

E2SHB 1110 - S COMM AMD
By Committee on Transportation

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
4 innovations in low-carbon transportation technologies, including
5 electric vehicles and clean transportation fuels, are at the
6 threshold of widespread commercial deployment. In order to help
7 prompt the use of clean fuels, other states have successfully
8 implemented programs that reduce the carbon intensity of their
9 transportation fuels. Without disruptions to fuel markets or
10 significant impacts to the costs of transportation fuels, California
11 and Oregon have both implemented low carbon fuel standards that are
12 similar to the program created in this act. Washington state has
13 extensively studied the potential impact of a clean fuels program,
14 and most projections show that a low carbon fuel standard would
15 decrease greenhouse gas and conventional air pollutant emissions,
16 while positively impacting the state's economy.

17 (2) The legislature further finds that the health and welfare of
18 the people of the state of Washington is threatened by the prospect
19 of crumbling or swamped coastlines, rising water, and more intense
20 forest fires caused by higher temperatures and related droughts, all
21 of which are intensified and made more frequent by the volume of
22 greenhouse gas emissions. As of 2015, the transportation sector
23 contributes forty-three percent of Washington's greenhouse gas
24 emissions, and the legislature's interest in the life cycle of the
25 fuels used in the state arises from a concern for the effects of the
26 production and use of these fuels on Washington's environment and
27 public health, including its air quality, snowpack, and coastline.

28 (3) The legislature finds that the people already pay the costs
29 of multiple taxes and regulatory mandates on each molecule of fossil
30 fuels used for transportation, including:

- 31 (a) The state oil spill response tax;
32 (b) The state oil spill administration tax;

1 (c) The state hazardous substance tax used to fund the state
2 toxics control account, the local toxics control account, and the
3 environmental legacy and stewardship account;

4 (d) The combined state and federal motor vehicle 67.8 cent taxes
5 to fund transportation projects;

6 (e) The federal leaking underground storage tank tax and the
7 state petroleum products tax for underground storage tanks;

8 (f) Applicable state and local sales taxes; and

9 (g) The federal renewable fuel standard.

10 (4) Therefore, it is the intent of the legislature to support the
11 deployment of clean transportation fuel technologies through a
12 carefully designed program that reduces the carbon intensity of fuel
13 used in Washington, in order to:

14 (a) Reduce levels of conventional air pollutants from diesel and
15 gasoline that are harmful to public health;

16 (b) Reduce greenhouse gas emissions associated with
17 transportation fuels, which are the state's largest source of
18 greenhouse gas emissions; and

19 (c) Create jobs and spur economic development based on innovative
20 clean fuel technologies.

21 NEW SECTION. **Sec. 2.** The definitions in this section apply
22 throughout this section and sections 3 through 13 of this act unless
23 the context clearly indicates otherwise.

24 (1) "Carbon dioxide equivalents" has the same meaning as defined
25 in RCW 70.235.010.

26 (2) "Clean fuels program" means the requirements established by
27 this act.

28 (3) "Cost" means an expense connected to the manufacture,
29 distribution, or other aspects of the provision of a transportation
30 fuel product.

31 (4) "Credit" means a unit of measure equal to one metric ton of
32 carbon dioxide equivalents.

33 (5) "Deficit" means a unit of measure generated when a
34 transportation fuel with a carbon intensity that is greater than the
35 applicable standard adopted by the department under section 3 of this
36 act is produced, imported, or dispensed for use in Washington, such
37 that one deficit is equal to one metric ton of carbon dioxide
38 equivalents.

1 (6) "Electric utility" means a consumer-owned utility or
2 investor-owned utility, as those terms are defined in RCW 19.29A.010.

3 (7) "Greenhouse gas" has the same meaning as defined in RCW
4 70.235.010.

5 (8) "Military tactical vehicle" means a motor vehicle owned by
6 the United States department of defense or the United States military
7 services and that is used in combat, combat support, combat service
8 support, tactical or relief operations, or training for such
9 operations.

10 (9) "Motor vehicle" has the same meaning as defined in RCW
11 46.04.320.

12 (10) "Price" means the amount of payment or compensation provided
13 as consideration for a specified quantity of transportation fuel by a
14 consumer or end user of the transportation fuel.

15 (11) "Renewable hydrogen" means hydrogen produced using renewable
16 resources both as the source for the hydrogen and the source for the
17 energy input into the production process.

18 (12) "Renewable natural gas" means a gas consisting largely of
19 methane and other hydrocarbons derived from the decomposition of
20 organic material in landfills, wastewater treatment facilities, and
21 anaerobic digesters.

22 (13) "Renewable resource" means: (a) Water; (b) wind; (c) solar
23 energy; (d) geothermal energy; (e) renewable natural gas as defined
24 in RCW 54.04.190; (f) renewable hydrogen; (g) wave, ocean, or tidal
25 power; (h) biodiesel fuel that is not derived from crops raised on
26 land cleared from old growth or first growth forests; or (i) biomass
27 energy.

28 (14)(a) "Tactical support equipment" means equipment using a
29 portable engine, including turbines, that meets military
30 specifications, owned by the United States military services or its
31 allies, and that is used in combat, combat support, combat service
32 support, tactical or relief operations, or training for such
33 operations.

34 (b) "Tactical support equipment" includes, but is not limited to,
35 engines associated with portable generators, aircraft start carts,
36 heaters, and lighting carts.

37 (15) "Transportation fuel" means electricity and any liquid or
38 gaseous fuel sold, supplied, offered for sale, or used for the
39 propulsion of a motor vehicle or that is intended for use for
40 transportation purposes.

1 NEW SECTION. **Sec. 3.** (1)(a) The department, in consultation
2 with the department of licensing, must adopt rules that establish
3 standards that reduce the greenhouse gas emissions per unit of fuel
4 energy (carbon intensity) in transportation fuels used in Washington.
5 The standards established by the rules must be based on the carbon
6 intensity of gasoline and gasoline substitutes and the carbon
7 intensity of diesel and diesel substitutes. The rules adopted under
8 this section must reduce the greenhouse gas emissions attributable to
9 each unit of the fuels to ten percent below 2017 levels by 2028 and
10 twenty percent below 2017 levels by 2035. The rules must establish a
11 start date for the clean fuels program of no later than January 1,
12 2021. To the extent the requirements of this act conflict with the
13 requirements of chapter 19.112 RCW, the requirements of this act
14 prevail.

15 (b) The direction to the department to adopt rules under this
16 section is not an acknowledgment, denial, or limitation of any
17 authority of the department that existed prior to the effective date
18 of this section to adopt rules related to the greenhouse gas
19 emissions intensity of fuel under other provisions of this chapter
20 including, but not limited to, RCW 70.94.151 and 70.94.331.

21 (c)(i) Transportation fuels exported from Washington are not
22 subject to the greenhouse gas emissions reduction requirements in
23 this section.

24 (ii) Electricity is not subject to the greenhouse gas emissions
25 reduction requirements in this section.

26 (2)(a) In lieu of compliance with the clean fuels program
27 provided in subsection (1) of this section, those required to
28 register under section 8(1)(a) of this act may elect to pay an
29 alternative assessment to the state of Washington beginning January
30 1, 2021. The alternative assessment is imposed on the sale or use
31 within this state of transportation fuels. The alternative assessment
32 is calculated by measuring the carbon dioxide emissions resulting
33 from the complete combustion or oxidation of transportation fuels
34 sold or used by the person subject to mandatory registration under
35 section 8(1)(a) of this act. The rules adopted by the department of
36 revenue under this subsection (2) must require an entity to select
37 the alternative assessment, in lieu of compliance with subsection (1)
38 of this section, by January 1, 2022. If the entity has not elected to
39 start paying the alternative assessment by January 1, 2022, with a
40 commitment to continue paying the alternative assessment, then the

1 entity is precluded from selecting the alternative assessment until
2 at least January 1, 2029, and must comply with all provisions of this
3 section and sections 4 through 6 of this act until that date.

4 (b) (i) The alternative assessment must be imposed at the time and
5 place of the first sale, use, or consumption within this state.

6 (ii) For motor vehicle fuel and special fuel, the alternative
7 assessment is charged to the seller or user of the fuel at the points
8 of taxation specified in RCW 82.38.030(9).

9 (c) (i) The alternative assessment is equal to six dollars per
10 metric ton of carbon dioxide for calendar years 2021 through 2028.
11 The alternative assessment rate for calendar years 2029 through 2035
12 will be determined in subsequent legislation based on further
13 evaluation of low carbon fuels policy.

14 (ii) Fifty percent of the revenue generated from the alternative
15 assessment must be deposited in the motor vehicle fund created in RCW
16 46.68.070 and fifty percent must be distributed to the multimodal
17 transportation account under RCW 47.66.070.

18 (d) The provisions of chapter 82.32 RCW apply to this subsection
19 (2).

20 (e) The department of revenue, with the assistance of the
21 department of licensing and the department of commerce, must adopt
22 rules as it deems necessary to administer this section.

23 (f) The rules adopted under this subsection (2) must specify the
24 standards for persons to qualify for the exemptions provided in this
25 subsection (2) and to the maximum extent possible align with
26 exemptions provided in this section and section 5 of this act. The
27 rules must include, but are not limited to, exemptions for the
28 following transportation fuels:

29 (i) Transportation fuels exported from Washington;

30 (ii) Electricity;

31 (iii) Fuels used in volumes below thresholds adopted by the
32 department in section 5 of this act;

33 (iv) Fuels used for the propulsion of all aircraft, vessels, and
34 railroad locomotives; and

35 (v) Fuels used for the operation of military tactical vehicles
36 and tactical support equipment.

37 (g) Until January 1, 2028, the rules adopted under this
38 subsection (2) must also include exemptions for:

39 (i) Special fuel used off-road in vehicles used primarily to
40 transport logs;

1 (ii) Dyed special fuel used in vehicles that are not designed
2 primarily to transport persons or property, that are not designed to
3 be primarily operated on highways, and that are used primarily for
4 construction work including, but not limited to, mining and timber
5 harvest operations; and

6 (iii) Dyed special fuel used for agricultural purposes exempt
7 from chapter 82.38 RCW.

8 (h) The department may also provide exemptions for fuels exempt
9 from chapter 82.38 RCW.

10 (i) The department of revenue must develop and make available
11 worksheets, fee tables, and guidance documents to compare the
12 compliance with this section and sections 4 through 6 of this act
13 with payment of the alternative assessment.

14 (j) If specific funding for the purposes of this section,
15 referencing this section by bill or chapter number, is not provided
16 by June 30, 2019, in the omnibus transportation appropriations act,
17 this section is null and void.

18 NEW SECTION. **Sec. 4.** The rules adopted by the department to
19 achieve the greenhouse gas emissions reductions per unit of fuel
20 energy specified in section 3 of this act must include, but are not
21 limited to, the following:

22 (1) Standards for greenhouse gas emissions attributable to the
23 transportation fuels throughout their life cycles, including but not
24 limited to emissions from the production, storage, transportation,
25 and combustion of transportation fuels and from changes in land use
26 associated with transportation fuels.

27 (a) The rules adopted by the department under this subsection (1)
28 may:

29 (i) Include provisions to address the efficiency of a fuel as
30 used in a powertrain as compared to a reference fuel; and

31 (ii) Consider carbon intensity calculations for transportation
32 fuels developed by national laboratories or used by similar programs
33 in other states.

34 (b) The rules adopted by the department under this subsection (1)
35 must:

36 (i) Neutrally consider the life-cycle emissions associated with
37 transportation fuels with respect to the political jurisdiction in
38 which the fuels originated and may not discriminate against fuels on
39 the basis of having originated in another state or jurisdiction.

1 Nothing in this subsection may be construed to prohibit inclusion or
2 assessment of emissions related to fuel production, storage,
3 transportation, or combustion or associated changes in land use in
4 determining the carbon intensity of a fuel. At minimum, the
5 department must consider associated changes in land use in
6 determining the carbon intensity of transportation fuel produced in
7 whole or in part from sugar cane;

8 (ii) Measure greenhouse gas emissions associated with electricity
9 based on a mix of generation resources specific to each electric
10 utility participating in the clean fuels program. The department may
11 apply an asset-controlling supplier emission factor certified or
12 approved by a similar program to reduce the greenhouse gas emissions
13 associated with transportation fuels in another state; and

14 (iii) Include procedures for setting and adjusting the amounts of
15 greenhouse gas emissions per unit of fuel energy that is assigned to
16 transportation fuels under this subsection.

17 (c) If the department determines that it is necessary for
18 purposes of accurately measuring greenhouse gas emissions associated
19 with transportation fuels, the department may require transportation
20 fuel suppliers to submit data or information to be used for purposes
21 of calculating greenhouse gas emissions that is different from or
22 additional to the greenhouse gas emissions data reported under RCW
23 70.94.151(5) (a) (iii).

24 (d) If the department determines that it is necessary for
25 purposes of accurately measuring greenhouse gas emissions associated
26 with electricity supplied to retail customers by an electric utility,
27 the department may require electric utilities participating in the
28 clean fuels program to submit data or information to be used for
29 purposes of calculating greenhouse gas emissions that is different
30 from or additional to the fuel mix disclosure information submitted
31 under chapter 19.29A RCW. To the extent practicable, rules adopted by
32 the department may allow data requested of utilities to be submitted
33 in a form and manner consistent with other required state or federal
34 data submissions. Under the program, zero associated lifecycle
35 greenhouse gas emissions must be attributed to electricity produced
36 from hydroelectric generation, including incremental hydroelectric
37 generation. Electricity from hydroelectric generation, including
38 incremental hydroelectric generation, that is used as transportation
39 fuel must be provided credit under the program. For the purposes of
40 this section, "incremental hydroelectric generation" means

1 electricity produced as a result of efficiency improvements from
2 hydroelectric generation projects where the additional generation
3 does not result in new water diversions or impoundments;

4 (2) Provisions allowing for the achievement of limits on the
5 greenhouse gas emissions intensity of transportation fuels in section
6 3 of this act to be achieved by any combination of credit generating
7 activities capable of meeting such standards, consistent with the
8 limitations of subsection (3)(a) of this section. Where such
9 provisions would not produce results counter to the emission
10 reduction goals of the program or prove administratively burdensome
11 for the department, the rules should provide each participant in the
12 clean fuels program with the opportunity to demonstrate appropriate
13 carbon intensity values taking into account both emissions from
14 production facilities and elsewhere in the production cycle;

15 (3)(a) Methods for assigning compliance obligations and methods
16 for tracking tradable credits. The department may assign the
17 generation of a credit when a fuel with associated life-cycle
18 greenhouse gas emissions that are lower than the applicable per-unit
19 standard adopted by the department under section 3 of this act is
20 produced, imported, or dispensed for use in Washington, or when
21 specified activities are undertaken that support the reduction of
22 greenhouse gas emissions associated with transportation in
23 Washington. Transportation fuels with associated greenhouse gas
24 emissions exceeding eighty percent of the 2017 levels established in
25 section 3 of this act are not eligible to generate credits under the
26 clean fuels program. Transportation fuels that are refined or
27 otherwise wholly or partly derived from palm oil are not eligible to
28 generate credits under the clean fuels program;

29 (b) Mechanisms that allow credits to be traded and to be banked
30 for future compliance periods; and

31 (c) Procedures for verifying the validity of credits and deficits
32 generated under the clean fuels program;

33 (4) Mechanisms to elect to participate in the clean fuels program
34 for persons associated with the supply chains of transportation fuels
35 that are eligible to generate credits consistent with subsection (3)
36 of this section, including producers, importers, distributors, users,
37 or retailers of such fuels;

38 (5) Mechanisms for persons associated with the supply chains of
39 transportation fuels that are used for purposes that are exempt from
40 the clean fuels program compliance obligations, including but not

1 limited to electricity and fuels used by aircraft, vessels, railroad
2 locomotives, and other exempt fuels specified in section 5 of this
3 act, to elect to participate in the clean fuels program by earning
4 credits for the production, import, distribution, use, or retail of
5 exempt fuels with associated life-cycle greenhouse gas emissions
6 lower than the per-unit standard established in section 3 of this
7 act;

8 (6) Cost containment mechanisms.

9 (a) Cost containment mechanisms may include, but are not limited
10 to:

11 (i) A credit clearance market designed to make credits available
12 for sale to regulated persons after the conclusion of a compliance
13 period at a department-determined price; or

14 (ii) Similar procedures that provide a means of compliance with
15 the clean fuels program requirements in the event that a regulated
16 person has not been able to acquire sufficient volumes of credits at
17 the end of a compliance period.

18 (b) Any cost containment mechanisms must be designed to provide
19 financial disincentive for regulated persons to rely on the cost
20 containment mechanism for purposes of program compliance instead of
21 seeking to generate or acquire sufficient credits under the program;

22 (7) Authority for the department to designate an entity to
23 aggregate and use unclaimed credits associated with persons that
24 elect not to participate in the clean fuels program under subsection
25 (4) of this section.

26 NEW SECTION. **Sec. 5.** (1) The rules adopted by the department
27 under sections 3 and 4 of this act must include exemptions for, at
28 minimum, the following transportation fuels:

29 (a) Fuels used in volumes below thresholds adopted by the
30 department;

31 (b) Fuels used for the propulsion of all aircraft, vessels, and
32 railroad locomotives; and

33 (c) Fuels used for the operation of military tactical vehicles
34 and tactical support equipment.

35 (2) (a) The rules adopted by the department under sections 3 and 4
36 of this act must exempt the following transportation fuels from
37 greenhouse gas emission intensity reduction requirements until
38 January 1, 2028:

1 (i) Special fuel used off-road in vehicles used primarily to
2 transport logs;

3 (ii) Dyed special fuel used in vehicles that are not designed
4 primarily to transport persons or property, that are not designed to
5 be primarily operated on highways, and that are used primarily for
6 construction work including, but not limited to, mining and timber
7 harvest operations; and

8 (iii) Dyed special fuel used for agricultural purposes exempt
9 from chapter 82.38 RCW.

10 (b) Prior to January 1, 2028, fuels identified in this subsection
11 (2) are eligible to generate credits, consistent with section 4(5) of
12 this act. Beginning January 1, 2028, the fuels identified in this
13 subsection (2) are subject to the greenhouse gas emission intensity
14 reduction requirements applicable to transportation fuels specified
15 in section 3 of this act.

16 (3) The department may adopt rules to specify the standards for
17 persons to qualify for the exemptions provided in this section. The
18 department may implement the exemptions under subsection (2) of this
19 section to align with the implementation of exemptions for similar
20 fuels exempt from chapter 82.38 RCW.

21 (4) The rules adopted by the department under sections 3 and 4 of
22 this act may include exemptions in addition to those described in
23 subsections (1) and (2) of this section, but only if such exemptions
24 are necessary, with respect to the relationship between the program
25 and similar greenhouse gas emissions requirements or low carbon fuel
26 standards, in order to avoid:

27 (a) Mismatched incentives across programs;

28 (b) Fuel shifting between markets; or

29 (c) Other results that are counter to the intent of this act.

30 (5) Nothing in this chapter precludes the department from
31 adopting rules under sections 3 and 4 of this act that allow the
32 generation of credits associated with electric or alternative
33 transportation infrastructure that existed prior to the effective
34 date of this section or to the start date of program requirements.

35 NEW SECTION. **Sec. 6.** (1) The rules adopted by the department
36 under sections 3 and 4 of this act may allow the generation of
37 credits from activities that support the reduction of greenhouse gas
38 emissions associated with transportation in Washington, including but
39 not limited to:

1 (a) Carbon capture and sequestration projects, including but not
2 limited to:

3 (i) Innovative crude oil production projects that include carbon
4 capture and sequestration;

5 (ii) Refinery investments in carbon capture and sequestration;

6 (iii) Investments in renewable natural gas or renewable hydrogen
7 production projects; or

8 (iv) Direct air capture projects;

9 (b) The fueling of electric vehicles using electricity certified
10 by the department to have a carbon intensity of zero. Such
11 electricity must include, at minimum:

12 (i) Electricity for which a renewable energy credit or other
13 environmental attribute has been retired or used only for purposes of
14 the clean fuels program; and

15 (ii) Electricity produced using a zero emission resource,
16 including but not limited to solar, wind, water, geothermal,
17 renewable natural gas, or the industrial combustion of biomass
18 consistent with RCW 70.235.020(3), that is directly supplied as a
19 transportation fuel by the generator of the electricity;

20 (c) The provision of zero emission vehicle refueling
21 infrastructure, including but not limited to fast charging battery
22 electric vehicle infrastructure and renewable hydrogen electric
23 vehicle refueling infrastructure; and

24 (d) The use of smart vehicle charging technology that results in
25 the fueling of an electric vehicle during times when the carbon
26 intensity of grid electricity is comparatively low.

27 (2) The rules adopted by the department may establish limits for
28 the number of credits that may be earned each year by persons
29 participating in the program for some or all of the activities
30 specified in subsection (1) of this section.

31 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
32 sections 2 through 11 of this act, the department should seek to
33 adopt rules that are harmonized with the regulatory standards,
34 exemptions, reporting obligations, and other clean fuels program
35 compliance requirements of other states that:

36 (a) Have adopted low carbon fuel standards or similar greenhouse
37 gas emissions requirements applicable specifically to transportation
38 fuels; and

1 (b)(i) Supply, or have the potential to supply, significant
2 quantities of transportation fuel to Washington markets; or

3 (ii) To which Washington supplies, or has the potential to
4 supply, significant quantities of transportation fuel.

5 (2) In adopting rules under sections 3 and 4 of this act, the
6 department must consider whether actions taken or credits generated
7 under the clean fuels program are eligible for purposes of compliance
8 with the clean air rule, chapter 173-442 WAC as it existed as of
9 October 16, 2016, and whether actions taken or emissions reduction
10 units generated under the clean air rule may be used for purposes of
11 compliance with this section.

12 NEW SECTION. **Sec. 8.** (1)(a) Each producer or importer of any
13 amount of a transportation fuel that is ineligible to generate
14 credits consistent with the requirements of section 4(3) of this act
15 must register with the department.

16 (b) Producers, importers, distributors, users, and retailers of
17 transportation fuels that are eligible to generate credits consistent
18 with section 4(3) of this act must register with the department if
19 they elect to participate in the clean fuels program.

20 (c) Other persons must register with the department to generate
21 credits from other activities that support the reduction of
22 greenhouse gas emissions associated with transportation in
23 Washington.

24 (2) Each transaction transferring ownership of transportation
25 fuels for which clean fuels program participation is mandated or has
26 been chosen must be accompanied by documentation, in a format
27 approved by the department, that assigns the clean fuels program
28 compliance responsibility associated with the fuels, including the
29 assignment of associated credits.

30 (3) The department may adopt rules requiring the periodic
31 reporting of information to the department by persons associated with
32 the supply chains of transportation fuels participating in the clean
33 fuels program. To the extent practicable, the rules must establish
34 reporting procedures and timelines that are consistent with similar
35 programs in other states that reduce the greenhouse gas emission
36 intensity of transportation fuel and with procedures and timelines of
37 state programs requiring similar information to be reported by
38 regulated parties, including electric utilities.

1 (4) RCW 70.94.205 applies to records or information submitted to
2 the department under sections 2 through 13 of this act.

3 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues
4 generated by an electric utility from credits earned from the
5 electricity supplied to retail customers by an electric utility under
6 the clean fuels program must be expended by the electric utility on
7 transportation electrification projects, which may include projects
8 to support the production and provision of renewable hydrogen as a
9 transportation fuel.

10 (b) Sixty percent of the revenues described in (a) of this
11 subsection, or thirty percent of the revenues generated by an
12 electric utility from credits earned from the electricity supplied to
13 retail customers by an electric utility under the clean fuels
14 program, must be expended by the electric utility on transportation
15 electrification projects, which may include projects to support the
16 production and provision of renewable hydrogen as a transportation
17 fuel, located within or directly benefiting a federally designated
18 nonattainment or maintenance area, a federally designated
19 nonattainment or maintenance area that existed as of the effective
20 date of this section, or an area designated by the department as
21 being at risk of nonattainment, if such a nonattainment or
22 maintenance area is within the service area of the utility.

23 (2) The department, in partnership with electric utilities, may
24 develop guidelines for voluntary carbon reduction projects, including
25 those that may be available to a utility within its service area for
26 the expenditure of revenues from credits earned from the electricity
27 supplied to retail customers by an electric utility under the clean
28 fuels program that are applicable to the fifty percent of revenues
29 not subject to the requirements of subsection (1) of this section.

30 (3) The utilities and transportation commission, for investor-
31 owned utilities, or the governing board for consumer-owned utilities,
32 may approve expenditures to meet up to the fifty percent of revenues
33 not subject to the requirements of subsection (1) of this section for
34 the following:

35 (a) Carbon reduction projects under subsection (2) of this
36 section within or without its service area;

37 (b) Investments pursuant to section 6 of this act;

38 (c) Further investments in projects pursuant to subsection (1)(a)
39 of this section;

1 (d) To offset fuel cost increases, if any, to the utility
2 attributable to this act, based on the fuel costs estimates produced
3 in section 10(1)(c) of this act; or

4 (e) Up to ten percent of the revenues generated by an electric
5 utility from credits earned from the electricity supplied to retail
6 customers by an electric utility under the clean fuels program may be
7 expended for low-income assistance.

8 (4) Electric utilities that elect to participate in the clean
9 fuels program must annually provide information to the department
10 accounting for and briefly describing all expenditures of revenues
11 generated from credits earned under the clean fuels program.

12 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2023, and each May
13 1st thereafter, the department must post a report on the department's
14 web site that includes the following information regarding the
15 previous calendar year of clean fuels program activities:

16 (a) The program-wide number of credits and deficits generated by
17 entities participating in the clean fuels program;

18 (b) The volumes of each transportation fuel and average price per
19 credit used to comply with the requirements of the clean fuels
20 program;

21 (c) The best estimate or range in probable costs or cost savings
22 attributable to the clean fuels program per gallon of gasoline and
23 per gallon of diesel, as determined by an independent consultant
24 whose services the department has contracted. The estimate or range
25 in probable costs or cost savings from the independent consultant
26 must be announced in a press release to the news media at the time
27 that the report under this section is posted to the department's web
28 site, and must be simultaneously reported to the transportation
29 committees of the house of representatives and the senate;

30 (d) The total greenhouse gas emissions reductions attributable to
31 the clean fuels program; and

32 (e) The range in the probable cost per ton of greenhouse gas
33 emissions reductions attributable to fuels supported by the clean
34 fuels program, taking into account the information in (c) and (d) of
35 this subsection.

36 (2) By December 1, 2022, and each December 1st thereafter, the
37 department must submit recommendations to the appropriate committees
38 of the house of representatives and senate, in the form of draft
39 legislation, for any changes to sections 2 through 13 of this act

1 that are needed in order to more efficiently achieve the greenhouse
2 gas emissions reduction goals of the clean fuels program.

3 (3) The department must identify the sources of information it
4 relied upon in each report submitted under this section, including
5 peer-reviewed science.

6 NEW SECTION. **Sec. 11.** (1) In consultation with the department
7 and the department of agriculture, the department of commerce must
8 develop a periodic fuel supply forecast to project the availability
9 of fuels necessary for compliance with clean fuels program
10 requirements.

11 (2) Based upon the estimates in subsection (3) of this section,
12 the fuel supply forecast must include a prediction by the department
13 of commerce regarding whether sufficient credits will be available to
14 comply with clean fuels program requirements.

15 (3) The fuel supply forecast for each upcoming compliance period
16 must include, but is not limited to, the following:

17 (a) An estimate of the volume of each transportation fuel
18 available in Washington;

19 (b) An estimate of the total banked credits and deficits from
20 previous compliance periods; and

21 (c) An estimate of the number of credits needed to meet the
22 applicable clean fuels program requirements during the forecasted
23 compliance period.

24 (4) The department of commerce must finalize a fuel supply
25 forecast for an upcoming compliance period by no later than ninety
26 days prior to the start of the compliance period.

27 (5) The department of commerce must identify the sources of
28 information it relied upon in each fuel supply forecast submitted
29 under this section, including peer-reviewed science.

30 NEW SECTION. **Sec. 12.** (1) The department may require that
31 persons that are required or elect to register or report under
32 sections 2 through 13 of this act pay a fee. If the department elects
33 to require program participants to pay a fee, the department must,
34 after an opportunity for public review and comment, adopt rules to
35 establish a process to determine the payment schedule and the amount
36 of the fee charged. The amount of the fee must be set so as to equal
37 but not exceed the projected direct and indirect costs to the
38 department for developing and implementing the program and the

1 projected direct and indirect costs to the department of commerce to
2 carry out its responsibilities under section 11 of this act. The
3 department and the department of commerce must prepare a biennial
4 workload analysis and provide an opportunity for public review of and
5 comment on the workload analysis. The department must enter into an
6 interagency agreement with the department of commerce to implement
7 this section.

8 (2) The clean fuels program account is created in the state
9 treasury. All receipts from fees and penalties received under the
10 program created in this section and sections 2 through 11 of this act
11 must be deposited into the account. Moneys in the account may be
12 spent only after appropriation. The department may only use
13 expenditures from the account for carrying out the program created in
14 this section and sections 2 through 11 of this act.

15 NEW SECTION. **Sec. 13.** (1) By December 1, 2027, the joint
16 legislative audit and review committee must analyze the impacts of
17 the initial five years of clean fuels program implementation and must
18 submit a report summarizing the analysis to the legislature. The
19 analysis must include, at minimum, the following components:

20 (a) Costs and benefits, including environmental and public health
21 costs and benefits, associated with this act for categories of
22 persons participating in the clean fuels program or that are most
23 impacted by air pollution, as defined in consultation with the
24 departments of ecology and health and as measured on a census tract
25 scale. This component of the analysis must, at minimum, assess the
26 costs and benefits of changes in the following metrics since the
27 start of the program:

28 (i) Levels of greenhouse gas emissions and criteria air
29 pollutants for which the United States environmental protection
30 agency has established national ambient air quality standards;

31 (ii) Fuel prices; and

32 (iii) Total employment in categories of industries generating
33 credits or deficits. The categories of industries assessed must
34 include but are not limited to electric utilities, oil refineries,
35 and other industries involved in the production of high carbon fuels,
36 industries involved in the delivery and sale of high carbon fuels,
37 biofuel refineries, and industries involved in the delivery and sale
38 of low carbon fuels;

1 (b) An evaluation of the information calculated and provided by
2 the department under section 10(1) of this act; and

3 (c) A summary of the estimated total statewide costs and benefits
4 attributable to the clean fuels program, including state agency
5 administrative costs and regulated entity compliance costs. For
6 purposes of calculating the benefits of the program, the summary may
7 rely, in part, on a constant value of the social costs attributable
8 to greenhouse gas emissions, as identified in contemporary
9 internationally accepted estimates of such global social cost. This
10 summary must include an estimate of the total statewide costs of the
11 program per ton of greenhouse gas emissions reductions achieved by
12 the clean fuels program.

13 (2) This section expires June 30, 2028.

14 **Sec. 14.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
15 amended to read as follows:

16 (1) A person applying for a motor vehicle registration and paying
17 the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e),
18 (h), (j), (n), and (o) (~~shall~~) must pay a motor vehicle weight fee
19 in addition to all other fees and taxes required by law.

20 (a) For vehicle registrations that are due or become due before
21 July 1, 2016, the motor vehicle weight fee:

22 (i) Must be based on the motor vehicle scale weight;

23 (ii) Is the difference determined by subtracting the vehicle
24 license fee required in RCW 46.17.350 from the license fee in
25 Schedule B of RCW 46.17.355, plus two dollars; and

26 (iii) Must be distributed under RCW 46.68.415.

27 (b) For vehicle registrations that are due or become due on or
28 after July 1, 2016, the motor vehicle weight fee:

29 (i) Must be based on the motor vehicle scale weight as follows:

WEIGHT	FEE
4,000 pounds	\$ 25.00
6,000 pounds	\$ 45.00
8,000 pounds	\$ 65.00
16,000 pounds and over	\$ 72.00;

35 (ii) If the resultant motor vehicle scale weight is not listed in
36 the table provided in (b) (i) of this subsection, must be increased to
37 the next highest weight; and

1 (iii) Must be distributed under RCW 46.68.415 unless prior to
2 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
3 subsection occur, in which case the portion of the revenue that is
4 the result of the fee increased in this subsection must be
5 distributed to the connecting Washington account created under RCW
6 46.68.395.

7 (A) Any state agency files a notice of rule making under chapter
8 34.05 RCW, absent explicit legislative authorization enacted
9 subsequent to July 1, 2015, for a rule regarding a fuel standard
10 based upon or defined by the carbon intensity of fuel, including a
11 low carbon fuel standard or clean fuel standard.

12 (B) Any state agency otherwise enacts, adopts, orders, or in any
13 way implements a fuel standard based upon or defined by the carbon
14 intensity of fuel, including a low carbon fuel standard or clean fuel
15 standard, without explicit legislative authorization enacted
16 subsequent to July 1, 2015.

17 (C) Nothing in this subsection acknowledges, establishes, or
18 creates legal authority for the department of ecology or any other
19 state agency to enact, adopt, order, or in any way implement a fuel
20 standard based upon or defined by the carbon intensity of fuel,
21 including a low carbon fuel standard or clean fuel standard.

22 (2) A person applying for a motor home vehicle registration
23 (~~shall~~) must, in lieu of the motor vehicle weight fee required in
24 subsection (1) of this section, pay a motor home vehicle weight fee
25 of seventy-five dollars in addition to all other fees and taxes
26 required by law. The motor home vehicle weight fee must be
27 distributed under RCW 46.68.415.

28 (3) Beginning July 1, 2022, in addition to the motor vehicle
29 weight fee as provided in subsection (1) of this section, the
30 department, county auditor or other agent, or subagent appointed by
31 the director must require an applicant to pay an additional weight
32 fee of ten dollars, which must be distributed to the multimodal
33 transportation account under RCW 47.66.070 unless prior to July 1,
34 2023, the actions described in (a) or (b) of this subsection occur,
35 in which case the portion of the revenue that is the result of the
36 fee increased in this subsection must be distributed to the
37 connecting Washington account created under RCW 46.68.395.

38 (a) Any state agency files a notice of rule making under chapter
39 34.05 RCW, absent explicit legislative authorization enacted
40 subsequent to July 1, 2015, for a rule regarding a fuel standard

1 based upon or defined by the carbon intensity of fuel, including a
2 low carbon fuel standard or clean fuel standard.

3 (b) Any state agency otherwise enacts, adopts, orders, or in any
4 way implements a fuel standard based upon or defined by the carbon
5 intensity of fuel, including a low carbon fuel standard or clean fuel
6 standard, without explicit legislative authorization enacted
7 subsequent to July 1, 2015.

8 (c) Nothing in this subsection acknowledges, establishes, or
9 creates legal authority for the department of ecology or any other
10 state agency to enact, adopt, order, or in any way implement a fuel
11 standard based upon or defined by the carbon intensity of fuel,
12 including a low carbon fuel standard or clean fuel standard.

13 (4) The department (~~shall~~) must:

14 (a) Rely on motor vehicle empty scale weights provided by vehicle
15 manufacturers, or other sources defined by the department, to
16 determine the weight of each motor vehicle; and

17 (b) Adopt rules for determining weight for vehicles without
18 manufacturer empty scale weights.

19 **Sec. 15.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
20 amended to read as follows:

21 (1) When a person has been disqualified from operating a
22 commercial motor vehicle, the person is not entitled to have the
23 commercial driver's license or commercial learner's permit restored
24 until after the expiration of the appropriate disqualification period
25 required under RCW 46.25.090 or until the department has received a
26 drug and alcohol assessment and evidence is presented of satisfactory
27 participation in or completion of any required drug or alcohol
28 treatment program for ending the disqualification under RCW
29 46.25.090(7). After expiration of the appropriate period and upon
30 payment of a requalification fee of twenty dollars until June 30,
31 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
32 fifty dollars if the person has been disqualified under RCW
33 46.25.090(7), the person may apply for a new, duplicate, or renewal
34 commercial driver's license or commercial learner's permit as
35 provided by law. If the person has been disqualified for a period of
36 one year or more, the person (~~shall~~) must demonstrate that he or
37 she meets the commercial driver's license or commercial learner's
38 permit qualification standards specified in RCW 46.25.060.

1 (2) The fees under this section must be deposited into the
2 highway safety fund unless prior to July 1, 2023, the actions
3 described in (a) or (b) of this subsection occur, in which case the
4 portion of the revenue that is the result of the fee increased in
5 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
6 distributed to the connecting Washington account created under RCW
7 46.68.395.

8 (a) Any state agency files a notice of rule making under chapter
9 34.05 RCW, absent explicit legislative authorization enacted
10 subsequent to July 1, 2015, for a rule regarding a fuel standard
11 based upon or defined by the carbon intensity of fuel, including a
12 low carbon fuel standard or clean fuel standard.

13 (b) Any state agency otherwise enacts, adopts, orders, or in any
14 way implements a fuel standard based upon or defined by the carbon
15 intensity of fuel, including a low carbon fuel standard or clean fuel
16 standard, without explicit legislative authorization enacted
17 subsequent to July 1, 2015.

18 (c) Nothing in this subsection acknowledges, establishes, or
19 creates legal authority for the department of ecology or any other
20 state agency to enact, adopt, order, or in any way implement a fuel
21 standard based upon or defined by the carbon intensity of fuel,
22 including a low carbon fuel standard or clean fuel standard.

23 **Sec. 16.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
24 read as follows:

25 (1) The department may enter into a memorandum of understanding
26 with any federal agency for the purposes of facilitating the crossing
27 of the border between the state of Washington and the Canadian
28 province of British Columbia.

29 (2) The department may enter into an agreement with the Canadian
30 province of British Columbia for the purposes of implementing a
31 border-crossing initiative.

32 (3) (a) The department may issue an enhanced driver's license or
33 identicard for the purposes of crossing the border between the state
34 of Washington and the Canadian province of British Columbia to an
35 applicant who provides the department with proof of: United States
36 citizenship, identity, and state residency. The department (~~shall~~)
37 must continue to offer a standard driver's license and identicard. If
38 the department chooses to issue an enhanced driver's license, the
39 department must allow each applicant to choose between a standard

1 driver's license or identicard, or an enhanced driver's license or
2 identicard.

3 (b) The department (~~shall~~) must implement a one-to-many
4 biometric matching system for the enhanced driver's license or
5 identicard. An applicant for an enhanced driver's license or
6 identicard (~~shall~~) must submit a biometric identifier as designated
7 by the department. The biometric identifier must be used solely for
8 the purpose of verifying the identity of the holders and for any
9 purpose set out in RCW 46.20.037. Applicants are required to sign a
10 declaration acknowledging their understanding of the one-to-many
11 biometric match.

12 (c) The enhanced driver's license or identicard must include
13 reasonable security measures to protect the privacy of Washington
14 state residents, including reasonable safeguards to protect against
15 unauthorized disclosure of data about Washington state residents. If
16 the enhanced driver's license or identicard includes a radio
17 frequency identification chip, or similar technology, the department
18 (~~shall~~) must ensure that the technology is encrypted or otherwise
19 secure from unauthorized data access.

20 (d) The requirements of this subsection are in addition to the
21 requirements otherwise imposed on applicants for a driver's license
22 or identicard. The department (~~shall~~) must adopt such rules as
23 necessary to meet the requirements of this subsection. From time to
24 time the department (~~shall~~) must review technological innovations
25 related to the security of identity cards and amend the rules related
26 to enhanced driver's licenses and identicards as the director deems
27 consistent with this section and appropriate to protect the privacy
28 of Washington state residents.

29 (e) Notwithstanding RCW 46.20.118, the department may make images
30 associated with enhanced drivers' licenses or identicards from the
31 negative file available to United States customs and border agents
32 for the purposes of verifying identity.

33 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
34 license or enhanced identicard is twenty-four dollars, which is in
35 addition to the fees for any regular driver's license or identicard.
36 If the enhanced driver's license or enhanced identicard is issued,
37 renewed, or extended for a period other than six years, the fee for
38 each class is four dollars for each year that the enhanced driver's
39 license or enhanced identicard is issued, renewed, or extended.

1 (5) The enhanced driver's license and enhanced identicard fee
2 under this section must be deposited into the highway safety fund
3 unless prior to July 1, 2023, the actions described in (a) or (b) of
4 this subsection occur, in which case the portion of the revenue that
5 is the result of the fee increased in section 209, chapter 44, Laws
6 of 2015 3rd sp. sess. must be distributed to the connecting
7 Washington account created under RCW 46.68.395.

8 (a) Any state agency files a notice of rule making under chapter
9 34.05 RCW, absent explicit legislative authorization enacted
10 subsequent to July 1, 2015, for a rule regarding a fuel standard
11 based upon or defined by the carbon intensity of fuel, including a
12 low carbon fuel standard or clean fuel standard.

13 (b) Any state agency otherwise enacts, adopts, orders, or in any
14 way implements a fuel standard based upon or defined by the carbon
15 intensity of fuel, including a low carbon fuel standard or clean fuel
16 standard, without explicit legislative authorization enacted
17 subsequent to July 1, 2015.

18 (c) Nothing in this subsection acknowledges, establishes, or
19 creates legal authority for the department of ecology or any other
20 state agency to enact, adopt, order, or in any way implement a fuel
21 standard based upon or defined by the carbon intensity of fuel,
22 including a low carbon fuel standard or clean fuel standard.

23 **Sec. 17.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
24 amended to read as follows:

25 (1) The department may issue a CLP to an applicant who is at
26 least eighteen years of age and holds a valid Washington state
27 driver's license and who has:

28 (a) Submitted an application on a form or in a format provided by
29 the department;

30 (b) Passed the general knowledge examination required for
31 issuance of a CDL under RCW 46.25.060 for the commercial motor
32 vehicle classification in which the applicant operates or expects to
33 operate; and

34 (c) Paid the appropriate examination fee or fees and an
35 application fee of ten dollars until June 30, 2016, and forty dollars
36 beginning July 1, 2016.

37 (2) A CLP must be marked "commercial learner's permit" or "CLP,"
38 and must be, to the maximum extent practicable, tamperproof. Other

1 than a photograph of the applicant, it must include, but not be
2 limited to, the information required on a CDL under RCW 46.25.080(1).

3 (3) The holder of a CLP may drive a commercial motor vehicle on a
4 highway only when in possession of a valid driver's license and
5 accompanied by the holder of a valid CDL who has the proper CDL
6 classification and endorsement or endorsements necessary to operate
7 the commercial motor vehicle. The CDL holder must at all times be
8 physically present in the front seat of the vehicle next to the CLP
9 holder or, in the case of a passenger vehicle, directly behind or in
10 the first row behind the driver and must have the CLP holder under
11 observation and direct supervision.

12 (4) A CLP may be classified in the same manner as a CDL under RCW
13 46.25.080(2)(a).

14 (5) CLPs may be issued with only P, S, or N endorsements as
15 described in RCW 46.25.080(2)(b).

16 (a) The holder of a CLP with a P endorsement must have taken and
17 passed the P endorsement knowledge examination. The holder of a CLP
18 with a P endorsement is prohibited from operating a commercial motor
19 vehicle carrying passengers other than authorized employees or
20 representatives of the department and the federal motor carrier
21 safety administration, examiners, other trainees, and the CDL holder
22 accompanying the CLP holder as required under subsection (2) of this
23 section. The P endorsement must be class specific.

24 (b) The holder of a CLP with an S endorsement must have taken and
25 passed the S endorsement knowledge examination. The holder of a CLP
26 with an S endorsement is prohibited from operating a school bus with
27 passengers other than authorized employees or representatives of the
28 department and the federal motor carrier safety administration,
29 examiners, other trainees, and the CDL holder accompanying the CLP
30 holder as required under subsection (2) of this section.

31 (c) The holder of a CLP with an N endorsement must have taken and
32 passed the N endorsement knowledge examination. The holder of a CLP
33 with an N endorsement may only operate an empty tank vehicle and is
34 prohibited from operating any tank vehicle that previously contained
35 hazardous materials and has not been purged of any residue.

36 (6) A CLP may be issued with appropriate restrictions as
37 described in RCW 46.25.080(2)(c). In addition, a CLP may be issued
38 with the following restrictions:

39 (a) "P" restricts the driver from operating a bus with
40 passengers;

1 (b) "X" restricts the driver from operating a tank vehicle that
2 contains cargo; and

3 (c) Any restriction as established by rule of the department.

4 (7) The holder of a CLP is not authorized to operate a commercial
5 motor vehicle transporting hazardous materials.

6 (8) A CLP may not be issued for a period to exceed one hundred
7 eighty days. The department may renew the CLP for one additional one
8 hundred eighty-day period without requiring the CLP holder to retake
9 the general and endorsement knowledge examinations.

10 (9) The department must transmit the fees collected for CLPs to
11 the state treasurer for deposit in the highway safety fund unless
12 prior to July 1, 2023, the actions described in (a) or (b) of this
13 subsection occur, in which case the portion of the revenue that is
14 the result of the fee increased in section 206, chapter 44, Laws of
15 2015 3rd sp. sess. must be distributed to the connecting Washington
16 account created under RCW 46.68.395.

17 (a) Any state agency files a notice of rule making under chapter
18 34.05 RCW, absent explicit legislative authorization enacted
19 subsequent to July 1, 2015, for a rule regarding a fuel standard
20 based upon or defined by the carbon intensity of fuel, including a
21 low carbon fuel standard or clean fuel standard.

22 (b) Any state agency otherwise enacts, adopts, orders, or in any
23 way implements a fuel standard based upon or defined by the carbon
24 intensity of fuel, including a low carbon fuel standard or clean fuel
25 standard, without explicit legislative authorization enacted
26 subsequent to July 1, 2015.

27 (c) Nothing in this subsection acknowledges, establishes, or
28 creates legal authority for the department of ecology or any other
29 state agency to enact, adopt, order, or in any way implement a fuel
30 standard based upon or defined by the carbon intensity of fuel,
31 including a low carbon fuel standard or clean fuel standard.

32 **Sec. 18.** RCW 46.25.060 and 2015 3rd sp.s. c 44 s 207 are each
33 amended to read as follows:

34 (1)(a) No person may be issued a commercial driver's license
35 unless that person:

36 (i) Is a resident of this state;

37 (ii) Has successfully completed a course of instruction in the
38 operation of a commercial motor vehicle that has been approved by the

1 director or has been certified by an employer as having the skills
2 and training necessary to operate a commercial motor vehicle safely;

3 (iii) If he or she does not hold a valid commercial driver's
4 license of the appropriate classification, has been issued a
5 commercial learner's permit under RCW 46.25.052; and

6 (iv) Has passed a knowledge and skills examination for driving a
7 commercial motor vehicle that complies with minimum federal standards
8 established by federal regulation enumerated in 49 C.F.R. Part 383,
9 subparts F, G, and H, in addition to other requirements imposed by
10 state law or federal regulation. The department may not allow the
11 person to take the skills examination during the first fourteen days
12 after initial issuance of the person's commercial learner's permit.
13 The examinations must be prescribed and conducted by the department.

14 (b) In addition to the fee charged for issuance or renewal of any
15 license, the applicant (~~shall~~) must pay a fee of no more than ten
16 dollars until June 30, 2016, and thirty-five dollars beginning July
17 1, 2016, for the classified knowledge examination, classified
18 endorsement knowledge examination, or any combination of classified
19 license and endorsement knowledge examinations. The applicant
20 (~~shall~~) must pay a fee of no more than one hundred dollars until
21 June 30, 2016, and two hundred fifty dollars beginning July 1, 2016,
22 for each classified skill examination or combination of classified
23 skill examinations conducted by the department.

24 (c) The department may authorize a person, including an agency of
25 this or another state, an employer, a private driver training
26 facility, or other private institution, or a department, agency, or
27 instrumentality of local government, to administer the skills
28 examination specified by this section under the following conditions:

29 (i) The examination is the same which would otherwise be
30 administered by the state;

31 (ii) The third party has entered into an agreement with the state
32 that complies with the requirements of 49 C.F.R. Sec. 383.75; and

33 (iii) The director has adopted rules as to the third party
34 testing program and the development and justification for fees
35 charged by any third party.

36 (d) If the applicant's primary use of a commercial driver's
37 license is for any of the following, then the applicant (~~shall~~)
38 must pay a fee of no more than seventy-five dollars until June 30,
39 2016, and two hundred twenty-five dollars beginning July 1, 2016, for
40 the classified skill examination or combination of classified skill

1 examinations whether conducted by the department or a third-party
2 tester:

3 (i) Public benefit not-for-profit corporations that are federally
4 supported head start programs; or

5 (ii) Public benefit not-for-profit corporations that support
6 early childhood education and assistance programs as described in RCW
7 (~~43.215.405(2)~~) 43.216.505(2).

8 (e) Beginning July 1, 2016, if the applicant's primary use of a
9 commercial driver's license is to drive a school bus, the applicant
10 (~~shall~~) must pay a fee of no more than one hundred dollars for the
11 classified skill examination or combination of classified skill
12 examinations conducted by the department.

13 (f) Beginning July 1, 2016, payment of the examination fees under
14 this subsection entitles the applicant to take the examination up to
15 two times in order to pass.

16 (2)(a) The department may waive the skills examination and the
17 requirement for completion of a course of instruction in the
18 operation of a commercial motor vehicle specified in this section for
19 a commercial driver's license applicant who meets the requirements of
20 49 C.F.R. Sec. 383.77.

21 (b) An applicant who operates a commercial motor vehicle for
22 agribusiness purposes is exempt from the course of instruction
23 completion and employer skills and training certification
24 requirements under this section. By January 1, 2010, the department
25 (~~shall~~) must submit recommendations regarding the continuance of
26 this exemption to the transportation committees of the legislature.
27 For purposes of this subsection (2)(b), "agribusiness" means a
28 private carrier who in the normal course of business primarily
29 transports:

30 (i) Farm machinery, farm equipment, implements of husbandry, farm
31 supplies, and materials used in farming;

32 (ii) Agricultural inputs, such as seed, feed, fertilizer, and
33 crop protection products;

34 (iii) Unprocessed agricultural commodities, as defined in RCW
35 17.21.020, where such commodities are produced by farmers, ranchers,
36 vineyardists, or orchardists; or

37 (iv) Any combination of (b)(i) through (iii) of this subsection.

38 (3) The department (~~shall~~) must notify the transportation
39 committees of the legislature if the federal government takes action

1 affecting the exemption provided in (~~(this)~~) subsection (2)(b) of
2 this section.

3 (~~(3)~~) (4) A commercial driver's license or commercial learner's
4 permit may not be issued to a person while the person is subject to a
5 disqualification from driving a commercial motor vehicle, or while
6 the person's driver's license is suspended, revoked, or canceled in
7 any state, nor may a commercial driver's license be issued to a
8 person who has a commercial driver's license issued by any other
9 state unless the person first surrenders all such licenses, which
10 must be returned to the issuing state for cancellation.

11 (~~(4)~~) (5) The fees under this section must be deposited into
12 the highway safety fund unless prior to July 1, 2023, the actions
13 described in (a) or (b) of this subsection occur, in which case the
14 portion of the revenue that is the result of the fee increased in
15 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
16 distributed to the connecting Washington account created under RCW
17 46.68.395.

18 (a) Any state agency files a notice of rule making under chapter
19 34.05 RCW, absent explicit legislative authorization enacted
20 subsequent to July 1, 2015, for a rule regarding a fuel standard
21 based upon or defined by the carbon intensity of fuel, including a
22 low carbon fuel standard or clean fuel standard.

23 (b) Any state agency otherwise enacts, adopts, orders, or in any
24 way implements a fuel standard based upon or defined by the carbon
25 intensity of fuel, including a low carbon fuel standard or clean fuel
26 standard, without explicit legislative authorization enacted
27 subsequent to July 1, 2015.

28 (c) Nothing in this subsection acknowledges, establishes, or
29 creates legal authority for the department of ecology or any other
30 state agency to enact, adopt, order, or in any way implement a fuel
31 standard based upon or defined by the carbon intensity of fuel,
32 including a low carbon fuel standard or clean fuel standard.

33 **Sec. 19.** RCW 70.94.431 and 2013 c 51 s 6 are each amended to
34 read as follows:

35 (1) (a) Except as provided in RCW 43.05.060 through 43.05.080 and
36 43.05.150, and in addition to or as an alternate to any other penalty
37 provided by law, any person who violates any of the provisions of
38 this chapter, chapter 70.120 RCW, chapter 70.310 RCW, or any of the
39 rules in force under such chapters may incur a civil penalty in an

1 amount not to exceed ten thousand dollars per day for each violation.
2 Each such violation (~~shall be~~) is a separate and distinct offense,
3 and in case of a continuing violation, each day's continuance (~~shall~~
4 ~~be~~) is a separate and distinct violation.

5 (b) Any person who fails to take action as specified by an order
6 issued pursuant to this chapter (~~shall be~~) is liable for a civil
7 penalty of not more than ten thousand dollars for each day of
8 continued noncompliance.

9 (2)(a) Penalties incurred but not paid (~~shall~~) must accrue
10 interest, beginning on the ninety-first day following the date that
11 the penalty becomes due and payable, at the highest rate allowed by
12 RCW 19.52.020 on the date that the penalty becomes due and payable.
13 If violations or penalties are appealed, interest (~~shall~~) does not
14 begin to accrue until the thirty-first day following final resolution
15 of the appeal.

16 (b) The maximum penalty amounts established in this section may
17 be increased annually to account for inflation as determined by the
18 state office of the economic and revenue forecast council.

19 (3) Each act of commission or omission which procures, aids, or
20 abets in the violation (~~shall be~~) is considered a violation under
21 the provisions of this section and is subject to the same penalty.
22 The penalties provided in this section (~~shall be~~) are imposed
23 pursuant to RCW 43.21B.300.

24 (4) Except as provided in section 12 of this act, all penalties
25 recovered under this section by the department (~~shall~~) must be paid
26 into the state treasury and credited to the air pollution control
27 account established in RCW 70.94.015 or, if recovered by the
28 authority, (~~shall~~) must be paid into the treasury of the authority
29 and credited to its funds. If a prior penalty for the same violation
30 has been paid to a local authority, the penalty imposed by the
31 department under subsection (1) of this section (~~shall~~) must be
32 reduced by the amount of the payment.

33 (5) To secure the penalty incurred under this section, the state
34 or the authority (~~shall have~~) has a lien on any vessel used or
35 operated in violation of this chapter (~~which shall be~~) that is
36 enforced as provided in RCW 60.36.050.

37 (6) Public or private entities that are recipients or potential
38 recipients of department grants, whether for air quality related
39 activities or not, may have such grants rescinded or withheld by the
40 department for failure to comply with provisions of this chapter.

1 (7) In addition to other penalties provided by this chapter,
2 persons knowingly under-reporting emissions or other information used
3 to set fees, or persons required to pay emission or permit fees who
4 are more than ninety days late with such payments may be subject to a
5 penalty equal to three times the amount of the original fee owed.

6 (8) By January 1, 1992, the department (~~shall~~) must develop
7 rules for excusing excess emissions from enforcement action if such
8 excess emissions are unavoidable. The rules (~~shall~~) must specify
9 the criteria and procedures for the department and local air
10 authorities to determine whether a period of excess emissions is
11 excusable in accordance with the state implementation plan.

12 **Sec. 20.** RCW 82.38.030 and 2015 3rd sp.s. c 44 s 103 are each
13 amended to read as follows:

14 (1) There is levied and imposed upon fuel licensees a tax at the
15 rate of twenty-three cents per gallon of fuel.

16 (2) Beginning July 1, 2003, an additional and cumulative tax rate
17 of five cents per gallon of fuel is imposed on fuel licensees. This
18 subsection (2) expires when the bonds issued for transportation 2003
19 projects are retired.

20 (3) Beginning July 1, 2005, an additional and cumulative tax rate
21 of three cents per gallon of fuel is imposed on fuel licensees.

22 (4) Beginning July 1, 2006, an additional and cumulative tax rate
23 of three cents per gallon of fuel is imposed on fuel licensees.

24 (5) Beginning July 1, 2007, an additional and cumulative tax rate
25 of two cents per gallon of fuel is imposed on fuel licensees.

26 (6) Beginning July 1, 2008, an additional and cumulative tax rate
27 of one and one-half cents per gallon of fuel is imposed on fuel
28 licensees.

29 (7) Beginning August 1, 2015, an additional and cumulative tax
30 rate of seven cents per gallon of fuel is imposed on fuel licensees.

31 (8) Beginning July 1, 2016, an additional and cumulative tax rate
32 of four and nine-tenths cents per gallon of fuel is imposed on fuel
33 licensees.

34 (9) Beginning January 1, 2021, through December 1, 2028, an
35 additional and cumulative tax rate of five cents per gallon of the
36 bioportion of a biofuel blended fuel is imposed on fuel licensees.
37 This tax is not imposed on the petroleum portion of the biofuel
38 blended fuel.

39 (10) Taxes are imposed when:

1 (a) Fuel is removed in this state from a terminal if the fuel is
2 removed at the rack unless the removal is by a licensed supplier or
3 distributor for direct delivery to a destination outside of the
4 state, or the removal is by a fuel supplier for direct delivery to an
5 international fuel tax agreement licensee under RCW 82.38.320;

6 (b) Fuel is removed in this state from a refinery if either of
7 the following applies:

8 (i) The removal is by bulk transfer and the refiner or the owner
9 of the fuel immediately before the removal is not a licensed
10 supplier; or

11 (ii) The removal is at the refinery rack unless the removal is to
12 a licensed supplier or distributor for direct delivery to a
13 destination outside of the state, or the removal is to a licensed
14 supplier for direct delivery to an international fuel tax agreement
15 licensee under RCW 82.38.320;

16 (c) Fuel enters into this state for sale, consumption, use, or
17 storage, unless the fuel enters this state for direct delivery to an
18 international fuel tax agreement licensee under RCW 82.38.320, if
19 either of the following applies:

20 (i) The entry is by bulk transfer and the importer is not a
21 licensed supplier; or

22 (ii) The entry is not by bulk transfer;

23 (d) Fuel enters this state by means outside the bulk transfer-
24 terminal system and is delivered directly to a licensed terminal
25 unless the owner is a licensed distributor or supplier;

26 (e) Fuel is sold or removed in this state to an unlicensed entity
27 unless there was a prior taxable removal, entry, or sale of the fuel;

28 (f) Blended fuel is removed or sold in this state by the blender
29 of the fuel. The number of gallons of blended fuel subject to tax is
30 the difference between the total number of gallons of blended fuel
31 removed or sold and the number of gallons of previously taxed fuel
32 used to produce the blended fuel;

33 (g) Dyed special fuel is used on a highway, as authorized by the
34 internal revenue code, unless the use is exempt from the fuel tax;

35 (h) Dyed special fuel is held for sale, sold, used, or is
36 intended to be used in violation of this chapter;

37 (i) Special fuel purchased by an international fuel tax agreement
38 licensee under RCW 82.38.320 is used on a highway; and

1 (j) Fuel is sold by a licensed fuel supplier to a fuel
2 distributor or fuel blender and the fuel is not removed from the bulk
3 transfer-terminal system.

4 **Sec. 21.** RCW 46.68.090 and 2015 3rd sp.s. c 44 s 105 are each
5 amended to read as follows:

6 (1) All moneys that have accrued or may accrue to the motor
7 vehicle fund from the fuel tax must be first expended for purposes
8 enumerated in (a) and (b) of this subsection. The remaining net tax
9 amount must be distributed monthly by the state treasurer in
10 accordance with subsections (2) through (~~(8)~~) (9) of this section.

11 (a) For payment of refunds of fuel tax that has been paid and is
12 refundable as provided by law;

13 (b) For payment of amounts to be expended pursuant to
14 appropriations for the administrative expenses of the offices of
15 state treasurer, state auditor, and the department of licensing of
16 the state of Washington in the administration of the fuel tax, which
17 sums must be distributed monthly.

18 (2) All of the remaining net tax amount collected under RCW
19 82.38.030(1) must be distributed as set forth in (a) through (j) of
20 this subsection.

21 (a) For distribution to the motor vehicle fund an amount equal to
22 44.387 percent to be expended for highway purposes of the state as
23 defined in RCW 46.68.130;

24 (b)(i) For distribution to the special category C account, hereby
25 created in the motor vehicle fund, an amount equal to 3.2609 percent
26 to be expended for special category C projects. Special category C
27 projects are category C projects that, due to high cost only, will
28 require bond financing to complete construction.

29 (ii) The following criteria, listed in order of priority, must be
30 used in determining which special category C projects have the
31 highest priority:

32 (A) Accident experience;

33 (B) Fatal accident experience;

34 (C) Capacity to move people and goods safely and at reasonable
35 speeds without undue congestion; and

36 (D) Continuity of development of the highway transportation
37 network.

38 (iii) Moneys deposited in the special category C account in the
39 motor vehicle fund may be used for payment of debt service on bonds

1 the proceeds of which are used to finance special category C projects
2 under this subsection (2) (b);

3 (c) For distribution to the Puget Sound ferry operations account
4 in the motor vehicle fund an amount equal to 2.3283 percent;

5 (d) For distribution to the Puget Sound capital construction
6 account in the motor vehicle fund an amount equal to 2.3726 percent;

7 (e) For distribution to the transportation improvement account in
8 the motor vehicle fund an amount equal to 7.5597 percent;

9 (f) For distribution to the transportation improvement account in
10 the motor vehicle fund an amount equal to 5.6739 percent and expended
11 in accordance with RCW 47.26.086;

12 (g) For distribution to the cities and towns from the motor
13 vehicle fund an amount equal to 10.6961 percent in accordance with
14 RCW 46.68.110;

15 (h) For distribution to the counties from the motor vehicle fund
16 an amount equal to 19.2287 percent: (i) Out of which there must be
17 distributed from time to time, as directed by the department of
18 transportation, those sums as may be necessary to carry out the
19 provisions of RCW 47.56.725; and (ii) less any amounts appropriated
20 to the county road administration board to implement the provisions
21 of RCW 47.56.725(4), with the balance of such county share to be
22 distributed monthly as the same accrues for distribution in
23 accordance with RCW 46.68.120;

24 (i) For distribution to the county arterial preservation account,
25 hereby created in the motor vehicle fund an amount equal to 1.9565
26 percent. These funds must be distributed by the county road
27 administration board to counties in proportions corresponding to the
28 number of paved arterial lane miles in the unincorporated area of
29 each county and must be used for improvements to sustain the
30 structural, safety, and operational integrity of county arterials.
31 The county road administration board must adopt reasonable rules and
32 develop policies to implement this program and to assure that a
33 pavement management system is used;

34 (j) For distribution to the rural arterial trust account in the
35 motor vehicle fund an amount equal to 2.5363 percent and expended in
36 accordance with RCW 36.79.020.

37 (3) The remaining net tax amount collected under RCW 82.38.030(2)
38 must be distributed to the transportation 2003 account (nickel
39 account).

1 (4) The remaining net tax amount collected under RCW 82.38.030(3)
2 must be distributed as follows:

3 (a) 8.3333 percent must be distributed to the incorporated cities
4 and towns of the state in accordance with RCW 46.68.110;

5 (b) 8.3333 percent must be distributed to counties of the state
6 in accordance with RCW 46.68.120; and

7 (c) The remainder must be distributed to the transportation
8 partnership account created in RCW 46.68.290.

9 (5) The remaining net tax amount collected under RCW 82.38.030(4)
10 must be distributed as follows:

11 (a) 8.3333 percent must be distributed to the incorporated cities
12 and towns of the state in accordance with RCW 46.68.110;

13 (b) 8.3333 percent must be distributed to counties of the state
14 in accordance with RCW 46.68.120; and

15 (c) The remainder must be distributed to the transportation
16 partnership account created in RCW 46.68.290.

17 (6) The remaining net tax amount collected under RCW 82.38.030
18 (5) and (6) must be distributed to the transportation partnership
19 account created in RCW 46.68.290.

20 (7) The remaining net tax amount collected under RCW 82.38.030
21 (7) and (8) must be distributed to the connecting Washington account
22 created in RCW 46.68.395.

23 (8) The remaining net tax amount collected under RCW 82.38.030(9)
24 must be distributed to the motor vehicle fund created in RCW
25 46.68.070.

26 (9) Nothing in this section or in RCW 46.68.130 may be construed
27 so as to violate any terms or conditions contained in any highway
28 construction bond issues now or hereafter authorized by statute and
29 whose payment is by such statute pledged to be paid from any excise
30 taxes on fuel.

31 NEW SECTION. **Sec. 22.** Sections 2 through 13 of this act are
32 each added to chapter 70.94 RCW and codified with the subchapter
33 heading of "clean fuels."

34 NEW SECTION. **Sec. 23.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the
36 remainder of the act or the application of the provision to other
37 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 24.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 provided by June 30, 2019, in the omnibus appropriations act, this
4 act is null and void."

E2SHB 1110 - S COMM AMD
By Committee on Transportation

5 On page 1, line 2 of the title, after "fuels;" strike the
6 remainder of the title and insert "amending RCW 46.17.365, 46.25.100,
7 46.20.202, 46.25.052, 46.25.060, 70.94.431, 82.38.030, and 46.68.090;
8 adding new sections to chapter 70.94 RCW; creating new sections;
9 prescribing penalties; and providing an expiration date."

EFFECT: (1) In lieu of compliance with the clean fuels program, an alternative assessment is established. Entities electing to participate would pay a per ton charge based on the carbon dioxide emissions of transportation fuels that are sold or used within this state of Washington, similar to a carbon fee.

(2) For calendar years 2021 through 2028, the alternative assessment is imposed at a rate of six dollars per metric ton of carbon dioxide emissions of transportation fuels. For calendar years 2029 through 2035, the rate would be specified in subsequent legislation based on further evaluation of the low carbon fuels policy.

(3) An entity electing to participate in the alternative assessment, in lieu of complying with the clean fuels program, must elect to do so by January 1, 2022. If the entity has not elected to start paying the alternative assessment by January 1, 2022, with a commitment to continue paying the alternative assessment, then the entity is precluded from selecting the alternative assessment until at least January 1, 2029, and must comply with all the clean alternative fuel provisions until that date.

(4) Fifty percent of the revenue generated from the alternative assessment is deposited in the Motor Vehicle Fund and fifty percent of the revenue is deposited in the Multimodal Transportation Account.

(5) Exemptions from the alternative assessment, similar to the exemptions from the clean alternative fuel policy, are provided, including: (a) Exported fuels; (b) electricity; (c) fuels used in volumes below certain thresholds; (d) aircraft, vessel, and railroad locomotive fuels; and (e) fuels used for the operation of military tactical vehicles and tactical support equipment.

(6) Until January 1, 2028, the exemptions may also include: (a) Special fuel used off-road in vehicles used primarily to transport logs; and (b) dyed special fuel used in vehicles for certain construction, mining, timber, agriculture and other activities.

(7) The Department of Revenue, with the assistance of the Department of Licensing and the Department of Commerce, must adopt rules as it deems necessary to administer the alternative assessment provisions, including potentially establishing other exemptions.

(8) The Department of Revenue is directed to develop and make available worksheets, fee tables, and guidance documents to compare compliance with the clean alternative fuel policy and the alternative assessment.

(9) A section specific null and void clause is included requiring funding in the omnibus transportation appropriations act by June 30, 2019, or section 3 of the act is null and void.

(10) For calendar years 2021-2028, a five cents per gallon tax is imposed on the bioproportion of a biofuel blended fuel. This tax would exclude the petroleum portion of the biofuel blended fuel.

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