
4 and clean air projects. These investments will tap into the  
5 entrepreneurial spirit of Washington businesses and will maintain and  
6 create thousands of family-wage and community-sustaining jobs in  
7 Washington state while reducing greenhouse gas emissions. The  
8 investments made by this act in clean energy are intended to attract  
9 more total investment to catalyze faster reductions in greenhouse gas  
10 emissions than would otherwise be expected without state investments.

11 (c) The legislature finds that assigning a cost to the emissions  
12 of greenhouse gases to partially defray the taxpayer cost of these  
13 impacts is appropriate in light of the social, environmental, and  
14 economic harms from those emissions. This is a necessary step to help  
15 level the playing field to allow clean energy, which lacks these  
16 negative externalities, to fairly compete in the marketplace, and to  
17 incentivize and expedite the transition to clean energy sources.

18 (2) Therefore, it is the intent of the legislature to fund  
19 investments in clean energy, clean water, and healthy forests by  
20 enacting a carbon pollution mitigation tax on fossil fuel emissions  
21 of greenhouse gases that contribute to global climate change. This  
22 tax is intended to discourage emissions of greenhouse gases and to  
23 encourage the utilization of energy sources that pose fewer  
24 environmental and public health costs while benefiting the economies  
25 of local communities. This act is intended to avoid increasing the  
26 regressive burdens of energy costs on low-income individuals or  
27 households living at or near the federal poverty line. This act is  
28 also intended to help Washington do its part to forestall and  
29 minimize the worst-case scenario of impacts that are anticipated to  
30 result from greenhouse gas pollution of the atmosphere and the global  
31 climate change caused by that pollution. Finally, in order to  
32 facilitate a truly just transition to a clean energy economy, it is  
33 the intent of the legislature, while ensuring that all Washington  
34 residents can access and afford clean energy and that all our  
35 communities are able to prosper during the transition to a clean  
36 energy economy, to use revenue from the tax to:

37 (a) Assist low-income individuals and disproportionately impacted  
38 communities in this transition;

39 (b) Provide meaningful support to workers and communities that  
40 may be impacted by this act; and

1 (c) Improve community health through contributing to clean air,  
2 clean water, and thriving forests.

3 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this  
4 section apply throughout this chapter unless the context clearly  
5 requires otherwise.

6 (1) "Board" means the carbon program oversight board established  
7 in section 107 of this act.

8 (2) "Carbon calculation" means a calculation made by the  
9 department of ecology for purposes of calculating the carbon  
10 pollution mitigation tax for fossil fuels in section 202 of this act.

11 (3) "Carbon content" means the carbon dioxide equivalent that is  
12 released through the combustion or oxidation of a fossil fuel or that  
13 is associated with the combustion or oxidation of a fossil fuel used  
14 to generate imported electricity.

15 (4) "Carbon dioxide equivalent" has the same meaning as provided  
16 in RCW 70.235.010.

17 (5) "Clean energy" means technologies, services, or processes  
18 that broadly reduce energy consumption or enable the transition to a  
19 low-carbon energy economy, or both. Clean energy includes, but is not  
20 limited to, technologies, services, or processes that increase the  
21 supply of renewable energy, improve the efficiency of energy  
22 utilization, improve the processes and systems that use energy,  
23 deploy renewable energy infrastructure, or more effectively enable  
24 energy solutions with fewer associated greenhouse gas emissions to  
25 permeate the marketplace, including planning and creating structures  
26 that facilitate energy demand reduction.

27 (6) "Dangerous air pollutants" means the following air pollutants  
28 that have been determined to have a dangerous impact on human health  
29 or the environment, or both, when released from the combustion or  
30 oxidation of fossil fuels:

31 (a) Hazardous air pollutants as defined by Title 42 U.S.C. Sec.  
32 7412(b) of the clean air act;

33 (b) Criteria air pollutants as defined by Title 42 U.S.C. Sec.  
34 7409; and

35 (c) Greenhouse gases as defined in RCW 70.235.010 and as  
36 identified in rules adopted by the department pursuant to chapters  
37 70.235 and 70.94 RCW.

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

1 (8) "Disproportionately impacted communities" means communities  
2 identified by the department of health pursuant to section 112 of  
3 this act.

4 (9) "Energy-intensive and trade-exposed facility" or "EITE  
5 facility" means a facility identified by the department of commerce  
6 under section 110 of this act.

7 (10) "Fossil fuel" means petroleum products that are intended for  
8 combustion, natural gas, crude oil, petroleum, coal or coke of any  
9 kind, or any form of solid, liquid, or gaseous fuel derived from  
10 these products including but not limited to motor vehicle fuel,  
11 special fuel, aircraft fuel, marine fuel, still gas, propane, and  
12 petroleum residuals such as bunker fuel.

13 (11) "Imported electricity" means electricity generated outside  
14 of the state of Washington and delivered for use within the state.

15 (12) "Inflation" is the inflation rate determined by the consumer  
16 price index for Washington state compiled by the United States  
17 department of labor, bureau of labor statistics.

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

20 (14) "Motor vehicle fuel" has the same meaning as provided in RCW  
21 82.38.020.

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

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

26 (17) "Petroleum product" has the same meaning as provided in RCW  
27 82.23A.010.

28 (18) "Special fuel" has the same meaning as provided in RCW  
29 82.38.020 and includes fuel that is sold or used to propel vessels.

30 (19) "Supplier" means a person that produces, refines, imports,  
31 or delivers fossil fuels, or any combination of producing, refining,  
32 importing, or delivering fossil fuels in or into the state for use or  
33 processing within the state.

34 (20) "Year" means the twelve months commencing January 1st and  
35 ending December 31st unless otherwise specified.

36 NEW SECTION. **Sec. 103.** CLEAN AIR INVESTMENT PROGRAMS—CLEAN  
37 ENERGY ACCOUNT CREATION. (1) The clean energy account is created in  
38 the state treasury. After the distribution of money to the equitable  
39 transition fund created in section 111 of this act and the payment of

1 administrative and accountability costs consistent with section 114  
2 of this act, seventy percent of the receipts from the carbon  
3 pollution mitigation tax imposed under section 202 of this act must  
4 be deposited into the account. Money in the clean energy account must  
5 be allocated consistent with sections 104 and 105 of this act. Moneys  
6 in the account may only be spent after appropriation.

7 (2) For purposes of administering the carbon reduction investment  
8 fund and the sustainable infrastructure fund created as subaccounts  
9 within the clean energy account, the department of commerce must  
10 adopt procedures that ensure the achievement of quantifiable and  
11 verifiable emission reductions while minimizing the costs of state  
12 administration and other transaction costs associated with project  
13 implementation. Expenditures from the funds must be designed to  
14 stimulate new dangerous air pollutant reduction projects and must not  
15 exceed the minimum levels of funding necessary in order for the  
16 project to be viable or cost-competitive. Expenditures must also be  
17 set at such a level as to prevent recipients from generating greater  
18 revenues or profits than are necessary to stimulate the investment. A  
19 project may not receive funding from both the carbon reduction  
20 investment fund and the sustainable infrastructure fund. Projects  
21 that create new or expand existing fossil fuel infrastructure,  
22 including but not limited to fossil fuel vehicles, electricity  
23 generation from fossil fuels, and indoor heating and cooling and  
24 other project types that rely on fossil fuel infrastructure, are not  
25 eligible for funding under the clean energy account.

26 NEW SECTION. **Sec. 104.** CLEAN AIR INVESTMENT PROGRAMS—CARBON  
27 REDUCTION INVESTMENT FUND CREATED. (1) The carbon reduction  
28 investment fund is hereby created as a subaccount of the clean energy  
29 account created in section 103 of this act. Thirty-five percent of  
30 the money in the clean energy account created in section 103 of this  
31 act must be allocated to a carbon reduction investment fund within  
32 the account. Money in the carbon reduction investment fund within the  
33 account must be used for greenhouse gas emission reduction projects  
34 in Washington or that reduce emissions directly connected to energy  
35 use and other activity in Washington state. The Washington State  
36 University extension energy office, in consultation with the board  
37 created in section 107 of this act, must administer the carbon  
38 reduction investment fund and oversee the greenhouse gas emission  
39 reduction projects funded from moneys in the fund.

1 (2) Expenditures from the fund created in this section must  
2 prioritize grants and loans to projects with consideration given to  
3 the anticipated quantifiable and verifiable amount of carbon  
4 reduction to be achieved by the project per dollar of investment from  
5 the fund. Projects that reduce greenhouse gas emissions are eligible  
6 for investment, with preference given to projects that do not rely on  
7 nonrenewable resources as a power source. The amount of funding from  
8 the carbon reduction investment fund for each particular project must  
9 be based on the investment prices established in section 106 of this  
10 act, and must be of an amount sufficient to catalyze the  
11 implementation of each funded project, but not to exceed such an  
12 amount.

13 (3) To be eligible for funding under the carbon reduction  
14 investment fund program, a project must demonstrate that it will  
15 result in a quantifiable and verifiable reduction of emissions of  
16 greenhouse gas emissions in the State.

17 (4) The Washington State University extension energy office must  
18 adopt procedures for reviewing and prioritizing grant and loan  
19 project applications. Projects may include but are not limited to  
20 solar and distributed energy production, wind and other renewable  
21 energy sources, energy storage, energy efficiency, demand response,  
22 projects which support conversion to low-carbon transportation fuels  
23 including electricity or biofuels, and transit and clean  
24 transportation-related improvements. Holding other evaluative  
25 criteria constant, a preference must be given to project applicants  
26 who demonstrate that moneys from the carbon reduction investment fund  
27 will be accompanied by a matching investment from another public or  
28 private source of funds.

29 (5) A single person or project may not receive more than five  
30 percent of the total value of carbon reduction investment fund  
31 investments made under this section each biennium. Funds for a  
32 project may be disbursed over multiple biennia as deemed appropriate  
33 by the Washington State University extension energy office.

34 (6) Carbon reduction investment fund investments each biennium  
35 must include but are not limited to projects that are designed to:

36 (a) Lower the cost of energy for Washington residents by making  
37 strategic investments in the clean energy economy, making clean  
38 energy more affordable and competitive, transitioning to zero-  
39 emission vehicles, and reducing the dependence on volatile and  
40 greenhouse gas-emitting energy sources;

1 (b) Increase access to clean energy through greater deployment of  
2 clean transportation and renewable energy, including roof-top and  
3 community solar, to homeowners, multifamily unit dwellers, small  
4 businesses, local governments, school districts, nonprofits, owners  
5 and operators of affordable housing, large energy users, and others;  
6 and

7 (c) Reduce energy waste and increase energy efficiency, helping  
8 to make energy efficiency projects affordable to homeowners,  
9 multifamily unit dwellers, local governments, school districts,  
10 nonprofits, small business owners, operators of affordable housing,  
11 large energy users, and others.

12 NEW SECTION. **Sec. 105.** CLEAN AIR INVESTMENT PROGRAMS—  
13 SUSTAINABLE INFRASTRUCTURE FUND CREATED. (1) The sustainable  
14 infrastructure fund is hereby created as a subaccount within the  
15 clean energy account created in section 103 of this act. Sixty-five  
16 percent of the money in the clean energy account must be allocated to  
17 the sustainable infrastructure fund. The department of commerce, in  
18 consultation with the board established in section 107 of this act,  
19 must administer the sustainable infrastructure fund and oversee the  
20 greenhouse gas emission reduction projects funded from moneys in the  
21 fund. Money in the sustainable infrastructure fund must be used for  
22 greenhouse gas emission reduction projects in Washington that achieve  
23 indirect carbon reductions, have long-term or difficult to quantify  
24 emission reduction prospects, or that would not be cost-competitive  
25 with projects funded under the carbon reduction investment fund where  
26 the primary performance metric for comparing projects is cost-per-ton  
27 of greenhouse gas emissions reduced. Public and private project  
28 proponents are eligible to apply to the board to obtain funding from  
29 the sustainable infrastructure fund, with preference given to  
30 projects that do not rely on nonrenewable resources as a power  
31 source, except for investments in efficiency improvements at EITE  
32 facilities identified in section 110 of this act. Projects eligible  
33 for funding from the sustainable infrastructure fund include projects  
34 that reduce greenhouse gas emissions through the categories specified  
35 in subsection (2), (3), or (4) of this section.

36 (2) Thirty-five percent of funds available in the sustainable  
37 infrastructure fund are reserved for transportation projects that:

1 (a) Reduce pollution from transportation sources by increasing  
2 access to electric and advanced-technology vehicles, cleaner fuels,  
3 and improved transportation infrastructure;

4 (b) Reduce pollution from transportation sources by:

5 (i) Aiding fuel switching from motor vehicle and special fuels  
6 derived from fossil fuels, including but not limited to the switching  
7 of agricultural fuels, onto clean alternative fuels, as defined in  
8 RCW 82.08.809(3), that are not derived from fossil fuels;

9 (ii) Converting private and public fleets, including transit  
10 fleets, to zero-emission vehicles; and

11 (iii) Improving freight mobility systems; or

12 (c) Reduce pollution from transportation sources by strategic  
13 planning and development of sustainable infrastructure projects,  
14 including charging and fueling projects necessary to support the  
15 categories of fleet conversions and vehicles identified in (b)(ii) of  
16 this subsection. However, to be eligible for infrastructure funding  
17 under this subsection (2)(c), an infrastructure project is not  
18 required to be associated with a fleet and vehicle conversion  
19 consistent with (b)(ii) of this subsection that receives or has  
20 received funding from the sustainable infrastructure fund.

21 (3) Fifty percent of funds available in the sustainable  
22 infrastructure fund are reserved for land use projects that:

23 (a) Support equitable transit-oriented development, including  
24 transit-oriented development that is predominately affordable  
25 housing, transit-oriented development that reduces vehicle miles  
26 traveled, and transit-oriented development that reduces  
27 transportation costs and logistical burdens for low-income  
28 individuals and families, and infirm, disabled, or otherwise  
29 vulnerable populations;

30 (b) Expand or improve public transportation infrastructure,  
31 including but not limited to projects that promote connections  
32 between communities that are underserved by public transportation  
33 infrastructure, prioritizing improvements and vehicles that rely on  
34 alternative fuels not derived from fossil fuels, and supporting  
35 nonmotorized mobility; or

36 (c) Support programs and infrastructure that reduce vehicle miles  
37 traveled through commute trip reduction strategies including, but not  
38 limited to, employer-based initiatives.

39 (4) Fifteen percent of funds available in the sustainable  
40 infrastructure fund are reserved for power sector projects eligible



1 for funding from the sustainable infrastructure fund. Projects must  
2 exceed the requirements of chapter 19.285 RCW, where applicable, and:

3 (a) Achieve energy efficiency that exceeds the cost-effective  
4 conservation requirements of chapter 19.285 RCW;

5 (b) Facilitate renewable energy integration, such as smart-grid  
6 technologies and energy storage;

7 (c) Encourage the deployment of clean distributed energy  
8 resources;

9 (d) Increase system resiliency and encourage the development of  
10 electricity microgrids with clean energy; or

11 (e) Support other demand side resources that reduce generation or  
12 capacity needs.

13 (5) For purposes of ranking the priority of transportation, land  
14 use, and energy project applications for funding from the sustainable  
15 infrastructure fund, the board must consider, at minimum, the  
16 criteria in (a) through (g) of this subsection (5). In addition, the  
17 board may develop additional subject-appropriate criteria for ranking  
18 the priority of project applications against other projects within  
19 the same categories of projects specified in subsection (2), (3), or  
20 (4) of this section. Additionally, proposals that include high labor  
21 standards provisions as defined in section 113(3) of this act must be  
22 prioritized.

23 (a) The total volume of emissions of carbon dioxide equivalent  
24 avoided as a result of the project, measured over the anticipated  
25 lifetime of the project;

26 (b) The cost per ton of carbon dioxide equivalent avoided as a  
27 result of the project, measured over the anticipated lifetime of the  
28 project;

29 (c) The degree to which the project will reduce emissions of  
30 other dangerous air pollutants regulated under chapter 70.94 RCW or  
31 public exposures to pollutants regulated under chapter 90.48 or  
32 70.105D RCW;

33 (d) Whether the project will benefit a disproportionately  
34 impacted community identified in section 112 of this act and by the  
35 economic and environmental justice oversight panel established in  
36 section 107 of this act;

37 (e) The likelihood of project completion in the absence of  
38 support from the sustainable infrastructure fund;

1 (f) The degree to which the project is consistent with projects  
2 funded under multiple categories of the sustainable infrastructure  
3 fund; and

4 (g) The degree to which funding from the sustainable  
5 infrastructure fund will be matched by project proponents or  
6 supplemented by other funding sources, including in-kind  
7 contributions from the community or project sponsor.

8 (6) Should the total requested funding amount submitted to a  
9 category of the sustainable infrastructure fund fall short of total  
10 funding available in the category, remaining funding must be  
11 reallocated to the other categories in proportion to their relative  
12 allocation in this subsection.

13 (7) The board may adopt rules establishing acquisition policies  
14 and priorities for projects to be financed from moneys in the  
15 sustainable infrastructure fund. To support the investment  
16 prioritization decisions for the use of sustainable infrastructure  
17 funds under this subsection, the board must rely on the advice of  
18 committees of technical subject-matter experts and stakeholder  
19 advisors to the board appointed by the governor and the economic and  
20 environmental justice oversight panel. The committees may be  
21 comprised of a total of up to eleven appointed members, and separate  
22 committees must be formed for each category of projects in  
23 subsections (2), (3), and (4) of this section. Two-thirds of advisors  
24 to the board serving on each committee must be appointed by the  
25 governor, and the balance of advisors to the committees must be  
26 appointed by the economic and environmental justice oversight panel.  
27 Committee composition must be selected based on expertise or  
28 experience in the specific areas of the committee's jurisdiction.  
29 Committee members are not state employees and are not eligible for  
30 compensation, except that members selected by the economic and  
31 environmental justice oversight panel must be compensated in  
32 accordance with RCW 43.03.240 and are entitled to reimbursement  
33 individually for travel expenses incurred in the performance of their  
34 duties as members of the board in accordance with RCW 43.03.050 and  
35 43.03.060.

36 (8) Before November 1st of each even-numbered year, the board  
37 must recommend to the governor a prioritized list of all projects to  
38 be funded from the sustainable infrastructure fund. The governor must  
39 submit this amended list in the capital budget request to the  
40 legislature. The legislature may remove projects from the list

1 recommended by the governor. The board may not sign contracts or  
2 otherwise financially obligate funds from the sustainable  
3 infrastructure fund as provided in this chapter before the  
4 legislature has appropriated funds for a specific list of projects.  
5 Projects must be funded in order of rank consistent with other  
6 requirements in this section. In the event that a project ranked high  
7 enough to receive funding becomes ineligible for funding after  
8 initial application and rankings, funding must be moved to the next  
9 ranked project on the list. The list must include, but not be limited  
10 to, a description of each project and any particular match  
11 requirement.

12 NEW SECTION. **Sec. 106.** DEPARTMENT OF COMMERCE—CARBON REDUCTION  
13 INVESTMENT PRICE. (1) The department of commerce, in consultation  
14 with the Washington State University extension energy office and  
15 other relevant agencies, must set investment prices for different  
16 emissions reduction projects in the state based upon the quantifiable  
17 and verifiable amount of carbon reduction to be achieved by the  
18 project.

19 (2) By July 1, 2018, and July 1st of each even-numbered year  
20 thereafter, the department of commerce, in consultation with the  
21 Washington State University extension energy office and other  
22 relevant agencies, must determine the investment prices for a range  
23 of emissions reduction projects for the forthcoming two years. The  
24 investment price may not exceed one hundred dollars in 2017 dollars  
25 per ton of carbon dioxide equivalent of reduced emissions of  
26 greenhouse gases. In setting biannual carbon investment prices, the  
27 department of commerce must consider the recommendation of the  
28 Washington State University extension energy office in subsection (3)  
29 of this section, as well as the incentive size that it determines to  
30 be minimally necessary to overcome barriers to deployment in relevant  
31 sectors of the clean energy economy. Upon the request of a project  
32 applicant, the department of commerce and the Washington State  
33 University extension energy office may consider additional project  
34 types beyond those initially identified as eligible for funding under  
35 this section.

36 (3) By March 1, 2018, the Washington State University extension  
37 energy office must complete a clean energy investment study to  
38 recommend appropriate initial investment prices per ton of carbon  
39 dioxide equivalent of greenhouse gas emission reductions for a

1 variety of clean energy, efficiency, and other eligible project  
2 types. This study must take into account greenhouse gas emission  
3 reduction project prices in regulatory and voluntary carbon reduction  
4 programs operated in other jurisdictions and be set at the minimum  
5 level necessary to catalyze investment in these project categories.  
6 By March 1, 2019, and by March 1st of each odd-numbered year  
7 thereafter, the Washington State University extension energy office  
8 and the department of commerce must update the recommended investment  
9 price for the following two-year period.

10 NEW SECTION. **Sec. 107.** CARBON PROGRAM OVERSIGHT BOARD. (1)(a)  
11 The carbon program oversight board is established within the  
12 executive office of the governor. The purpose of the board is to  
13 oversee implementation of this act and advise the governor on whether  
14 this act is achieving greenhouse gas emission reductions equitably,  
15 sustainably, and efficiently, including through the programmatic  
16 investments of receipts from the carbon pollution mitigation tax.

17 (b) Voting members of the board must be appointed by the  
18 governor. The board must consist of at least one voting member each  
19 representing the following parties, totaling sixteen members:

- 20 (i) An organization whose mission is to advocate for consumers;  
21 (ii) A Washington business or organization representing  
22 Washington businesses;  
23 (iii) A worker from an energy-intensive and trade-exposed  
24 facility;  
25 (iv) A light and power business or a supplier;  
26 (v) A land conservation organization;  
27 (vi) An environmental organization with a focus on climate  
28 policy;  
29 (vii) A federally recognized Indian tribe, if selected by action  
30 of all of the governing bodies of all federally recognized Indian  
31 tribes in the state;  
32 (viii) A statewide labor organization representing a broad cross  
33 section of workers;  
34 (ix) A public health organization or the organization's designee;  
35 (x) An organization that represents disproportionately impacted  
36 communities;  
37 (xi) Two local governments, of which one must be a city and one  
38 must be a county, and one must be located east of the crest of the

1 Cascade mountains and one must be located west of the crest of the  
2 Cascade mountains;

3 (xii) An organization or university that possesses technical  
4 expertise in alternative energy, energy efficiency, or other low-  
5 carbon energy efficiency project implementation;

6 (xiii) A business engaged in alternative energy, energy  
7 efficiency, or other low-carbon energy project implementation,  
8 including businesses that:

9 (A) Are engaged in the manufacture, distribution, or sale of  
10 zero-emission or plug-in hybrid vehicles;

11 (B) Provide access to zero-emission or plug-in hybrid vehicles;  
12 or

13 (C) Implement infrastructure or other types of projects related  
14 to zero-emission or plug-in hybrid vehicles; and

15 (xiv) In addition to, and not counting, the board members  
16 identified in (b)(iii) and (x) of this subsection, at least three  
17 representatives must be members of the economic and environmental  
18 justice oversight panel.

19 (c) The board must also consist of the following nonvoting  
20 members:

21 (i) The director of the department of ecology or the director's  
22 designee;

23 (ii) The director of the department of commerce or the director's  
24 designee;

25 (iii) The director of the department of transportation or the  
26 director's designee;

27 (iv) The chair of the utilities and transportation commission or  
28 the chair's designee; and

29 (v) A representative of each caucus of the house of  
30 representatives and the senate, named by the leader of each caucus.

31 (d)(i) For the members of the board, the duration of the first  
32 appointment must be:

33 (A) A two-year term for five members;

34 (B) A three-year term for five members; and

35 (C) A four-year term for six members.

36 (ii) After the initial appointments, the appointments must be for  
37 three-year terms or until a successor is appointed, except in the  
38 case of appointments to fill vacancies, which must be for the  
39 remainder of the unexpired term. The governor must appoint one of the

1 members to serve as chair of the board for the duration of the  
2 member's term.

3 (e) The governor must make the appointments of the members under  
4 (b) of this subsection by January 1, 2018. Any member appointed by  
5 the governor may be removed by the governor for cause. The governor  
6 must appoint board members so as to achieve a council membership with  
7 balanced representation by geography, gender, and ethnicity.

8 (f) The board has the following powers and duties:

9 (i) Providing advice and recommendations to the governor, the  
10 legislature, and the state agencies involved in the implementation of  
11 chapters 70.--- and 82.--- RCW (the new chapters created in sections  
12 401 and 402 of this act) and RCW 70.235.020;

13 (ii) Monitoring the effects of the implementation of this act,  
14 including the levying of the tax and the investments made under this  
15 act, to ensure that policy choices create a level playing field for  
16 businesses based on their greenhouse gas emissions footprint, and  
17 that implementation of this act does not lead to unfair or unintended  
18 economic distortions, including leakage related to EITE facilities;  
19 and

20 (iii) Providing oversight of carbon pollution mitigation tax  
21 receipt moneys to ensure consistency with overlay investment criteria  
22 required under section 113 of this act, to ensure that implementation  
23 of this act does not lead to inequitable environmental or economic  
24 impacts and that implementation satisfies the other purposes  
25 established by sections 103 through 112 of this act.

26 (2)(a) An economic and environmental justice oversight panel is  
27 established as a joint body between the office of the governor, the  
28 department of ecology, and the department of health. The membership  
29 of the economic and environmental justice oversight panel must  
30 consist of seven persons, appointed by the governor, based on the  
31 nomination of statewide organizations that represent the following  
32 interests:

33 (i) Five members, representing those most adversely harmed by  
34 cumulative impacts in disproportionately impacted communities, as  
35 identified in section 112 of this act;

36 (ii) Two members representing communities of workers in any  
37 economic sectors negatively impacted by the tax imposed under section  
38 202 of this act.

39 (b) The purpose of the panel is to ensure the policies adopted in  
40 chapters 70.--- and 82.--- RCW (the new chapters created in sections

1 401 and 402 of this act) to improve environmental and economic  
2 indicators used to classify disproportionately impacted communities  
3 within these communities and relative to other communities, and to  
4 provide recommendations to the board established in section 107 of  
5 this act. In addition, it is the responsibility of the panel to:

6 (i) Oversee and make recommendations on the cumulative impacts  
7 analysis required in section 112 of this act;

8 (ii) Oversee and make recommendations on the investments  
9 recommended by disproportionately impacted communities to meet the  
10 overlay investment criteria required under section 113 of this act;

11 (iii) Oversee and make recommendations on environmental and  
12 economic analyses of the benefits and risks, including investments in  
13 areas with displacement risk, of investments of carbon pollution  
14 mitigation tax revenues that accrue to disproportionately impacted  
15 communities and to workers displaced by the provisions of this act;  
16 and

17 (iv) Select sustainable infrastructure fund committee members to  
18 supplement the committee members appointed by the governor consistent  
19 with section 105(7) of this act.

20 (3) Upon request, both the board and the economic and  
21 environmental justice oversight panel must receive staff support,  
22 including research and technical expertise, from the department of  
23 ecology, the department of commerce, and the Washington State  
24 University extension energy office. The department of commerce must  
25 also provide staff resources to the board for rule making required of  
26 the board by this chapter.

27 (4) Members of the board and panel employed by the state must  
28 serve without additional pay and participation in the work of the  
29 board is deemed to be performance of their employment. Members from  
30 the public at large must be compensated in accordance with RCW  
31 43.03.240 and are entitled to reimbursement individually for travel  
32 expenses incurred in the performance of their duties as members of  
33 the board or panel in accordance with RCW 43.03.050 and 43.03.060.

34 NEW SECTION. **Sec. 108.** CLEAN WATER CLIMATE GRANTS—CLEAN WATER  
35 CLIMATE PROGRAM ACCOUNT CREATION. (1) The clean water climate program  
36 account is created in the state treasury. After the distribution of  
37 money to the equitable transition fund established in section 111 of  
38 this act and the payment of administrative and accountability costs  
39 consistent with section 114 of this act, twenty percent of the

1 receipts from the carbon pollution mitigation tax imposed under  
2 section 202 of this act must be deposited into the account. The  
3 department of ecology must use money in the account to provide grants  
4 and loans for sustainable water projects and activities that consider  
5 climate impacts in their planning, siting, design, and  
6 implementation. Determinations for sustainable water projects and  
7 activities that receive grants and loans must consider the climate  
8 impact of such investments. Projects must:

9 (a) Mitigate or facilitate adaptation to the impacts of climate  
10 change;

11 (b) Provide long-term climate resilience benefits, including but  
12 not limited to:

13 (i) Improved infiltration and treatment of polluted runoff and  
14 other green storm water infrastructure;

15 (ii) Reduced risks of flooding or water infrastructure failure  
16 through floodplain management;

17 (iii) Enhanced water resource conservation and availability; and

18 (iv) Restored and protected estuaries and marine shoreline  
19 habitats that improve habitat, store carbon, or increase coastal  
20 resilience from climate change.

21 (2) The department of ecology must use moneys deposited in the  
22 account in approximately equal amounts for each of the following  
23 projects and activities:

24 (a) Design, construction, and monitoring activities and projects  
25 that restore and protect estuaries and marine shoreline habitats.  
26 Projects under this subsection (2)(a) should be selected with  
27 consideration given to the anticipated ability of the project to  
28 buffer the effect of severe storms, capture and sequester carbon,  
29 reduce impacts of ocean acidification, buffer sea level rise, and  
30 support the long-term economic health of businesses that rely on  
31 sustainable state fisheries and aquaculture. The department of  
32 ecology must select projects that add capacity to or complement  
33 project funding from the Puget Sound national estuary program marine  
34 and nearshore protection programs, and may not select projects that  
35 are required by regulatory obligations or administrative or court  
36 orders;

37 (b) Activities and projects that reduce flood risk and restore  
38 natural floodplain and riparian ecological function. The department  
39 of ecology must give priority under this subsection (2)(b) to  
40 projects or activities that achieve multiple benefits including but



1 not limited to: The viability of agricultural activities; improved  
2 water quality; restored, improved, or expanded habitat; improved  
3 public safety; enhanced salmon and steelhead recovery; economic  
4 development; increased access to public open space and recreational  
5 opportunities; or other benefits to local communities. The department  
6 of ecology must choose projects using ranking and selection criteria  
7 consistent with the procedures for ranking and selecting floodplains  
8 by design projects that are funded through the capital budget;

9 (c) Sustainable water use projects and planning. In order for a  
10 project to receive funding under this subsection (2)(c), the project  
11 proponent must demonstrate that the project:

12 (i) Is cost-effective; and

13 (ii) Achieves multiple benefits, including sustainable water  
14 projects that benefit residential populations and water-dependent  
15 businesses, enhanced fish or wildlife habitat, or conservation or  
16 efficiency improvements to water delivery and use; and

17 (d) Designing, constructing, and monitoring projects and  
18 activities that improve infrastructure treating storm water from  
19 previously developed areas within an urban growth boundary designated  
20 under chapter 36.70A RCW. In order to be eligible for funding under  
21 this subsection (2)(d), a project must reduce pollution and improve  
22 habitat, with a preference given to projects that use green storm  
23 water infrastructure or the infiltration and treatment of polluted  
24 runoff to achieve those goals. The department of ecology must choose  
25 projects using ranking and selection criteria consistent with the  
26 procedures for ranking and selecting projects funded through the  
27 storm water financial assistance program administered by the  
28 department of ecology.

29 (3) In selecting grant and loan recipients under this section,  
30 the department of ecology must consider:

31 (a) The cost-effectiveness of the project or activity;

32 (b) The project's or activity's ability to leverage other private  
33 and government investments and markets;

34 (c) Whether the project or activity will provide multiple  
35 benefits to communities and the environment; and

36 (d) For projects or activities within the Puget Sound watershed,  
37 whether the project or activity is consistent with the action agenda  
38 developed by the Puget Sound partnership under chapter 90.71 RCW.

1        NEW SECTION.    **Sec. 109.**    FOREST HEALTH INVESTMENTS—SUSTAINABLE

2 FOREST HEALTH ACCOUNT CREATION. (1) The sustainable forest health  
3 account is created in the state treasury. After the distribution of  
4 money to the equitable transition fund established in section 111 of  
5 this act and the payment of administrative and accountability costs  
6 consistent with section 114 of this act, ten percent of the receipts  
7 from the carbon pollution mitigation tax imposed under section 202 of  
8 this act must be deposited into the account. Money in the account  
9 must be used for projects that improve forest health, prevent  
10 wildfires, increase forests' ability to filter pollutants, sequester  
11 dangerous air pollutants, and provide long-term climate resilience  
12 benefits.

13        (2) Money in the sustainable forest health account must be  
14 applied to projects that achieve at least one of the following goals:

15        (a) Improved air quality through increased carbon sequestration  
16 and reduced greenhouse gas emissions;

17        (b) Improved water quality;

18        (c) Improved wildlife habitat;

19        (d) Enhanced public recreation opportunities; and

20        (e) Enhanced long-term resilience to the effects of a changing  
21 climate on forest health.

22        (3) The recreation and conservation office must develop  
23 procedures and criteria for allocation of money in the sustainable  
24 forest health account, in approximately equal amounts for:

25        (a) Grants to projects and activities that prevent wildfires and  
26 enhance community preparedness to prevent and mitigate impacts of  
27 wildfires and ensure the safety of communities vulnerable to  
28 wildfires;

29        (b) Grants to projects and activities that improve forest health  
30 through thinning or prescribed fire or both, with priority given to  
31 projects proposed pursuant to a forest collaborative planning process  
32 establishing ecological and public safety goals across any  
33 combination of local, state, federal, and private ownerships; and

34        (c) The establishment and funding of a working forest  
35 conservation easement program to protect working private forestland,  
36 to be administered by the recreation and conservation office. The  
37 recreation and conservation office must consult with appropriate  
38 agencies and stakeholders when developing requirements for the  
39 working forest conservation easement program. The recreation and  
40 conservation office must finalize program requirements by July 1,

1 2018, and must include a ranking system in which the primary program  
2 goal is to maximize the amount of carbon sequestered over the  
3 easement's first one hundred years. The recreation and conservation  
4 office must develop rules governing the ranking system, including  
5 scientifically based carbon sequestration calculations, unique  
6 regional needs, and market-based appraisal methods. The program must  
7 be designed to permanently prevent the development or conversion of  
8 working forests, and to provide long-term, sustainable jobs in rural  
9 communities, including jobs in forest restoration and ecologically  
10 focused thinning and low-intensity timber harvesting. The program  
11 must prioritize the acquisition of easements for forest properties  
12 for which there is a comparatively high probability that contiguous  
13 forestland acreage will eventually be subdivided, otherwise sold in  
14 smaller-acreage parcels, or its timber stock liquidated in the near  
15 term.

16 NEW SECTION. **Sec. 110.** IDENTIFICATION OF ENERGY-INTENSIVE AND  
17 TRADE-EXPOSED FACILITIES. (1) By December 1, 2017, the department of  
18 commerce must adopt a rule that identifies energy-intensive and  
19 trade-exposed facilities that are exempt from the tax imposed in  
20 chapter 82.--- RCW (the new chapter created in section 402 of this  
21 act). EITE facilities identified under this section must include but  
22 are not limited to metal, glass, cement, and pulp and paper  
23 manufacturers. In adopting this rule, the department of commerce must  
24 consider the greenhouse gas emissions intensity of production by a  
25 facility, as well as the share of the goods produced by the economic  
26 sector that are sold out of state. The goal of the rules adopted  
27 under this section must be to reduce the leakage of emissions and  
28 associated economic activity to jurisdictions in which greenhouse gas  
29 emissions are not taxed or regulated.

30 (2) Beginning January 1, 2018, upon the request of an EITE  
31 facility that meets the qualifying criteria adopted by rule pursuant  
32 to subsection (1) of this section, the department of commerce must  
33 issue a certificate denoting EITE facility status. The department of  
34 commerce must maintain a record of all EITE facility certificate  
35 holders statewide, and must share its records with the department of  
36 revenue to facilitate administration of the tax imposed under chapter  
37 82.--- RCW (the new chapter created in section 402 of this act).

1        NEW SECTION.    **Sec. 111.**    **EQUITABLE TRANSITION FUND CREATION.**    (1)

2    In order to facilitate a just transition to a clean energy economy  
3    and to mitigate the impact of this transition on fossil fuel workers  
4    and workers in energy-intensive and trade-exposed facilities who may  
5    lose their jobs due to the transition, an equitable transition fund  
6    is created within the state treasury. Moneys in the account may only  
7    be spent after appropriation.

8        (2) The purpose of the fund is to ensure impacted workers are  
9    made substantially whole during a transition period, including but  
10   not limited to:

11        (a) Full wage replacement, health benefits, and pension  
12   contributions for every worker with at least five years of service  
13   for each year of service up to ten years of service. Workers with  
14   less than five years of service are eligible for wage insurance;

15        (b) Up to two years of retraining costs including tuition and  
16   related costs;

17        (c) Peer counseling services during transition;

18        (d) Employment placement services;

19        (e) Relocation expenses; and

20        (f) Other services deemed necessary by the economic and  
21   environmental justice oversight panel.

22        (3) It is the intent of the legislature to prioritize the  
23   allocation of full financial support to this fund in an amount  
24   sufficient to meet the needs of workers who may lose their jobs to  
25   the transition to the clean energy economy, and to ensure that the  
26   allocation of moneys to this account occurs prior to any  
27   disbursements to the accounts created in this chapter. It is the  
28   intent of the legislature to deposit the sum of fifty million dollars  
29   into the equitable transition fund the first year of the program for  
30   the purpose of providing the support to workers detailed in  
31   subsection (2) of this section, after which additional money will be  
32   allocated over time as necessary.

33        (4) Funding will be made available for workers who are dislocated  
34   specifically due to the impacts of this act, including but not  
35   limited to workers in fossil fuel-dependent industries. A case can be  
36   initiated by the economic and environmental justice oversight panel,  
37   the board, or brought to the attention of either body by a worker or  
38   a representative of a labor union who believes a situation qualifies  
39   for equitable transition support. The board must make final decisions  
40   determining qualifying events and levels of support needed.

1 (5) The department of commerce must implement the requirements of  
2 this section.

3 NEW SECTION. **Sec. 112.** CUMULATIVE IMPACTS ANALYSIS AND  
4 IDENTIFICATION OF DISPROPORTIONATELY IMPACTED COMMUNITIES. (1) By  
5 March 1, 2018, for the purposes of mitigating harm from climate  
6 change and dangerous air pollutants, the department of health must  
7 conduct a cumulative impacts analysis to identify the geographic  
8 boundaries of disproportionately impacted communities in Washington.  
9 The department of health must identify, map, and rank  
10 disproportionately impacted communities, based on cumulative impacts  
11 measured on a census tract scale based on geographic, socioeconomic,  
12 public health, and environmental burden, vulnerability, and hazard  
13 criteria, including but not limited to:

14 (a) Areas that are disproportionately affected by dangerous air  
15 pollutants and other environmental burdens and vulnerabilities,  
16 including climate change vulnerabilities, such as vulnerabilities to  
17 wildfires, drought or severe flooding, and hazards with negative  
18 public health effects;

19 (b) Areas with high concentrations of people that are of low  
20 income and wealth, that have low levels of educational attainment,  
21 that feature high rates of unemployment, that feature low levels of  
22 homeownership or where the average cost of rent is a high proportion  
23 of average income, linguistic isolation, or other vulnerability  
24 characteristics; and

25 (c) Other factors that are identified by the department of  
26 health.

27 (2) The cumulative impacts analysis must integrate with and build  
28 upon other population tracking resources used by the department of  
29 health.

30 (3) By March 1, 2022, and every two years thereafter, the  
31 department of health, under advisement from the economic and  
32 environmental justice oversight panel, must update the identification  
33 of disproportionately impacted communities pursuant to this section.  
34 By March 1, 2024, and every four years thereafter, the department of  
35 health must review and revise the methodology for identifying  
36 disproportionately impacted communities to reflect best practices.

1        NEW SECTION.    **Sec. 113.**    OVERLAY INVESTMENT CRITERIA. (1) The  
2 following overlay investment criteria applies to the expenditures in  
3 sections 103 through 105, 108, and 109 of this act:

4        (a) Each biennium, a minimum of twenty-five percent of  
5 expenditures must be used for projects or activities that provide  
6 direct, meaningful, and assured benefits to the most  
7 disproportionately impacted communities; and

8        (b) Each biennium, a minimum of ten percent of expenditures, in  
9 addition to the twenty-five percent used in (a) of this subsection,  
10 must be used for projects or activities that provide direct,  
11 meaningful, and assured benefits and which are located within the  
12 most disproportionately impacted communities, including overlap into  
13 an adjacent buffer area of one-quarter mile of the most  
14 disproportionately impacted communities identified in section 112 of  
15 this act.

16        (2) For purposes of this section, a project or activity is  
17 considered to benefit a community if the project or activity:

18        (a) Reduces one or more socioeconomic or environmental  
19 disparities that contribute significantly to the cumulative impact  
20 ranking in a particular impacted tract;

21        (b) Protects a community from the anticipated impacts of climate  
22 change, including but not limited to reducing the susceptibility of  
23 rural communities to wildfires, coastal communities to sea level  
24 rise, and riparian communities to flooding; or

25        (c) Meets a community need identified by members of that  
26 community consistent with the intent of this act, as determined by  
27 the economic and environmental justice oversight panel created in  
28 section 107 of this act based upon evidence that the proponents of  
29 the project or activity sought and accepted the feedback of persons  
30 and organizations that live or are active in the disproportionately  
31 impacted community.

32        (3) All investment decisions must give preference to projects  
33 that meet high labor standards criteria that provide prevailing wage  
34 rates determined by local collective bargaining, apprenticeship and  
35 preapprenticeship utilization and preferred entry standards,  
36 community workforce agreements to prioritize local hiring, and the  
37 use of domestic content to lower greenhouse gas emissions in  
38 procurement decisions wherever practicable.

39        (4) Only projects that commence after July 1, 2017, are eligible  
40 to receive funding.

1 (5) Each state agency with control of expenditures of carbon  
2 pollution mitigation tax receipts must track whether expenditures of  
3 funds from accounts under that agency's administrative control meet  
4 the overlay investment criteria of subsection (1) of this section. By  
5 September 1, 2021, and September 1st of each odd-numbered year  
6 thereafter, each state agency with administrative control over the  
7 expenditure of carbon pollution mitigation tax receipts must submit  
8 information to the department of commerce, the economic and  
9 environmental justice oversight panel, and the board pertaining to  
10 the expenditures of money from the clean energy account, clean water  
11 climate program account, and sustainable forest health account,  
12 including the location, number, and description of people affected,  
13 and explanation of the benefits to disproportionately impacted  
14 communities.

15 (6) Upon request, the department of commerce must provide  
16 technical and procedural assistance to the project applicants for  
17 projects that will benefit disproportionately impacted communities.  
18 Assistance by the department of commerce may take the form of direct  
19 technical assistance by department staff in support of the grant  
20 applications that benefit disproportionately impacted communities, or  
21 by facilitating access to resources and assistance made available  
22 through other state agencies or community-based organizations under  
23 contracts with the state to provide these services.

24 (7) By December 1, 2021, and each odd-numbered year thereafter,  
25 the department of commerce, with prior approval of the findings and  
26 recommendations by the economic and environmental justice oversight  
27 panel, must submit a report to the legislature demonstrating whether  
28 the expenditures from the clean energy, clean water climate program,  
29 and sustainable forest health accounts complied with the overlay  
30 investment criteria of this section and associated impacts from those  
31 investments. In the event that the overlay investment criteria  
32 requirements of this section are not met, the report must include  
33 recommendations for how investments of expenditures from receipts of  
34 the carbon pollution mitigation tax can come into compliance in  
35 future biennia.

36 NEW SECTION. **Sec. 114.** LIMITATION ON ADMINISTRATIVE EXPENSES.  
37 No more than five percent of the receipts from the tax imposed under  
38 chapter 82.--- RCW (the new chapter created in section 402 of this  
39 act) may be allocated to the administration of the tax, the

1 implementation of the programs directed by this chapter, or other  
2 related tax and program implementation and enforcement activities of  
3 the department of ecology, the department of revenue, the department  
4 of commerce, the department of health, the Washington State  
5 University extension energy office, the recreation and conservation  
6 office, the office of the attorney general, or other state activities  
7 required under this act.

8 **PART II**

9 **Carbon Pollution Mitigation Tax**

10 NEW SECTION. **Sec. 201.** For the purposes of this chapter unless  
11 the context clearly requires otherwise:

12 (1) The definitions in section 102 of this act apply to this  
13 chapter; and

14 (2) "Department" means the department of revenue.

15 NEW SECTION. **Sec. 202.** CARBON POLLUTION MITIGATION TAX IMPOSED.

16 (1) A carbon pollution mitigation tax is levied and collected on the  
17 carbon content of fossil fuels and electricity, including imported  
18 electricity, sold or used within this state.

19 (2) Beginning July 1, 2018, the tax rate is equal to fifteen  
20 dollars per metric ton of carbon dioxide equivalent. Beginning July  
21 1, 2019, the rate of the tax increases by seven percent plus  
22 inflation each July 1st until July 1, 2047, except as provided  
23 otherwise in section 212 of this act.

24 (3) The tax levied under this section is imposed only once with  
25 respect to the same fossil fuel or electricity, at the time and place  
26 of the first sale or use taxable event within this state, and upon  
27 the first taxable person within this state.

28 (4) For persons subject to any tax imposed under chapter 82.04,  
29 82.08, 82.12, or 82.16 RCW, the frequency of reporting and payment of  
30 the carbon pollution mitigation tax must, to the extent practicable,  
31 coincide with a person's reporting periods for the taxes imposed  
32 under chapter 82.04, 82.08, 82.12, or 82.16 RCW. Returns must be  
33 filed electronically using the department's online tax filing service  
34 or other method of electronic reporting as the department may  
35 authorize.

36 (5) For purposes of determining the amount of tax owed by a  
37 person under this section, the department must use carbon



1 calculations as determined by the department of ecology under section  
2 205 of this act.

3 (6) For purposes of imposing the tax under this chapter, the  
4 department must assume the carbon content of electricity that is not  
5 attributed to a generation source under the rules adopted pursuant to  
6 section 206 of this act is equal to one metric ton of carbon dioxide  
7 per megawatt-hour.

8 (7) Electricity and fuels subject to a similar tax or price  
9 imposed in another jurisdiction before being imported into Washington  
10 are exempt from the portion of the tax equal to the amount paid the  
11 other jurisdiction. The sum of the tax rates paid in Washington and  
12 another jurisdiction for electricity and fuels imported into  
13 Washington may not exceed the rate of the tax imposed in subsection  
14 (2) of this section.

15 (8) Each sale within Washington of a fossil fuel or electricity  
16 must indicate on the invoice or other document of sale:

17 (a) The amount of the tax paid or to be associated with the sold  
18 fossil fuel or electricity;

19 (b) The rate of the tax paid or to be paid;

20 (c) The person who paid or will pay the tax; and

21 (d) Other information required by rules adopted by the  
22 department. Rules adopted by the department under this subsection  
23 (8)(d) must be sufficient to facilitate the remittance of tax for  
24 uses and facilities that are exempt from the tax under sections 207  
25 and 208 of this act.

26 (9)(a) The department must remit the amount of the tax to a  
27 person that is exempt under section 207 or 208 of this act, and for  
28 which the tax had been previously paid by a supplier or light and  
29 power business, as supported by the documentation specified in  
30 subsection (8) of this section.

31 (b) The department may issue remittance in the form of credit  
32 against the payment of taxes otherwise owed by the person under  
33 chapters 82.04, 82.08, 82.12, and 82.16 RCW, at the time and  
34 frequency with which those taxes are reported and paid.

35 (c) If a purchaser of fossil fuels or electricity sold within  
36 this state fails to obtain an invoice or document of sale that  
37 complies with the rules adopted pursuant to subsection (8) of this  
38 section, or fails to present a certificate described under section  
39 207(4) of this act, or both, the department may not remit tax to that  
40 person.

1 (10) Receipts from the tax collected under this section must be  
2 distributed in descending order of priority, as follows:

3 (a) Amounts necessary to ensure that balance of the equitable  
4 transition fund established in section 111 of this act does not fall  
5 below five hundred thousand dollars at any point during the biennium;

6 (b) To the general fund for payments of administrative expenses,  
7 consistent with section 114 of this act; and

8 (c) To the clean energy account, clean water climate program  
9 account, and the sustainable forest health account, consistent with  
10 sections 103 through 105, 107, and 108 of this act.

11 (11) The department must round the tax rate to the nearest cent.  
12 The department must publish on its web site the tax rate for any year  
13 by January 1st of that year.

14 NEW SECTION. **Sec. 203.** TAX ON ELECTRICITY. (1) The tax imposed  
15 in section 202 of this act on electricity must be paid by the light  
16 and power business. If a wholesale customer of a light and power  
17 business consumes electricity for which a tax under section 202 of  
18 this act has not been paid by a light and power business, then the  
19 customer must pay the tax directly to the department.

20 (2)(a) Light and power businesses are exempt from the tax if they  
21 obtain a fully completed exemption certificate, authorized under  
22 section 208 of this act within ninety days, or a longer period as may  
23 be provided by rule by the department, subsequent to the payment  
24 period associated with a sale of electricity. Upon the request of the  
25 department, the light and power business must provide evidence that  
26 the tax has been refunded to the exempt entity.

27 (b) If the light and power business has not obtained an exemption  
28 certificate authorized under section 208 of this act within the  
29 period allowed subsequent to a payment period, the light and power  
30 business may, within one hundred twenty days, or a longer period as  
31 may be provided by rule by the department, subsequent to a request  
32 for substantiation by the department, either prove that the  
33 transaction was not subject to tax by other means or obtain a fully  
34 completed exemption certificate from the purchaser, taken in good  
35 faith.

36 NEW SECTION. **Sec. 204.** TAX ON FOSSIL FUELS—ELECTRICITY AND  
37 COMBINED HEAT AND POWER. (1) A light and power business is not  
38 required to pay the tax on fossil fuels supplied to a light and power

1 business by a supplier and for which the tax under this chapter has  
2 been paid by a supplier.

3 (2) The tax on fossil fuels supplied for combined heat and power,  
4 as defined in RCW 19.280.020, are imposed on the supplier. The  
5 department may not impose the tax on electricity from combined heat  
6 and power, and must instead impose upon and assign payment  
7 responsibility for the tax to the supplier.

8 NEW SECTION. **Sec. 205.** DEPARTMENT OF ECOLOGY CARBON  
9 CALCULATIONS AND REPORTING. (1) By December 15, 2017, the department  
10 of ecology must adopt rules specifying the basis for a carbon  
11 calculation on the emissions of carbon dioxide equivalent inherent in  
12 or associated with fossil fuels and of the emissions inherent in or  
13 associated with imported electricity. In determining a carbon  
14 calculation methodology, the department of ecology may consider,  
15 among other resources, the reports filed in section 206 of this act,  
16 the carbon dioxide content measurements for fossil fuels from the  
17 United States energy information administration, and the United  
18 States environmental protection agency.

19 (2) The department of ecology may periodically update the rules  
20 specifying the carbon content of fossil fuels and imported  
21 electricity. Department of ecology rule updates under this section  
22 must be adopted by November 1st of a given year, and must take effect  
23 beginning January 1st of the following year.

24 NEW SECTION. **Sec. 206.** ELECTRIC SOURCE REPORTING AND  
25 UNSPECIFIED POWER TO THE DEPARTMENT OF COMMERCE. (1) Each light and  
26 power business must file with the department of commerce a fuel mix  
27 report. The report must be filed with the department of commerce  
28 during the reporting period for the tax imposed under section 202 of  
29 this act, as determined by the department.

30 (2) The department of commerce must adopt rules regarding the  
31 content of the fuel mix report submitted under this section. The fuel  
32 mix report rules must require the submission of the information  
33 required by RCW 19.29A.060, as well as any other information deemed  
34 necessary by the department of commerce or by the department to  
35 administer the tax imposed under this chapter.

36 (3) The department of commerce must adopt rules under which a  
37 light and power business may specify the resources used to generate  
38 electricity that is not a declared resource under RCW 19.29A.060(1).

1 To the maximum extent practicable, the electricity source  
2 specification requirements and procedures adopted by the department  
3 of commerce must be consistent with the electric source specification  
4 requirements that apply to electricity in other jurisdictions that  
5 have adopted a policy that results in the imposition of a tax, price,  
6 or other cost associated with the carbon content of electricity.

7 (4) For purposes of imposing the tax under this chapter, the  
8 department must assume the carbon content of electricity that is not  
9 attributed to a generation source under the rules adopted pursuant to  
10 this section is equal to one metric ton of carbon dioxide per  
11 megawatt-hour.

12 NEW SECTION. **Sec. 207.** EXEMPTIONS AND REDUCED RATES. (1) The  
13 tax levied under section 202 of this act does not apply to:

14 (a) Fossil fuels brought into this state by means of the fuel  
15 supply tank of a motor vehicle, vessel, locomotive, or aircraft;

16 (b) Fossil fuels that are prohibited from taxation under the  
17 Constitution of Washington or the Constitution of the United States;

18 (c) Fossil fuels that are exported or sold for export outside of  
19 Washington. Export to a federally recognized Indian tribal  
20 reservation located within this state is not considered export  
21 outside of Washington; or

22 (d) Fossil fuels used for aviation or maritime purposes, unless  
23 by December 31, 2021, an international consortium for each respective  
24 industry has not adopted a greenhouse gas emissions reduction plan  
25 consistent with climate goals in RCW 70.235.020, as determined by the  
26 department of ecology on December 1, 2021.

27 (2) The tax levied under section 202 of this act is imposed on  
28 EITE facilities except as provided for in section 208 of this act.

29 (3) The tax levied under section 202 of this act does not apply  
30 to the following fuel purchases until July 1, 2039:

31 (a) Diesel fuel or aircraft fuel used solely for agricultural  
32 purposes, as those terms are defined in RCW 82.08.865;

33 (b) Fuel purchased for the purpose of public transportation and  
34 for which the purchaser is entitled to a refund under RCW  
35 82.38.080(1) (f) and (g) or 82.38.180(3)(b);

36 (c) Fuel that is purchased by a private, nonprofit transportation  
37 provider certified under chapter 81.66 RCW and for which the  
38 purchaser is entitled to a refund under RCW 82.38.080(1) (f) and (g)  
39 or 82.38.180(3)(b);

1 (d) Fuel purchased by the Washington state ferry system for use  
2 in a state-owned ferry; and

3 (e) Fuel purchased for school buses, as defined in and consistent  
4 with the requirements of RCW 46.04.521.

5 (4) The department must make available a certificate for use by  
6 purchasers of fuels exempted under subsection (3) or (1)(d) of this  
7 section from the tax imposed in section 202 of this act.

8 NEW SECTION. **Sec. 208.** EITE FACILITY TAX EXEMPTION. (1)

9 Beginning July 1, 2019, and each July 1st thereafter, each EITE  
10 facility that has obtained a certificate from the department of  
11 commerce consistent with section 110 of this act must submit a report  
12 to the department of commerce, in a form and at time intervals  
13 adopted by rule by the department of commerce, regarding the EITE  
14 facility's consumption of fossil fuels and electricity and the  
15 associated tax paid on the fossil fuel or electricity for the  
16 preceding twelve months. Beginning July 1, 2020, the report must also  
17 include the benchmark annual emissions volume established for the  
18 facility as determined by the department of ecology under section 209  
19 of this act.

20 (2) EITE facilities may qualify for an exemption from the tax  
21 under section 202 of this act. To qualify for an exemption, an EITE  
22 facility must:

23 (a) Submit the report required under subsection (1) of this  
24 section;

25 (b) Obtain an exemption certificate from the department of  
26 commerce; and

27 (c) Provide the certificate to the light and power business,  
28 supplier, or other taxable person under this act at the time of  
29 purchase of electricity or fossil fuels.

30 (3) The exemption certificates authorized under this section must  
31 be renewed with the department annually. The department of commerce  
32 may not issue an exemption certificate under this section to any EITE  
33 facility that has not filed the report required in subsection (1) of  
34 this section.

35 (4) The exemption is subject to reduction or cancellation in the  
36 event that, despite exemption from the tax, a certified EITE closes a  
37 facility within the state or moves significant numbers of jobs to  
38 facilities outside Washington state. The department of commerce, with  
39 input from the board, must make a recommendation to the department

1 regarding the amount of the tax exemption to be recovered from the  
2 EITE facility, which must be proportional to the percentage of the  
3 EITE facility's number of full-time employee positions in the state  
4 that moved to facilities outside of Washington state.

5 (5) The department must recover previously exempted tax in the  
6 event that they find that reductions were a result of relocation and  
7 not normal changes in economics or business cycle. In recovering  
8 previously exempted taxes in such an event, the department must seek  
9 recovery of the proportional amount described in subsection (4) of  
10 this section of the tax that would have otherwise been due over the  
11 previous five calendar years, plus interest assessed consistent with  
12 RCW 82.32.050. The board and the department of commerce must also  
13 recommend a commensurate reduction in tax exemption or cancellation  
14 of the exemption, to be enacted by the department starting at the  
15 next taxable event.

16 NEW SECTION. **Sec. 209.** EITE FACILITY BENCHMARK SETTING. (1)  
17 Beginning February 1, 2020, and each February 1st thereafter, each  
18 EITE facility must provide the following data to the department of  
19 ecology:

20 (a) Data that allows the department of ecology to calculate the  
21 actual or projected emissions of the EITE facility;

22 (b) Actual or projected production data for the energy-intensive  
23 and trade-exposed facility;

24 (c) Actual or projected operating hours and days of operation  
25 during a calendar year;

26 (d) Information regarding an EITE facility's processes that  
27 consume fossil fuels, use electricity, or otherwise are associated  
28 with the emissions of greenhouse gases; and

29 (e) Any other information requested by the department of ecology  
30 that is germane to calculations of the greenhouse gas intensity of  
31 production at the EITE facility.

32 (2) The EITE facility must also make available personnel who can  
33 assist the department of ecology in assigning a baseline greenhouse  
34 gas emissions value for the facility. If the EITE facility does not  
35 provide the department of ecology with information or access to  
36 personnel in a timely manner, the department of ecology may use the  
37 best information available to the department to conservatively  
38 estimate any missing data and assign a baseline greenhouse gas  
39 emissions value.

1 (3) For each EITE facility, the department of ecology must  
2 establish a benchmark volume of annual greenhouse gas emissions based  
3 upon a determination of the greenhouse gas emissions associated with  
4 the most efficient fifty percent of similar existing facilities,  
5 adjusted for production volumes. In making the assessment of the  
6 greenhouse gas emissions intensity of the fiftieth percentile of  
7 similar existing EITE facilities, the department of ecology:

8 (a) Must attempt to find existing parties, either local or  
9 otherwise, that are similar to the energy-intensive and trade-exposed  
10 facility because they make or supply similar products using similar  
11 processes as the EITE facility;

12 (b) May prorate emissions or production data to scale data from  
13 similar facilities to the energy-intensive and trade-exposed facility  
14 subject to the tax imposed under section 202 of this act;

15 (c) Must use average emissions data from the most recent three to  
16 five-year period that such data is available for the energy-intensive  
17 and trade-exposed facility and for similar facilities identified; and

18 (d) Must use best available engineering methods to estimate  
19 greenhouse gas emissions from the EITE facilities, if similar  
20 facilities do not exist.

21 (4) By June 1, 2020, and each June 1st thereafter, the department  
22 of ecology must determine, consistent with subsection (3) of this  
23 section, whether each EITE facility that submitted information to the  
24 department of ecology under subsection (1) of this section has  
25 exceeded the fiftieth percentile benchmark emissions volume during  
26 the preceding year.

27 (5) An EITE facility is eligible to submit project proposals to  
28 the clean energy account detailed in section 103 of this act, in  
29 order to work towards greater efficiency and to help those EITE  
30 facilities below the fiftieth percentile to exceed that benchmark.  
31 This provision does not limit the eligibility of other public or  
32 private applicants to these funds.

33 (6) The department of ecology may adopt rules to implement this  
34 section.

35 (7) Information submitted to the department of ecology pursuant  
36 to subsection (1)(b), (c), or (d) of this section is not subject to  
37 public disclosure under chapter 42.56 RCW.

38 NEW SECTION. **Sec. 210.** TAX ADMINISTRATION. All of the  
39 provisions in chapter 82.32 RCW have full force and application with

1 respect to taxes imposed under the provisions of this chapter. The  
2 department must develop and make available worksheets, tax tables,  
3 and guidance documents necessary to calculate the emissions of fossil  
4 fuels or inherent in electricity.

5 NEW SECTION. **Sec. 211.** LOW-INCOME CARBON POLLUTION MITIGATION  
6 TAX GRANT. (1) The definitions in this section apply throughout this  
7 section unless the context clearly indicates otherwise.

8 (a) "Adjusted gross income" has the same meaning as provided in  
9 Title 26 U.S.C. Sec. 62 of the federal internal revenue code, as  
10 amended, as of the effective date of this section.

11 (b) "Department" means the department of social and health  
12 services.

13 (c) "Eligible person" means:

14 (i) An individual, or an individual and that individual's spouse  
15 if they file a joint return, who:

16 (A) Has an adjusted gross income as provided for in subsection  
17 (3) of this section; and

18 (B) Properly files a federal income tax return as a Washington  
19 resident, and has been a resident of the state of Washington for more  
20 than one hundred eighty days of the year in which the grant is  
21 sought;

22 (ii) Any person eligible for any Washington means-tested benefits  
23 including, but not limited to, temporary assistance for needy  
24 families under chapter 74.12 RCW and the supplemental nutrition  
25 assistance program under chapter 74.04 RCW, and who have resided in  
26 the state of Washington for more than one hundred eighty days of the  
27 year in which the grant is sought;

28 (iii) Any nonresident aliens who have an individual taxpayer  
29 identification number from the United States internal revenue service  
30 and have resided in the state of Washington for more than one hundred  
31 eighty days of the year in which the grant is sought.

32 (2) The department must establish and administer a low-income  
33 carbon pollution mitigation tax grant, as provided in this section,  
34 for Washington state residents to assist in the equitable transition  
35 to lower carbon emission energy sources.

36 (3) A qualified person is allowed a low-income carbon pollution  
37 mitigation tax grant based on the adjusted gross income reported on  
38 the federal personal income tax return for the tax year in which the



1 grant is sought. It must be calculated in accordance with, and  
 2 subject to the limits of, the following tables:

3 Low-income carbon pollution mitigation tax grant, single head of  
 4 household

No children		1 child		2 children		3 or more children	
AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount
\$0-\$19,999	\$120	\$0-\$19,999	\$180	\$0-\$19,999	\$240	\$0-\$19,999	\$300
\$20,000-\$26,999	\$90	\$20,000-\$26,999	\$135	\$20,000-\$28,499	\$180	\$20,000-\$29,499	\$225
\$27,000-\$33,999	\$60	\$27,000-\$33,999	\$90	\$28,500-\$36,999	\$120	\$29,500-\$38,999	\$150
\$34,000-\$40,999	\$30	\$34,000-\$40,999	\$45	\$37,000-\$45,499	\$60	\$39,000-\$48,499	\$75
\$41,000 or greater	\$0	\$41,000 or greater	\$0	\$45,500 or greater	\$0	\$48,500 or greater	\$0

17 Low-income carbon pollution mitigation tax remittance, married/filing  
 18 jointly

No children		1 child		2 children		3 or more children	
AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount	AGI Range	Grant Amount
\$0-\$23,999	\$120	\$0-\$23,999	\$180	\$0-\$23,999	\$240	\$0-\$23,999	\$300
\$24,000-\$30,999	\$90	\$24,000-\$30,999	\$135	\$24,000-\$32,999	\$180	\$24,000-\$33,999	\$225
\$31,000-\$37,999	\$60	\$31,000-\$37,999	\$90	\$33,000-\$41,999	\$120	\$34,000-\$43,999	\$150
\$38,000-\$44,999	\$30	\$38,000-\$44,999	\$45	\$42,000-\$50,999	\$60	\$44,000-\$53,999	\$75
\$45,000 or greater	\$0	\$45,000 or greater	\$0	\$51,000 or greater	\$0	\$54,000 or greater	\$0

31 (4) The grant amounts provided for in subsection (3) of this  
 32 section must be adjusted effective on January 1st of an even-numbered  
 33 year based on the annual growth of the consumer price index for urban  
 34 wage earners and clerical workers as published by the United States

1 bureau of labor statistics on January 1st of the immediately previous  
2 odd-numbered year.

3 (5) The grant under this section must be administered according  
4 to this subsection (5):

5 (a) An eligible person must apply to the department for the grant  
6 as calculated under this section.

7 (b) Applications for the low-income carbon pollution mitigation  
8 tax grant must be made in the year following the year for which the  
9 federal return was filed, but in no case may any remittance be  
10 provided for any period before July 1, 2018. The department may use  
11 the best available data to process the grant. The department must  
12 begin accepting applications October 1, 2019.

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

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

22 (e) The department may, in conjunction with other agencies,  
23 design and implement a public information campaign to inform  
24 potentially eligible persons of the existence of and requirements of  
25 this grant.

26 (f) The department may adopt any rules necessary to implement  
27 this section.

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

32 NEW SECTION. **Sec. 212.** TAX INCREASE MITIGATED UPON ACHIEVEMENT  
33 OF LIMITS. (1) If the department of ecology, based on data collected  
34 by the department on total electricity and fuels subject to the tax  
35 in the previous year, determines that:

36 (a) The sources of emissions covered by the tax imposed by this  
37 chapter are predicted to achieve or exceed their combined share of  
38 the emissions reductions necessary for the state to achieve the  
39 emissions limits established in RCW 70.235.020, the tax rate

1 established in section 202 of this act must increase the following  
2 July 1st only by the rate of inflation;

3 (b) The sources of emissions covered by the tax imposed by this  
4 chapter are predicted to fall short of their combined share of the  
5 emissions reductions necessary for the state to achieve the emissions  
6 limits established in RCW 70.235.020 by no more than three percent of  
7 the overall statewide limit, the rate of the tax established in  
8 section 202 of this act must increase the following July 1st only by  
9 two percent plus the rate of inflation;

10 (c) The sources of emissions covered by the tax imposed by this  
11 chapter are predicted to fall short of their combined share of the  
12 emissions reductions necessary for the state to achieve the emissions  
13 limits established in RCW 70.235.020 by between three percent and  
14 five percent of the overall statewide limit, the rate of the tax  
15 established in section 202 of this act must increase the following  
16 July 1st only by four percent plus the rate of inflation.

17 (2) For purposes of this section, the combined share of emissions  
18 reductions for sources of emissions covered by the tax imposed by  
19 this chapter is the proportion of the greenhouse gas emissions in  
20 2017 by entities subject to the tax relative to the state's overall  
21 emissions that year.

22 (3) The department of ecology must make the determinations  
23 required under this section by December 1st of each year.

### 24 PART III

#### 25 Amending Current Greenhouse Gas Limits in State Law per the 26 Department of Ecology's 2016 Report

27 **Sec. 301.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to  
28 read as follows:

29 (1)(a) The state (~~shall~~) must limit emissions of greenhouse  
30 gases to achieve the following emission reductions for Washington  
31 state:

32 (i) By 2020, reduce overall emissions of greenhouse gases in the  
33 state to 1990 levels;

34 (ii) By 2035, reduce overall emissions of greenhouse gases in the  
35 state to (~~twenty-five~~) forty percent below 1990 levels;

36 (iii) By 2050, the state will do its part to reach global climate  
37 stabilization levels by reducing overall emissions to (~~fifty~~)

1 eighty percent below 1990 levels(~~(, or seventy percent below the~~  
2 ~~state's expected emissions that year)~~)).

3 (b) By December 1, 2008, the department (~~(shall)~~) must submit a  
4 greenhouse gas reduction plan for review and approval to the  
5 legislature, describing those actions necessary to achieve the  
6 emission reductions in (a) of this subsection by using existing  
7 statutory authority and any additional authority granted by the  
8 legislature. Actions taken using existing statutory authority may  
9 proceed prior to approval of the greenhouse gas reduction plan.

10 (c) Except where explicitly stated otherwise, nothing in chapter  
11 14, Laws of 2008 limits any state agency authorities as they existed  
12 prior to June 12, 2008.

13 (d) Consistent with this directive, the department (~~(shall)~~) must  
14 take the following actions:

15 (i) Develop and implement a system for monitoring and reporting  
16 emissions of greenhouse gases as required under RCW 70.94.151; and

17 (ii) Track progress toward meeting the emission reductions  
18 established in this subsection, including the results from policies  
19 currently in effect that have been previously adopted by the state  
20 and policies adopted in the future, and report on that progress.

21 (2)(a) By (~~December~~) October 31st of each even-numbered year  
22 beginning in 2010, the department and the department of (~~community,~~  
23 ~~trade, and economic development shall~~) commerce must report to the  
24 governor and the appropriate committees of the senate and house of  
25 representatives the total emissions of greenhouse gases for the  
26 preceding two years, and totals in each major source sector. The  
27 report must address both emissions from sources subject to the tax  
28 imposed pursuant to section 202 of this act and emissions from  
29 sources not subject to the tax.

30 (b) The report required in (a) of this subsection (2) must  
31 include a declaration of whether entities subject to the tax imposed  
32 in chapter 82.--- RCW (the new chapter created in section 402 of this  
33 act) have met their combined share of emissions reductions as defined  
34 in section 212 of this act. Beginning in 2024, the report must also  
35 evaluate the efficacy of the tax rate adjustments occurring under  
36 section 212 of this act, taking into account the rate of the tax that  
37 was imposed over the preceding three biennia. If the department  
38 determines that the entities subject to the tax did not meet their  
39 combined share of emissions reductions towards the achievement of the  
40 state limits established in subsection (1) of this section during the

1 previous biennium, the report must include a recommendation to the  
2 legislature for an adjustment to the tax rate imposed in section 202  
3 of this act that would be sufficient for the state to achieve the  
4 limits established in subsection (1) of this section.

5 (c) The department (~~shall~~) must ensure the reporting rules  
6 adopted under RCW 70.94.151 allow it to develop a comprehensive  
7 inventory of emissions of greenhouse gases from all significant  
8 sectors of the Washington economy.

9 (3) Except for purposes of reporting, emissions of carbon dioxide  
10 from industrial combustion of biomass in the form of fuel wood, wood  
11 waste, wood by-products, and wood residuals (~~shall not be~~) is not  
12 considered a greenhouse gas as long as the region's silvicultural  
13 sequestration capacity is maintained or increased.

#### 14 **PART IV**

#### 15 **Miscellaneous Provisions**

16 NEW SECTION. Sec. 401. Part I of this act constitutes a new  
17 chapter in Title 70 RCW.

18 NEW SECTION. Sec. 402. Part II of this act constitutes a new  
19 chapter in Title 82 RCW.

20 NEW SECTION. Sec. 403. Part II of this act is exempt from the  
21 provisions of RCW 82.32.805 and 82.32.808.

22 NEW SECTION. Sec. 404. Except where explicitly stated  
23 otherwise, nothing in this act limits the authority of any state  
24 agency as it existed prior to the effective date of this section.

25 NEW SECTION. Sec. 405. If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

--- END ---