

Effect of PSSB 5126 (S-1096.3)

*[Note: The committee work session on Friday 2/19/21 was on S-1096.2. The changes made after the work session that appear in S-1096.3 are **bolded** below.]*

Environmental Justice Provisions

- Requires the Department of Ecology (Ecology) to conduct an environmental justice review every 2 years, beginning 2025, to ensure the program achieves reductions in GHG and other criteria pollutants in overburdened communities highly impacted by pollution.
 - If emissions and pollutants are not decreasing, then Ecology, **in consultation with local air pollution control authorities**, must either adopt stricter air quality standards, emission standards, or emissions limitations; reduce offset limits for contributing covered entities; or revise any linkage agreement necessary to ensure reductions of emissions.
- Requires the agencies to conduct an environmental justice assessment, rather than analysis, and to establish a minimum of not less than 35% and a goal of 40% of the total investments from the Climate Investment Account to provide direct and meaningful benefits to vulnerable populations when allocating funds or administering grants or programs.
- Requires the Governor to appoint a chair, subject to the confirmation of the Senate, who is responsible for overseeing the duties of the Environmental Justice and Equity Advisory Panel (Advisory Panel) and is paid a salary.
- Adds two tribal members represent federally recognized tribes to the Advisory Panel.
- Requires the Office of Equity to provide administrative and staff support for the Advisory Panel.
- Authorizes the Governor to administratively coordinate the work of the Advisory Panel with the work of the Environmental Justice Council under SSB 5141.
- Directs that if any funding decision or program that impacts federally recognized tribal lands is made or funded without tribal consultation, an affected tribe may request that all further action cease until consultation is completed.
- Requires the principles of the comprehensive program to implement the state's climate commitment to include an equitable transition for communities in rural Washington, and prioritize funding for overburdened communities and workers.

Allowance Budgets and Program Timelines

- Moves baseline for first compliance period from 2017-2021 to 2015-2019.
- Requires Ecology to add to its emissions baseline by incorporating the proportionate share that the total GHG emissions of new covered entities in the second compliance period bear to the total anthropogenic GHG emissions in the state during 2023-2025.
- Requires Ecology to complete the first program evaluation by December 31, 2038, rather than 2035, and requires an additional evaluation by December 2040.
- Specifies that if any evaluation finds that GHG and criteria pollutants are not being reduced in overburdened communities, Ecology must also prioritize the adoption of air quality standards, emissions standards, or emissions limitations on covered entities located in those areas.

Covered Entities

- Includes natural gas suppliers and all fuel suppliers as covered entities under the first compliance period, rather than the second.
- Directs that industrial gas customers who purchase gas from someone other than a natural gas company are responsible for their own emissions.
- Delays the inclusion of emissions from landfills and waste to energy facilities until the second compliance period.
- Exempts from the program the CO₂ emissions from industrial combustion of biomass or biofuels with 50% lower GHG emissions based on a full-life cycle analysis compared to petroleum fuels.
- Exempts aviation fuels from the program.
- Combines and expands the primary and secondary metals NAICS code for allocated allowances for EITEs under the first compliance period.
- Directs Ecology not to require multiple covered entities to have a compliance obligation for the same emissions.

Allowances and Compliance and Linkage

- Specifies that an allowance distributed under the program does not expire and may be held or banked consistent with holding limits under the bill.
- Clarifies Ecology's authority over auction purchases and holding limits of allowances to protect the integrity of auctions.
- Allows allowances to be distributed from the Emissions Containment Reserve by auction for new covered and opt-in entities, provided the distribution will not jeopardize the state's emissions reduction limits.
- **Requires a covered or opt-in entity to transfer compliance instruments equal to their covered emissions, rather than allocated allowances, each calendar year they have a compliance obligation.**
- Requires Ecology to set by rule that covered and opt-in entities must transfer a minimum of 25% of their compliance instruments each year, to smooth out their compliance obligation within the compliance period.
- Requires, rather than allows, Ecology to issue a penalty for non-compliance.
- Deposits penalties in the Climate Investment Account instead of the Air Pollution Control Account.
- Requires Ecology to conduct a public comment process to obtain input and a review of the linkage agreement by relevant stakeholders and other interested parties and to consider the input prior to finalizing a linkage agreement.
- **Allows Ecology to adopt rules to accept verification reports from another jurisdiction with a linked agreement where Ecology deems the methods or procedures are substantively similar.**

Electric Utilities

- Clarifies that Legislature intends to allocate allowances to all consumer-owned and investor owned electric utilities (COUs & IOUs) to mitigate the cost burden of the program on electricity customers.
- Defines cost burden as the impact on rates or charges to electric utility customers for the incremental cost of electricity service to serve load due to the compliance cost for GHG emissions caused by the program.

- Requires Ecology to set an allocation schedule by rule, in consultation with Commerce and the UTC, for the provision of allowances at no cost to COUs or IOUs.
- Requires this allocation to be consistent with a forecast of each utility's supply and demand, and the cost burden resulting from the inclusion of the covered entities in each compliance period.
- Authorizes allowances allocated at no cost to COUs to be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both.
- Requires Ecology to allow for allowances to be transferred between a power marketing administration and electric utility and used for direct compliance.
- Requires rules establishing the allocation of allowances to COUs and IOUs to consider the impact of electrification of building, transportation, and industry on the electricity sector.

Natural Gas Companies

- Requires Ecology to set an allocation schedule by rule, in consultation with the UTC, to provide allowances at no cost equal to emissions for the sector and declining consistent with the cap.
- Requires allowances to be provided at no cost for the benefit of ratepayers, deposited for compliance, or a combination of both.
- Requires that 65% of the no cost allowances, increasing at 5% annually, must be consigned to auction for the benefit of ~~low-income~~ customers, **prioritizing low-income customers.**
- Requires proceeds from allowances sold at auction to be returned to ratepayers, prioritizing low-income customers, or may be spent for a limited number of customer benefits.
- Requires natural gas utilities to provide copies of GHG reports filed with the US Environmental Protection Agency, and continue reporting in order to receive no cost allowances.

Offset Credits

- Decreases the portion of a covered or opt-in entity's compliance obligation that may be met with offset credits from 8% to 5% during the first compliance period and from 6% to 4% in the second period.
- Decreases the portion of a covered or opt-in entity's compliance obligation that may be met with offset projects on tribal lands from 5% to 3% during the first compliance period and 2% percent during the second compliance period.
- Prohibits a covered or opt-in entity from using offsets if they are in violation of any air pollution permits **that may result in an increase in emissions.**
- Requires at least 50%, rather than 75%, of a covered or opt-in entity's offset credits to be sourced from projects that provide direct environmental benefits in the state during the first compliance period.
- Requires the remaining covered or opt-in entity's offset credits to be sourced from projects that are located in a jurisdiction with a linkage agreement or MOU with Washington.
- Requires Ecology to establish an assistance program for offset projects on federally recognized tribal lands, and specifies that the Legislature intends to provide not less than \$5 million in the operating budget for this purpose.

Climate Investment Account

- Directs \$650 million each biennium to be deposited into the Forward Flexible Account and the remaining auction proceeds to the Climate Investment Account, for FYs 2022 - 2037.
 - For FY 2038 & each year thereafter, 50% of the proceeds must be deposited to the Forward Flexible Account and 50% to the Climate Investment Account.

- Creates the Forward Flexible Account in the State Treasury, and expenditures may be used only for transportation projects, programs, or activities identified as forward flexible projects.
- Retains the category of clean transportation that reduce transportation-related GHG emissions as an eligible use of funds under the Climate Investment Account, but removes the specific list of programs, activities, or projects under the category.
- Adds to the Climate Investment Account the following eligible uses of the funds:
 - Capacity grants for participation to engage communities in the decision making for funding under this act.
 - Development of the comprehensive program for the state's climate commitment.
 - Programs, activities or projects that reduce and mitigate GHG and co-pollutants in overburdened communities, including strengthening the air quality monitoring network.
 - Programs, activities, or projects to either preserve or establish, or both, carbon sequestration in marine and freshwater riparian areas through forest management sufficient to promote climate resilience, protect cold water fisheries, and achieve water quality standards.
 - Prevent emissions through preserving natural lands from the threat of conversion to development.
 - Projects to allow the diversion of organic materials from landfills or methane capture.
 - Retrofit vehicles and vessels for increased efficiency when electrification options are unavailable.

Greenhouse Gas Regulation

- Removes program-independent authorization for Ecology to regulate indirect emissions through air quality standards, emission standards, or emission limitations on emissions of GHGs.

General Provisions

- Amends the findings and intent section to be composed of subsections on climate change, achieving state greenhouse gas emissions limits, state environmental justice work, and environmental health disparities and overburdened communities.
- Adds definitions for asset-controlling supplier, biomass, biofuels, cost burden, electricity importer, **linkage**, multi-jurisdictional electric company, and NERC e-tag.
- Modifies existing definitions for cumulative impact, environmental benefits, environmental harm, environmental impacts, environmental justice, facility, first jurisdictional deliverer, **imported electricity**, leakage, **linkage agreement**, overburdened community, vulnerable populations, and point of delivery.
- Suspends, rather than expires, the program on December 31, 2055, if Ecology determines that the 2050 emissions limits have been met for more than 2 consecutive years.
- Prohibits any local government in Washington from implementing a charge or tax based exclusively on the quantity of GHG emissions.
- Reorders sections in the bill.
- Makes technical changes throughout.

1 AN ACT Relating to the Washington climate commitment act;
2 amending RCW 70A.15.2200; adding a new chapter to Title 70A RCW;
3 creating new sections; prescribing penalties; providing an expiration
4 date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
7 finds that climate change is one of the greatest challenges facing
8 our state and the world today, an existential crisis with major
9 negative impacts on environmental and human health. Washington is
10 experiencing environmental and community impacts due to climate
11 change through increasingly devastating wildfires, flooding,
12 droughts, rising temperatures and sea levels, and ocean
13 acidification. Greenhouse gas emissions already in the atmosphere
14 will increase impacts for some period of time.

15 (2) In 2020, the legislature updated the state's greenhouse gas
16 emissions limits that are to be achieved by 2030, 2040, and 2050,
17 based on current science and emissions trends, to support local and
18 global efforts to avoid the most significant impacts from climate
19 change. While these limits beneficially guide the implementation of
20 all other state laws and policies that have an impact on greenhouse
21 gas emissions in the state, meeting these limits will require

1 coordinated, comprehensive, and multisectoral implementation of
2 policies, programs, and laws, as currently enacted systems approaches
3 are insufficient to meet the limits.

4 (3) The legislature further finds that while climate change is a
5 global problem, there are communities that have historically borne
6 the disproportionate impacts of environmental burdens and that now
7 bear the disproportionate negative impacts of climate change.
8 Although the state has done great work in the past to highlight these
9 environmental health disparities, beginning with senator Rosa
10 Franklin's environmental equity study, and continuing through the
11 work of the governor's interagency council on health disparities, the
12 creation of the Washington environmental health disparities map, and
13 recommendations of the environmental justice task force, the state
14 can do much more to ensure that state programs address environmental
15 equity.

16 (4) The legislature further finds that while enacted carbon
17 policies can be well-intended to reduce greenhouse gas emissions and
18 provide environmental benefits to communities, the policies may not
19 do enough to ensure environmental health disparities are reduced and
20 environmental benefits are provided to those communities most
21 impacted by environmental harms from greenhouse gas and air pollutant
22 emissions.

23 (5) Therefore, in establishing a program to ensure that the
24 state's 2030, 2040, and 2050 greenhouse gas emissions limits are
25 achieved, the legislature intends to ensure that overburdened
26 communities and vulnerable populations are no longer overlooked in
27 the establishment of environmental policies. Under the program, the
28 legislature intends to identify overburdened communities where the
29 highest concentrations of greenhouse gas emissions and criteria
30 pollutants occur, determine the sources of those emissions and
31 pollutants, and ensure that emissions or concentration reductions are
32 achieved in those communities. The legislature further intends to
33 conduct an environmental justice assessment to ensure that funds and
34 programs created under this chapter provide direct and meaningful
35 benefits to vulnerable populations and overburdened communities. The
36 legislature further intends to establish an environmental justice and
37 equity advisory panel to provide recommendations for the development
38 and implementation of the program, the distribution of funds, and the
39 establishment of programs, activities, and projects to achieve
40 environmental justice and environmental health goals. The legislature

1 further intends to create and adopt community engagement plans and
2 tribal consultation frameworks in the administration of the program
3 to ensure equitable practices for meaningful community and federally
4 recognized tribal involvement. Finally, the legislature intends to
5 establish this program to contribute to a healthy environment for all
6 of Washington's communities.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

10 (1) "Allowance" means an authorization to emit up to one metric
11 ton of carbon dioxide equivalent. An allowance is not a property
12 right.

13 (2) "Allowance price containment reserve" means an account
14 maintained by the department with allowances available for sale
15 through separate reserve auctions at predefined prices to assist in
16 containing compliance costs for covered and opt-in entities in the
17 event of unanticipated high costs for compliance instruments.

18 (3) "Annual allowance budget" means the total number of
19 greenhouse gas allowances allocated for auction and distribution for
20 one calendar year by the department.

21 (4) "Asset controlling supplier" means any entity that owns or
22 operates interconnected electricity generating facilities or serves
23 as an exclusive marketer for these facilities even though it does not
24 own them, and has been designated by the department and received a
25 department-published emissions factor for the wholesale electricity
26 procured from its system. The department shall use a methodology
27 consistent with the methodology used by an external greenhouse gas
28 emissions trading program that shares the regional electricity
29 transmission system. Electricity from asset controlling suppliers is
30 considered a specified source of electricity.

31 (5) "Auction" means the process of selling greenhouse gas
32 allowances by offering them up for bid, taking bids, and then
33 distributing the allowances to winning bidders.

34 (6) "Auction floor price" means a price for allowances below
35 which bids at auction would not be accepted.

36 (7) "Auction purchase limit" means the limit on the number of
37 allowances one registered entity or a group of affiliated registered
38 entities may purchase from the share of allowances sold at an
39 auction.

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

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

12 (10) "Carbon dioxide equivalent" means a measure used to compare
13 the emissions from various greenhouse gases based on their global
14 warming potential.

15 (11) "Climate commitment" means the process and institutional
16 mechanism established pursuant to this act for the state to achieve
17 the statewide greenhouse gas limits established in RCW 70A.45.020 by
18 certain dates.

19 (12) "Climate resilience" is the ongoing process of anticipating,
20 preparing, and adapting to changes in climate and minimizing negative
21 impacts to our natural systems, infrastructure, and communities. For
22 natural systems, increasing resiliency involves restoring and
23 increasing the health, function, and integrity of our ecosystems and
24 improving their ability to absorb and recover from climate-driven
25 disturbances. For communities, increasing resiliency means enhancing
26 their ability to understand, prevent, adapt, and recover from climate
27 impacts to people and infrastructure.

28 (13) "Compliance instrument" means an allowance or offset credit
29 issued by the department or by an external greenhouse gas emissions
30 trading program to which Washington has linked its greenhouse gas
31 emissions cap and invest program. One compliance instrument is equal
32 to one metric ton of carbon dioxide equivalent.

33 (14) "Compliance obligation" means the requirement to turn into
34 the department the number of compliance instruments equivalent to a
35 covered or opt-in entity's covered emissions during the compliance
36 period.

37 (15) "Compliance period" means the four-year period for which the
38 compliance obligation is calculated for covered entities.

39 (16) "Comprehensive program" means the governance structure
40 established pursuant to this act to carry out the state's greenhouse

1 gas limits in RCW 70A.45.020, ensure a coordinated and strategic
2 approach to advancing climate resilience and environmental justice,
3 and achieving an equitable and inclusive transition to a carbon-
4 neutral economy.

5 (17) "Cost burden" means the impact on rates or charges to
6 customers of electric utilities in Washington state for the
7 incremental cost of electricity service to serve load due to the
8 compliance cost for greenhouse gas emissions caused by the program.

9 (18) "Covered emissions" means the emissions for which a covered
10 entity has a compliance obligation under section 9 of this act.

11 (19) "Covered entity" means a person that is designated by the
12 department as subject to sections 7 through 21 of this act.

13 (20) "Cumulative impact" means the combined, multiple
14 environmental harms and health impacts on a vulnerable population or
15 overburdened community.

16 (21) "Department" means the department of ecology.

17 (22) "Electricity importer" means:

18 (a) For electricity that is scheduled with a NERC e-tag to a
19 final point of delivery inside the state of Washington, the
20 electricity importer is identified on the NERC e-tag as the
21 purchasing-selling entity on the last segment of the tag's physical
22 path with the point of receipt located outside the state of
23 Washington and the point of delivery located inside the state of
24 Washington;

25 (b) For facilities physically located outside the state of
26 Washington with the first point of interconnection to a Washington
27 balancing authority's transmission and distribution system when the
28 electricity is not scheduled on a NERC e-tag, the electricity
29 importer is the facility operator or owner or scheduling coordinator;

30 (c) For electricity imported through a centralized market, the
31 electricity importer will be defined by rule consistent with the
32 definition in rules required under section 9(2)(a) of this act;

33 (d) For electricity from facilities allocated to serve retail
34 electricity customers of a multijurisdictional electric company, the
35 electricity importer is the multijurisdictional electric company;

36 (e) If the importer identified under (a) of this subsection is a
37 federal power marketing administration over which the state of
38 Washington does not have jurisdiction, and the federal power
39 marketing administration has not voluntarily elected to comply with
40 the program, then the electricity importer is the next purchasing-

1 selling entity in the physical path on the NERC e-tag, or if no
2 additional purchasing-selling entity over which the state of
3 Washington has jurisdiction, then the electricity importer is the
4 electric utility that operates the Washington transmission or
5 distribution system, or the generation balancing authority; or

6 (f) If the importer identified under (b) of this subsection is a
7 federal power marketing administration over which the state of
8 Washington does not have jurisdiction, and the federal power
9 marketing administration has not voluntarily elected to comply with
10 the program, then the electricity importer is the electric utility
11 that operates the Washington transmission or distribution system, or
12 the generation balancing authority.

13 (23) "Emissions containment reserve allowance" means a
14 conditional allowance that is withheld from sale at an auction by the
15 department or its agent to secure additional emissions reductions in
16 the event prices fall below the emissions containment reserve trigger
17 price.

18 (24) "Emissions containment reserve trigger price" means the
19 price below which allowances will be withheld from sale by the
20 department or its agent at an auction, as determined by the
21 department by rule.

22 (25) "Emissions threshold" means the greenhouse gas emission
23 level at or above which a person has a compliance obligation.

24 (26) "Environmental benefits" means activities that:

25 (a) Prevent or reduce existing environmental harms or associated
26 risks that contribute significantly to cumulative environmental
27 health impacts;

28 (b) Prevent or mitigate impacts to overburdened communities and
29 vulnerable populations from, or support community response to, the
30 impacts of environmental harm; or

31 (c) Meet a community need identified by an overburdened community
32 or vulnerable population that is consistent with the intent of this
33 chapter.

34 (27) "Environmental harm" means the individual or cumulative
35 environmental health impacts and risks to communities caused by
36 historic, current, and projected:

37 (a) Exposure to pollution, conventional or toxic pollutants,
38 environmental hazards, or other contamination in the air, water, and
39 land;

1 (b) Adverse environmental effects, including exposure to
2 contamination, hazardous substances, or pollution that increase the
3 risk of adverse environmental health outcomes or create
4 vulnerabilities to climate impacts; and

5 (c) Health and economic impacts from climate change.

6 (28) "Environmental impacts" means environmental benefits or
7 environmental harms, or the combination of environmental benefits and
8 harms, resulting from a proposed action.

9 (29) "Environmental justice" means the fair treatment and
10 meaningful involvement of all people regardless of race, color,
11 national origin, or income with respect to the development,
12 implementation, and enforcement of environmental laws, regulations,
13 and policies. This includes addressing disproportionate environmental
14 and health impacts in all laws, rules, and policies with
15 environmental impacts by prioritizing vulnerable populations and
16 overburdened communities, equitably distributing resources and
17 benefits, and eliminating harm.

18 (30) "Environmental justice assessment" means using an
19 intersectional lens to address disproportionate environmental and
20 health impacts in all laws, rules, and policies with environmental
21 impacts by prioritizing vulnerable populations in overburdened
22 communities, equitably distributing resources and benefits, and
23 eliminating harm.

24 (31) "External greenhouse gas emissions trading program" means a
25 government program, other than Washington's program created in this
26 chapter, that restricts greenhouse gas emissions from sources outside
27 of Washington through emissions trading.

28 (32) "Facility" means any physical property, plant, building,
29 structure, source, or stationary equipment located on one or more
30 contiguous or adjacent properties in actual physical contact or
31 separated solely by a public roadway or other public right-of-way and
32 under common ownership or common control, that emits or may emit any
33 greenhouse gas.

34 (33) "First jurisdictional deliverer" means the owner or operator
35 of an electric generating facility in Washington or an electricity
36 importer.

37 (34) "General market participant" means a registered entity that
38 is not identified as a covered entity or an opt-in entity that is
39 registered in the program registry and intends to purchase, hold,
40 sell, or voluntarily retire compliance instruments.

1 (35) "Greenhouse gas" has the same meaning as in RCW 70A.45.010.

2 (36) "Holding limit" means the maximum number of allowances that
3 may be held for use or trade by a registered entity at any one time.

4 (37) "Imported electricity" means electricity generated outside
5 the state of Washington with a final point of delivery within the
6 state, but which did not originate from any jurisdiction with which
7 Washington has a linkage agreement.

8 (a) "Imported electricity" includes electricity from an organized
9 market, such as the energy imbalance market.

10 (b) Electricity from a system that is marketed by a federal power
11 marketing administration shall be construed as "imported
12 electricity," not electricity generated in the state of Washington.

13 (c) "Imported electricity" does not include electricity imports
14 of unspecified electricity that are netted by exports of unspecified
15 electricity to any jurisdiction not covered by a linked program by
16 the same entity within the same hour.

17 (d) For a multijurisdictional electric company, "imported
18 electricity" includes electricity from facilities that contribute to
19 a common system power pool that are allocated to serve retail load in
20 Washington pursuant to a cost allocation methodology approved by the
21 utilities and transportation commission.

22 (38) "Leakage" means a reduction in emissions of greenhouse gases
23 within the state that is offset by a directly attributable increase
24 in greenhouse gas emissions outside the state and outside the
25 geography of another jurisdiction with a linkage agreement.

26 (39) "Limits" means the greenhouse gas emissions reductions
27 required by RCW 70A.45.020.

28 (40) "Linkage" means a bilateral or multilateral decision between
29 greenhouse gas market programs to accept compliance instruments
30 issued by a participating jurisdiction to meet the obligations of
31 regulated entities in a partner jurisdiction and to otherwise
32 coordinate activities to facilitate operation of a joint market.

33 (41) "Linkage agreement" means a nonbinding agreement that
34 connects two or more greenhouse gas market programs and articulates a
35 mutual understanding of how jurisdictions will work together to
36 facilitate a connected greenhouse gas market.

37 (42) "Multijurisdictional electric company" means an investor-
38 owned utility that provides electricity to customers in Washington
39 and in one or more other states in a contiguous service territory or
40 from a common power system.

1 (43) "NERC e-tag" means North American electric reliability
2 corporation (NERC) energy tag representing transactions on the North
3 American bulk electricity market scheduled to flow between or across
4 balancing authority areas.

5 (44) "Offset credit" means a tradable compliance instrument that
6 represents an emissions reduction or emissions removal of one metric
7 ton of carbon dioxide equivalent.

8 (45) "Offset project" means a project that reduces or removes
9 greenhouse gases that are not covered emissions under this chapter.

10 (46) "Offset protocols" means a set of procedures and standards
11 to quantify greenhouse gas reductions or greenhouse gas removals
12 achieved by an offset project.

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

17 (48) "Person" has the same meaning as defined in RCW
18 70A.15.2200(5)(h)(iii).

19 (49) "Point of delivery" means a point on the electricity
20 transmission or distribution system physically located in Washington
21 where a power supplier delivers electricity. This point may be an
22 interconnection with another system or a substation where the
23 transmission provider's transmission and distribution systems are
24 connected to another system, or a distribution substation where
25 electricity is imported into the state over a multijurisdictional
26 retail provider's distribution system.

27 (50) "Program" means the greenhouse gas emissions cap and invest
28 program created by and implemented pursuant to this chapter.

29 (51) "Program registry" means the data system in which covered
30 parties, opt-in entities, and general market participants are
31 registered and in which compliance instruments are recorded and
32 tracked.

33 (52) "Registered entity" means a covered entity, opt-in entity,
34 or general market participant that has completed the process for
35 registration in the program registry.

36 (53) "Resilience" is the ability to prepare, mitigate and plan
37 for, withstand, recover from, and more successfully adapt to adverse
38 events and changing conditions, and reorganize in an equitable manner
39 that results in a new and better condition.

1 (54) "Retire" means to permanently remove a compliance instrument
2 such that the compliance instrument may never be sold, traded, or
3 otherwise used again.

4 (55) "Supplier" means a supplier of fuel in Washington state as
5 defined in RCW 70A.15.2200(5)(h)(ii).

6 (56) "Transfer" means to transfer an allowance or compliance
7 instrument to the department, either to meet a compliance obligation
8 or on a voluntary basis.

9 (57)(a) "Vulnerable populations" means population groups that may
10 be more likely to have adverse health outcomes in response to
11 environmental harms, due to: (i) Adverse socioeconomic factors, such
12 as unemployment, high housing and transportation costs relative to
13 income, limited access to nutritious food and adequate health care,
14 linguistic isolation, and other factors that negatively affect health
15 outcomes and increase vulnerability to the effects of environmental
16 harms; and (ii) sensitivity factors, such as low birth weight and
17 higher rates of hospitalization.

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

21 NEW SECTION. **Sec. 3.** ENVIRONMENTAL JUSTICE REVIEW. (1) To
22 ensure that the program created in sections 7 through 21 of this act
23 achieves reductions in greenhouse gas emissions and other criteria
24 pollutants in overburdened communities highly impacted by air
25 pollution, the department must:

26 (a) Utilize the department of health's environmental health
27 disparities map and complementary data to identify a high priority
28 list of overburdened communities where the highest emissions or
29 concentrations of greenhouse gas emissions and criteria pollutants
30 are occurring; and

31 (b) Within the identified communities, analyze and determine
32 which covered entities are the greatest sources of emissions and
33 criteria pollutants and develop a high priority list of emitters.

34 (2) Using the lists developed in subsection (1) of this section,
35 the department must track greenhouse gas emissions and criteria
36 pollutants in the identified overburdened communities.

37 (3)(a) Beginning in 2025, and every two years thereafter, the
38 department must conduct a review to determine if greenhouse gases and

1 criteria pollutants are being reduced in the overburdened communities
2 identified under subsection (1) of this section.

3 (b) If this review finds that greenhouse gases and criteria
4 pollutants are not being reduced in any identified overburdened
5 community, then the department, in consultation with local air
6 pollution control authorities, must identify the covered entities
7 that are the sources of those emissions that are either increasing or
8 not decreasing and:

9 (i) Adopt, along with local air pollution control authorities,
10 stricter air quality standards, emission standards, or emissions
11 limitations; or

12 (ii) Reduce offset limits as established in section 17 of this
13 act for any covered entity identified under this subsection (3)(b);
14 or

15 (iii) Revise any linkage agreement necessary to ensure reductions
16 of emissions by any covered entity identified under this subsection
17 (3)(b).

18 (4)(a) In developing the lists under subsection (1) of this
19 section, the department must create and adopt a community engagement
20 plan to describe how it will engage with overburdened communities and
21 vulnerable populations in:

22 (i) Identifying high priority communities and emitters in those
23 communities; and

24 (ii) Tracking and evaluating greenhouse gases and criteria
25 pollutant emissions in those areas.

26 (b) The plan must include methods for outreach and communication
27 with those who face barriers, language or otherwise, to
28 participation.

29 NEW SECTION. **Sec. 4.** ENVIRONMENTAL JUSTICE ASSESSMENT. (1) When
30 allocating funds from the climate investment account created in
31 section 23 of this act or administering grants or programs funded by
32 the account, agencies shall conduct an environmental justice
33 assessment and establish a minimum of not less than 35 percent and a
34 goal of 40 percent of total investments that provide direct and
35 meaningful benefits to vulnerable populations within the boundaries
36 of overburdened communities identified in section 3 of this act
37 through: (a) The direct reduction of environmental burdens in
38 overburdened communities; (b) the reduction of disproportionate,
39 cumulative risk from environmental burdens, including climate change;

1 (c) the support of community led project development, planning, and
2 participation costs; or (d) meeting a community need identified by
3 vulnerable members of the community that is consistent with the
4 intent of this chapter.

5 (2) The environmental justice assessment must adhere to the
6 following principles: (a) Benefits and programs should be directed to
7 areas and targeted to vulnerable populations and overburdened
8 communities to reduce statewide disparities; (b) investments and
9 benefits should be made proportional to the health disparities that a
10 specific community experiences to eliminate the disparities; (c)
11 investments and programs should focus on creating environmental
12 benefits, including eliminating health burdens, creating community
13 and population resilience, and raising the quality of life of those
14 in the community; and (d) efforts should be made to balance
15 investments and benefits across the state and within counties, local
16 jurisdictions, and unincorporated areas as appropriate to reduce
17 disparities by location and to ensure efforts contribute to a
18 reduction in disparities that exist based on race or ethnicity,
19 socioeconomic status, or other factors.

20 (3) Agencies allocating funds or administering grants or programs
21 from the climate investment account must:

22 (a) Report annually to the environmental justice and equity
23 advisory panel in section 5 of this act and the office of equity
24 regarding progress toward meeting environmental justice and
25 environmental health goals; and

26 (b) Consider recommendations by the environmental justice and
27 equity advisory panel developed under section 5(3) of this act; and

28 (c)(i) Create and adopt a community engagement plan to describe
29 how it will engage with overburdened communities and vulnerable
30 populations in allocating funds or administering grants or programs
31 from the climate investment account.

32 (ii) The plan must include methods for outreach and communication
33 with those who face barriers, language or otherwise, to
34 participation.

35 NEW SECTION. **Sec. 5.** ENVIRONMENTAL JUSTICE AND EQUITY ADVISORY
36 PANEL. (1) The office of equity shall establish an environmental
37 justice and equity advisory panel to provide recommendations to the
38 legislature, agencies, and the governor in the development and
39 implementation of the program established in sections 7 through 21 of

1 this act, and the programs funded from the climate investment account
2 created in section 23 of this act.

3 (2) The office of equity must convene the environmental justice
4 and equity advisory panel by January 1, 2023. The office of equity
5 may seek nominations or recommendations from organizations across the
6 state representing the interests specified in this section. Members
7 of the panel must be selected for geographic and organizational
8 diversity and must include the following:

9 (a) Individuals representing the interests of vulnerable
10 populations residing in overburdened communities in different
11 geographic areas of the state with expertise in environmental justice
12 and equity issues;

13 (b) Individuals representing union labor with expertise in
14 economic dislocation, clean energy economy, or emissions-intensive,
15 trade-exposed facilities;

16 (c) Two members representing federally recognized tribes, one
17 from eastern Washington and one from western Washington; and

18 (d) The chair appointed under subsection (4) of this section.

19 (3) The purpose of the panel is to:

20 (a) Provide recommendations to the legislature, agencies, and the
21 governor in the development of investment plans and funding proposals
22 for the programs funded from the climate investment account for the
23 purpose of providing environmental benefits and reducing
24 environmental health disparities within overburdened communities
25 identified under section 3 of this act;

26 (b) Provide a forum to analyze policies adopted under this
27 chapter to determine if the policies lead to improvements within
28 overburdened communities identified under section 3 of this act;

29 (c) Recommend procedures and criteria for evaluating programs,
30 activities, or projects for review;

31 (d) Recommend copollutant emissions reduction goals in
32 overburdened communities;

33 (e) Evaluate the level of funding provided to assist vulnerable
34 populations, low-income individuals, and impacted workers and the
35 funding of projects and activities located within or benefiting
36 overburdened communities;

37 (f) Recommend environmental justice and environmental health
38 goals for programs, activities, and projects funded from the climate
39 investment account, and review agency annual reports on outcomes and
40 progress toward meeting goals;

1 (g) Provide recommendations to implementing agencies for
2 meaningful consultation with vulnerable populations, including
3 community engagement plans under sections 3 and 4 of this act; and

4 (h) Recommend how to support public participation through
5 capacity grants for participation.

6 (4) The governor shall appoint a chair, subject to confirmation
7 by the senate, who is responsible for overseeing the duties of the
8 environmental justice and equity advisory panel. The chair is paid a
9 salary fixed by the governor in accordance with RCW 43.03.040. If a
10 vacancy occurs in the position of the chair while the senate is not
11 in session, the governor shall make a temporary appointment until the
12 next meeting of the senate at which time the governor shall present
13 to that body the governor's nomination for the position.

14 (5) The environmental justice and equity advisory panel shall
15 meet on a schedule established by the office of equity, in
16 consultation with the department, to allow for timely and substantive
17 input into processes and decisions consistent with its purpose.

18 (6) The office of equity shall provide all administrative and
19 staff support for the environmental justice and equity advisory
20 panel.

21 (7) The environmental justice and equity advisory panel
22 constitutes a class one group under RCW 43.03.220. Expenses for this
23 group must be included in costs to support and administer the program
24 and are an allowable expense under section 23(2)(a) of this act.

25 (8) In consultation with the office of equity and the
26 environmental justice council, the governor may administratively
27 address how to effectively coordinate the work of the environmental
28 justice and equity advisory panel with the work of the environmental
29 justice council, to ensure efficient operations and policy alignment
30 across state environmental justice work, subject to enactment of
31 chapter . . . (Substitute Senate Bill No. 5141), Laws of 2021.

32 NEW SECTION. **Sec. 6.** TRIBAL ENGAGEMENT. (1) Before allocating
33 funding or administering grant programs appropriated from the climate
34 investment account, agencies must offer consultation with federally
35 recognized tribes on all funding decisions and programs that affect
36 federally recognized tribes' rights and interests in their tribal
37 lands. The consultation must occur pursuant to chapter 43.376 RCW and
38 must be independent of any public participation process required by
39 state law, or by a state agency, and regardless of whether the agency

1 receives a request for consultation from a federally recognized
2 tribe. Agencies must develop a consultation framework in coordination
3 with tribal governments that includes best practices, protocols for
4 communication, and collaboration with federally recognized tribes.

5 (2) If any funding decision or program that impacts tribal lands
6 is made or funded under this act without consultation with a
7 federally recognized tribe, an affected tribe may request that all
8 further action on the decision or program cease until consultation
9 with any directly impacted federally recognized tribe is completed.

10 NEW SECTION. **Sec. 7.** CAP ON GREENHOUSE GAS EMISSIONS. (1) In
11 order to ensure that greenhouse gas emissions are reduced consistent
12 with the limits established in RCW 70A.45.020, the department must
13 implement a cap on greenhouse gas emissions from covered entities and
14 a program to track, verify, and enforce compliance through the use of
15 compliance instruments.

16 (2) The program must consist of:

17 (a) Annual allowance budgets that limit emissions from covered
18 entities, as provided in this section and sections 8 and 9 of this
19 act;

20 (b) Defining those entities covered by the program, and those
21 entities that may voluntarily opt into coverage under the program, as
22 provided in this section and sections 8 and 9 of this act;

23 (c) Distribution of emission allowances, as provided in section
24 11 of this act, and through the allowance price containment
25 provisions under sections 15 and 16 of this act;

26 (d) Providing for offset credits as a method for meeting a
27 compliance obligation, pursuant to section 17 of this act;

28 (e) Defining the compliance obligation for covered entities, as
29 provided in section 19 of this act;

30 (f) Establishing the authority of the department to enforce the
31 program requirements, as provided in section 20 of this act;

32 (g) Creating a climate investment account for the deposit of
33 receipts from the distribution of emission allowances, as provided in
34 section 23 of this act;

35 (h) Providing for the transfer of allowances and recognition of
36 compliance instruments, including those issued by jurisdictions that
37 enter into linkage agreements with the state;

38 (i) Providing monitoring and oversight of the sale and transfer
39 of allowances; and

1 (j) Creating, in section 5 of this act, an environmental justice
2 and equity advisory panel to monitor impacts of this policy on
3 overburdened communities, advise on achieving positive workforce and
4 job outcomes, and the equitable distribution of benefits to
5 overburdened communities.

6 (3) The department shall consider opportunities to implement the
7 program in a manner that allows linking the state's program with
8 other jurisdictions having similar programs, considering if such
9 linkage will provide for a more cost-effective means for Washington
10 covered entities to meet their compliance obligations while
11 recognizing the special characteristics of the state's economy,
12 communities, and industries. The department is authorized to enter
13 into a linkage agreement with another jurisdiction after formal
14 notice and opportunity for a public hearing, and when consistent with
15 the requirements of section 21 of this act.

16 NEW SECTION. **Sec. 8.** PROGRAM BUDGET AND TIMELINES. (1)(a) The
17 department shall commence the program by January 1, 2023, by
18 determining an emissions baseline establishing the proportionate
19 share that the total greenhouse gas emissions of covered entities for
20 the first compliance period bears to the total anthropogenic
21 greenhouse gas emissions in the state during 2015 through 2019, based
22 on data reported to the department under RCW 70A.15.2200 or provided
23 as required by this chapter. By October 1, 2022, the department shall
24 adopt a program budget of allowances for the first compliance period
25 of the program, calendar years 2023 through 2026, to be distributed
26 from January 1, 2023, through December 31, 2026.

27 (b) By October 1, 2026, the department shall add to its emissions
28 baseline by incorporating the proportionate share that the total
29 greenhouse gas emissions of new covered entities in the second
30 compliance period bear to the total anthropogenic greenhouse gas
31 emissions in the state during 2023 through 2025. In determining the
32 addition to the baseline, the department may exclude a year from the
33 determination if the department identifies that year to have been an
34 outlier due to a state of emergency. The department shall adopt a
35 program budget of allowances for the second compliance period of the
36 program, calendar years 2027 through 2030, that will be incorporated
37 into the program budget of allowances for the first compliance period
38 of the program to be distributed from January 1, 2027, through
39 December 31, 2030.

1 (c) By October 1, 2028, the department shall adopt by rule the
2 annual program budgets of allowances for the calendar years 2031
3 through 2040.

4 (2) The program budgets must be set to achieve the share of
5 reductions by covered entities necessary to achieve the 2030, 2040,
6 and 2050 statewide emissions limits established in RCW 70A.45.020,
7 based on data reported to the department under chapter 70A.15 RCW or
8 provided as required by this chapter. The department must adopt
9 annual allowance budgets for the program on a calendar year basis
10 that provide for substantially equivalent reductions on an absolute
11 basis for each year. An allowance distributed under the program,
12 either directly by the department under sections 12 through 14 of
13 this act or through auctions under section 11 of this act, does not
14 expire and may be held or banked consistent with sections 11(6) and
15 16(1) of this act.

16 (3) The department must complete an evaluation by December 31,
17 2028, and by December 31, 2035, of the performance of the program,
18 including its performance in reducing greenhouse gases and criteria
19 pollutants in overburdened communities. If the evaluation shows that
20 adjustments to the annual budgets are necessary to ensure achievement
21 of 2030 and 2040 emission reduction limits identified in RCW
22 70A.45.020 and reduce greenhouse gases and criteria pollutants in
23 overburdened communities, the department shall adjust the annual
24 budgets accordingly. The department must complete additional
25 evaluations by December 31, 2040, and by December 31, 2045, of the
26 performance of the program, and make adjustments in the annual
27 budgets to ensure achievement of 2050 emission reduction limits
28 identified in RCW 70A.45.020. Nothing in this subsection precludes
29 the department from making additional adjustments as necessary to
30 ensure successful achievement of emission reduction limits. If any
31 evaluation finds that greenhouse gases and criteria pollutants are
32 not being reduced in overburdened communities, the department must
33 also prioritize the adoption of air quality standards, emission
34 standards, or emissions limitations on covered entities located in
35 those areas.

36 (4) Data reported to the department under RCW 70A.15.2200 or
37 provided as required by this chapter for 2015 through 2019 is deemed
38 sufficient for the purpose of adopting annual program budgets and
39 demonstrating compliance under the first compliance period of the
40 program. Data reported to the department under RCW 70A.15.2200 or

1 provided as required by this chapter for 2023 through 2025 is deemed
2 sufficient for adopting annual program budgets and demonstrating
3 compliance under the second compliance period of the program.

4 NEW SECTION. **Sec. 9.** PROGRAM COVERAGE. (1) A person is a
5 covered entity as of the beginning of the first compliance period and
6 all subsequent compliance periods if the person reported emissions
7 under RCW 70A.15.2200 for any calendar year from 2015 through 2019,
8 or additional data provided as required by this chapter indicates
9 that emissions for any calendar year from 2015 through 2019 equaled
10 or exceeded any of the following thresholds:

11 (a) Where the person operates a facility and the facility's
12 emissions equal or exceed 25,000 metric tons of carbon dioxide
13 equivalent;

14 (b) Where the person is a first jurisdictional deliverer and
15 generates electricity in the state and emissions associated with this
16 generation equals or exceeds 25,000 metric tons of carbon dioxide
17 equivalent;

18 (c) Where the person is a supplier of fossil fuel other than
19 natural gas and from that fuel 25,000 metric tons or more of carbon
20 dioxide equivalent emissions would result from the full combustion or
21 oxidation; and

22 (d) (i) Where the person supplies natural gas in amounts that
23 would result in exceeding 25,000 metric tons of carbon dioxide
24 equivalent if fully combusted or oxidized, excluding the amounts: (A)
25 Supplied to covered entities under (a) through (c) of this
26 subsection; and (B) delivered to opt-in entities;

27 (ii) Where the person who is not a natural gas company and has a
28 tariff with a natural gas company to deliver to an end-use customer
29 in the state in amounts that would result in exceeding 25,000 metric
30 tons of carbon dioxide equivalent if fully combusted or oxidized,
31 excluding the amounts: (A) Supplied to covered entities under (a)
32 through (c) of this subsection or subsection (2)(a) of this section;
33 and (B) the amounts delivered to opt-in entities;

34 (iii) Where the person is an end-use customer in the state who
35 directly purchases natural gas from a person that is not a natural
36 gas company and has the natural gas delivered through an interstate
37 pipeline to a distribution system owned by the purchaser in amounts
38 that would result in exceeding 25,000 metric tons of carbon dioxide
39 equivalent if fully combusted or oxidized, excluding the amounts: (A)

1 Supplied to covered entities under (a) through (c) of this subsection
2 or subsection (2)(a) of this section; and (B) delivered to opt-in
3 entities.

4 (2) A person is a covered entity as of the beginning of the
5 second compliance period and all subsequent compliance periods if the
6 person reported emissions under RCW 70A.15.2200 or provided emissions
7 data as required by this chapter for any calendar year from 2023
8 through 2025 that equals or exceeds any of the following thresholds:

9 (a) Where the person is a first jurisdictional deliverer
10 importing electricity into the state and the cumulative annual total
11 of emissions associated with imported electricity into the state from
12 specified or unspecified sources equals or exceeds 25,000 metric tons
13 of carbon dioxide equivalent. For a specified source, the person must
14 have either full or partial ownership in the facility, or a written
15 power contract to procure electricity at the facility or from an
16 asset controlling supplier at the time of entry of the transaction to
17 procure electricity. In consultation with any jurisdiction that is
18 linked to the program created by this chapter, by October 1, 2026,
19 the department, in consultation with the department of commerce and
20 the utilities and transportation commission, shall adopt a
21 methodology for addressing imported electricity associated with a
22 centralized electricity market; and

23 (b) Where the person operates a landfill or waste to energy
24 facility utilized by a county and city solid waste management program
25 and the facility's emissions equal or exceed 25,000 metric tons of
26 carbon dioxide equivalent.

27 (3) When a covered entity reports, during a compliance period,
28 emissions from a facility under RCW 70A.15.2200 that are below the
29 thresholds specified in subsection (1) or (2) of this section, the
30 covered entity continues to have a compliance obligation through the
31 current compliance period. When a covered entity reports emissions
32 below the threshold during an entire compliance period, or has ceased
33 all processes at the facility requiring reporting under RCW
34 70A.15.2200, the entity is no longer a covered entity unless the
35 department provides notice at least 12 months before the end of the
36 compliance period that the facility's emissions were within 10
37 percent of the threshold and that the person will continue to be
38 designated as a covered entity in order to ensure equity among all
39 covered entities.

1 (4) For types of emission sources described in subsection (1) of
2 this section that begin or modify operation after January 1, 2023,
3 and types of emission sources described in subsection (2) of this
4 section that begin or modify operation after 2027, coverage under the
5 program starts in the calendar year in which emissions from the
6 source exceed the applicable thresholds in subsection (1) or (2) of
7 this section, or upon formal notice from the department that the
8 source is expected to exceed the applicable emissions threshold,
9 whichever happens first. Sources meeting these conditions are
10 required to transfer their first allowances on the first transfer
11 deadline of the year following the year in which their emissions were
12 equal to or exceeded the emissions threshold.

13 (5) For emission sources described in subsection (1) of this
14 section that are in operation or otherwise active between 2015 and
15 2019 but were not required to report emissions for those years under
16 RCW 70A.15.2200 as written for the reporting periods between 2015 and
17 2019, coverage under the program starts in the calendar year
18 following the year in which emissions from the source exceed the
19 applicable thresholds in subsection (1) of this section as reported
20 pursuant to RCW 70A.15.2200 or provided as required by this chapter,
21 or upon formal notice from the department that the source is expected
22 to exceed the applicable emissions threshold for the first year that
23 source is required to report emissions, whichever happens first.
24 Sources meeting these conditions are required to transfer their first
25 allowances on the first transfer deadline of the year following the
26 year in which their emissions, as reported under RCW 70A.15.2200 or
27 provided as required by this chapter, were equal to or exceeded the
28 emissions threshold.

29 (6) The following emissions are exempt from coverage in the
30 program, regardless of the emissions reported under RCW 70A.15.2200
31 or provided as required by this chapter:

32 (a) Emissions from the combustion of aviation fuels;

33 (b) Emissions from watercraft fuels supplied in Washington that
34 are combusted outside of Washington;

35 (c) Emissions from a coal-fired electric generation facility
36 exempted from additional greenhouse gas limitations, requirements, or
37 performance standards under RCW 80.80.110;

38 (d) Carbon dioxide emissions from the combustion of biomass or
39 biofuels; and

1 (e) Emissions from facilities with North American industry
2 classification system code 92811 (national security).

3 (7) The department shall not require multiple covered entities to
4 have a compliance obligation for the same emissions. The department
5 may by rule authorize refineries, fuel suppliers, facilities using
6 natural gas, and natural gas suppliers to provide by agreement for
7 the assumption of the compliance obligation for fuel or natural gas
8 supplied and combusted in the state. The department must be notified
9 of such an agreement at least 12 months prior to the compliance
10 obligation period for which the agreement is applicable

11 NEW SECTION. **Sec. 10.** REQUIREMENTS. (1) All covered entities
12 must register to participate in the program, following procedures
13 adopted by the department by rule.

14 (2) Entities registering to participate in the program must
15 describe any direct or indirect affiliation with other registered
16 entities.

17 (3) A person responsible for greenhouse gas emissions that is not
18 a covered entity may voluntarily participate in the program by
19 registering as an opt-in entity. An opt-in entity must satisfy the
20 same registration requirements as covered entities. Once registered,
21 an opt-in entity is allowed to participate as a covered entity in
22 auctions and must assume the same compliance obligation to transfer
23 compliance instruments equal to their emissions at the appointed
24 transfer dates. An opt-in entity may opt out of the program at the
25 end of any compliance period by providing written notice to the
26 department at least six months prior to the end of the compliance
27 period. The opt-in entity continues to have a compliance obligation
28 through the current compliance period. An opt-in entity is not
29 eligible to receive allowances directly distributed under section 12,
30 13, or 14 of this act.

31 (4) A person that is not covered by the program and is not a
32 covered entity or opt-in entity may voluntarily participate in the
33 program as a general market participant. General market participants
34 must meet all applicable registration requirements specified by rule.

35 (5) Federally recognized tribes and federal agencies may elect to
36 participate in the program as opt-in entities or general market
37 participants.

38 (6) The department shall use a secure, online electronic tracking
39 system to: Register entities in the state program; issue compliance

1 instruments; track ownership of compliance instruments; enable and
2 record compliance instrument transfers; facilitate program
3 compliance; and support market oversight.

4 (7) The department must use an electronic tracking system that
5 allows two accounts to each covered or opt-in entity:

6 (a) A compliance account where the compliance instruments are
7 transferred to the department for retirement. Compliance instruments
8 in compliance accounts may not be sold, traded, or otherwise provided
9 to another account or person, except as provide for in section 11 of
10 this act.

11 (b) A holding account that is used when a registered entity is
12 interested in trading allowances. Allowances in holding accounts may
13 be bought, sold, transferred to another registered entity, or traded.
14 The amount of allowances a registered entity may have in its holding
15 account is constrained by the holding limit as determined by the
16 department by rule.

17 (8) Registered general market participants are each allowed an
18 account, to hold, trade, sell, or transfer allowances.

19 (9) The department shall maintain an account for the purpose of
20 retiring allowances transferred by registered entities.

21 NEW SECTION. **Sec. 11.** AUCTIONS OF ALLOWANCES. (1) Except as
22 provided in sections 12, 13, and 14 of this act, the department shall
23 distribute allowances through auctions as provided in this section
24 and in rules adopted by the department to implement these sections.
25 An allowance is not a property right.

26 (2) The department shall hold a maximum of four auctions
27 annually, plus any necessary reserve auctions. An auction may include
28 allowances from the annual allowance budget of the current year and
29 allowances from the annual allowance budgets from prior years that
30 remain to be distributed. The department must make future vintage
31 allowances available through parallel auctions at least twice
32 annually in addition to the auctions through which current vintage
33 allowances are exclusively offered.

34 (3) The department shall engage a qualified, independent
35 contractor to run the auctions. The department shall also engage a
36 qualified financial services administrator to hold the bid
37 guarantees, evaluate bid guarantees, and inform the department of the
38 value of bid guarantees once the bids are accepted.

1 (4) Auctions are open to covered entities, opt-in entities, and
2 general market participants that are registered entities in good
3 standing. The department shall adopt by rule the requirements for a
4 registered entity to register and participate in a given auction.

5 (a) Registered entities intending to participate in an auction
6 must submit an application to participate at least 30 days prior to
7 the auction. The application must include the documentation required
8 for review and approval by the department. A registered entity is
9 eligible to participate only after receiving a notice of approval by
10 the department.

11 (b) Each registered entity that elects to participate in the
12 auction must have a different representative. Only a representative
13 with an approved auction account is authorized to access the auction
14 platform to submit an application or confirm the intent to bid for
15 the registered entity, submit bids on behalf of the registered entity
16 during the bidding window, or to download reports specific to the
17 auction.

18 (5) The department may require a bid guarantee, payable to the
19 financial services administrator, in an amount greater than or equal
20 to the sum of the maximum value of the bids to be submitted by the
21 registered entity.

22 (6) To protect the integrity of the auctions, a registered entity
23 or group of registered entities with a direct corporate association
24 are subject to auction purchase and holding limits. The department
25 may limit these if it deems necessary to protect the integrity and
26 functioning of the auctions:

27 (a) A covered entity or an opt-in entity may not buy more than 10
28 percent of the allowances offered during a single auction;

29 (b) A general market participant may not buy more than four
30 percent of the allowances offered during a single auction and may not
31 in aggregate own more than 10 percent of total allowances to be
32 issued in a calendar year;

33 (c) No registered entity may buy more than the entity's bid
34 guarantee; and

35 (d) No registered entity may buy allowances that would exceed the
36 entity's holding limit at the time of the auction.

37 (7)(a) For fiscal year 2022 through fiscal year 2037, upon
38 completion and verification of the auction results, the financial
39 services administrator shall notify winning bidders and transfer the
40 auction proceeds to the state treasurer for deposit as follows: (i)

1 \$650,000,000 each biennium must first be deposited into the forward
2 flexible account created in (c) of this subsection, not to exceed
3 \$5,200,000,000 over 16 years; and (ii) the remaining auction proceeds
4 to the climate investment account created in section 23 of this act.

5 (b) For fiscal year 2038 and each year thereafter, upon
6 completion and verification of the auction results, the financial
7 services administrator shall notify winning bidders and transfer the
8 auction proceeds to the state treasurer for deposit as follows: (i)
9 50 percent of the auction proceeds to the forward flexible account
10 created in (c) of this subsection; and (ii) the remaining auction
11 proceeds to the climate investment account created in section 23 of
12 this act.

13 (c) The forward flexible account is created in the state
14 treasury. All receipts from proceeds directed to the account under
15 (a) and (b) of this subsection must be deposited in the account.
16 Moneys in the account may be spent only after appropriation.
17 Expenditures from the account may be used only for transportation
18 projects, programs, or activities identified as forward flexible
19 projects, programs, or activities in an omnibus transportation
20 appropriations act.

21 (8) The department shall adopt by rule provisions to guard
22 against bidder collusion and minimize the potential for market
23 manipulation. A registered entity may not release or disclose any
24 bidding information including: Intent to participate or refrain from
25 participation; auction approval status; intent to bid; bidding
26 strategy; bid price or bid quantity; or information on the bid
27 guarantee provided to the financial services administrator. The
28 department may cancel or restrict a previously approved auction
29 participation application or reject a new application if the
30 department determines that a registered entity has:

31 (a) Provided false or misleading facts;

32 (b) Withheld material information that could influence a decision
33 by the department;

34 (c) Violated any part of the auction rules;

35 (d) Violated registration requirements; or

36 (e) Violated any of the rules regarding the conduct of the
37 auction.

38 (9) Any cancellation or restriction approved by the department
39 under subsection (8) of this section may be permanent or for a
40 specified number of auctions and the cancellation or restriction

1 imposed is not exclusive and is in addition to the remedies that may
2 be available pursuant to chapter 19.86 RCW or other state or federal
3 laws, if applicable.

4 (10) The department shall design allowance auctions so as to
5 allow, to the maximum extent practicable, linking with external
6 greenhouse gas emissions trading programs in other jurisdictions and
7 to facilitate the transfer of allowances when the state's program is
8 linked with other external greenhouse gas emissions trading programs.
9 The department may conduct auctions jointly with other jurisdictions
10 with which it has a linkage agreement.

11 NEW SECTION. **Sec. 12.** ALLOCATION OF ALLOWANCES TO EMISSIONS-
12 INTENSIVE, TRADE-EXPOSED INDUSTRIES. (1) During the first compliance
13 period of the program, a covered entity must receive an allocation of
14 allowances under this subsection at no cost if the entity is
15 classified as emissions-intensive and trade-exposed, as determined by
16 being engaged in one or more of the processes described by the
17 following industry descriptions and codes in the North American
18 industry classification system:

19 (a) Metals manufacturing, including iron and steel making,
20 ferroalloy and primary metals manufacturing, secondary aluminum
21 smelting and alloying, aluminum sheet, plate and foil manufacturing,
22 smelting, refining, and alloying of other nonferrous metals North
23 American industry classification system codes beginning with 331;

24 (b) Paper manufacturing, including pulp mills, paper mills, and
25 paperboard milling, North American industry classification system
26 codes beginning with 322;

27 (c) Aerospace product and parts manufacturing, North American
28 industry classification system codes beginning with North American
29 industry classification system code 3364;

30 (d) Wood products manufacturing, North American industry
31 classification system codes beginning with 322;

32 (e) Nonmetallic mineral manufacturing, including glass container
33 manufacturing, North American industry classification system codes
34 beginning with 327;

35 (f) Chemical manufacturing, North American industry
36 classification system codes beginning with 325;

37 (g) Computer and electronic product manufacturing, including
38 semiconductor and related device manufacturing, North American
39 industry classification system codes beginning with 334;

1 (h) Food manufacturing, North American industry classification
2 system codes beginning with 311; and

3 (i) Cement manufacturing, North American industry classification
4 system code 327310.

5 (2) The annual allocation of allowances for direct distribution
6 to an entity identified as emissions-intensive and trade-exposed
7 under subsection (1) of this section during the first compliance
8 period of the program must be equal to the covered entity's
9 proportional obligation of the program budget for phase one
10 established under section 8 of this act, multiplied by:

11 (a) During calendar year 2023, 90 percent;

12 (b) During calendar year 2024, 85 percent;

13 (c) During calendar year 2025, 80 percent; and

14 (d) During calendar year 2026, 75 percent.

15 (3)(a) By January 1, 2024, the department must adopt by rule
16 objective criteria for both emissions' intensity and trade exposure
17 for the purpose of identifying emissions-intensive, trade-exposed
18 manufacturing businesses during the second compliance period of the
19 program and subsequent compliance periods. A manufacturing business
20 that can demonstrate to the department that it meets this criteria,
21 whether or not it is listed in subsection (1)(a) through (i) of this
22 section, is eligible for treatment as an emissions-intensive, trade-
23 exposed industry and is eligible for free allocation of allowances as
24 described in this section, and by the department by rule.

25 (b) By July 1, 2024, the department must adopt rules for
26 allocating allowances that must be transferred by those covered
27 entities that the department determines are engaged in emissions-
28 intensive, trade-exposed processes during the second compliance
29 period of the program. The rules must establish a schedule for the
30 second compliance period of the program that provides for a declining
31 portion of the allocation to such covered entities that must be
32 provided at no cost. By December 31, 2029, the department must adopt
33 rules following the same process and requirements for 2031 through
34 2040. Both sets of rules may be amended to align with adjustments
35 made under section 8 of this act.

36 (4) Rules adopted under this section may utilize a combined
37 output-based and emissions intensity-based assessment benchmarking
38 methodology for determining the allocation of allowances to
39 emissions-intensive, trade-exposed industries. A covered entity or
40 process with a lower emissions intensity benchmark may receive a

1 larger allocation than other covered entities engaged in the same
2 industry with higher emissions intensities. The rules must provide a
3 means for attributing a covered entity's emissions to the manufacture
4 of goods and requirements for providing pertinent records to verify
5 the output data used to calculate the emissions intensity benchmark.

6 (5) The annual allocation of allowances for direct distribution
7 to an entity identified as emissions-intensive and trade-exposed in
8 the second compliance period of the program must be equal to the sum
9 of the annual goods-specific emissions calculation for the goods
10 manufactured by the covered entity, multiplied by a percentage that
11 is adjusted annually, as set forth in a schedule adopted by the
12 department by rule. The schedule must result in an amount of annual
13 allowances that a covered entity may receive under this section and
14 from the allowance price containment reserve that declines annually
15 by a constant amount proportionate to the decline in the amount of
16 allowances available in annual allowance budgets pursuant to section
17 8 of this act.

18 (6) The department shall by rule provide for covered entities to
19 apply to the department for an adjustment to the allocation for
20 direct distribution of allowances. The department may grant the
21 adjustment based on either:

22 (a) A significant change in the emissions attributable to the
23 manufacture of an individual good or goods in this state by a covered
24 entity based on a finding by the department that an adjustment is
25 necessary to accommodate for changes in the manufacturing process
26 that have a material impact on emissions; or

27 (b) Significant changes to a covered entity's external
28 competitive environment that result in a significant increase in
29 leakage risk.

30 (7) The department must withhold or withdraw the relevant share
31 of allowances allocated to a covered entity under this section in the
32 event that the covered entity curtails production in the state. Any
33 allowances withheld or withdrawn under this subsection must be
34 permanently retired.

35 NEW SECTION. **Sec. 13.** ALLOCATION OF ALLOWANCES TO ELECTRIC
36 UTILITIES. (1) The legislature intends by this section to allow all
37 consumer-owned electric utilities or investor-owned electric
38 utilities subject to the requirements of chapter 19.405 RCW, the
39 Washington clean energy transformation act, to be eligible for

1 allowance allocation as provided in this section in order to mitigate
2 the cost burden of the program on electricity customers.

3 (2) (a) By October 1, 2022, the department shall adopt rules, in
4 consultation with the department of commerce and the utilities and
5 transportation commission, establishing the methods and procedures
6 for allocating allowances for consumer-owned or investor-owned
7 electric utilities. The rules must take into account the cost burden
8 of the program on electricity customers.

9 (b) By October 1, 2022, the department shall adopt an allocation
10 schedule by rule, in consultation with the department of commerce and
11 the utilities and transportation commission, for the first compliance
12 period for the provision of allowances at no cost to consumer-owned
13 or investor-owned electric utilities. This allocation must be
14 consistent with a forecast, that is approved by the appropriate
15 governing board or the utilities and transportation commission, of
16 each utility's supply and demand, and the cost burden resulting from
17 the inclusion of the covered entities in the first compliance period.

18 (c) By October 1, 2026, the department shall adopt an allocation
19 schedule by rule, in consultation with the department of commerce and
20 the utilities and transportation commission, for the provision of
21 allowances for the second compliance period at no cost to consumer-
22 owned or investor-owned electric utilities. This allocation must be
23 consistent with a forecast, that is approved by the appropriate
24 governing board or the utilities and transportation commission, of
25 each utility's supply and demand, and the cost burden resulting from
26 the inclusion of covered entities in the second compliance period.
27 The allowances included in this schedule must reflect the increased
28 scope of coverage in the electricity sector relative to the program
29 budget of allowances established in 2022.

30 (d) By October 1, 2028, the department shall adopt an allocation
31 schedule by rule, in consultation with the department of commerce and
32 the utilities and transportation commission, for the provision of
33 allowances at no cost to consumer-owned or investor-owned electric
34 utilities for the compliance periods contained within calendar years
35 2031 through 2040. This allocation must be consistent with a
36 forecast, that is approved by the appropriate governing board or the
37 utilities and transportation commission, of each utility's supply and
38 demand, and the cost burden resulting from the inclusion of the
39 covered entities in the compliance periods.

1 (3) Allowances allocated at no cost to investor-owned electric
2 utilities must be consigned to auction for the benefit of ratepayers.
3 Allowances allocated at no cost to consumer-owned electric utilities
4 may be consigned to auction for the benefit of ratepayers, deposited
5 for compliance, or a combination of both. The rules adopted by the
6 department under subsection (2) of this section must include
7 provisions for directing revenues generated under this subsection to
8 the applicable utilities.

9 (4) If an entity is identified by the department as an emissions-
10 intensive, trade-exposed industry under section 12 of this act,
11 unless allowances have been otherwise allocated for electricity-
12 related emissions to the entity under section 12 of this act or to a
13 consumer-owned utility under this section, the department shall
14 allocate allowances at no cost to the electric utility or power
15 marketing administration that is providing electricity to the entity
16 in an amount equal to the forecasted emissions for electricity
17 consumption for the entity for the compliance period.

18 (5) The department shall allow for allowances to be transferred
19 between a power marketing administration and electric utilities and
20 used for direct compliance.

21 (6) Rules establishing the allocation of allowances to consumer-
22 owned utilities and investor-owned utilities must consider the impact
23 of electrification of buildings, transportation, and industry on the
24 electricity sector.

25 (7) Nothing in this section affects the requirements of chapter
26 19.405 RCW.

27 NEW SECTION. **Sec. 14.** ALLOCATION OF ALLOWANCES TO NATURAL GAS
28 COMPANIES. (1) Allowances must be allocated at no cost to covered
29 entities that are natural gas utilities for the benefit of
30 ratepayers.

31 (a) By October 1, 2022, the department shall adopt rules, in
32 consultation with the utilities and transportation commission,
33 establishing the methods and procedures for allocating allowances to
34 natural gas utilities. Rules adopted under this subsection must allow
35 for a natural gas utility to be provided allowances at no cost to
36 cover their emissions and decline proportionally with the cap,
37 consistent with section 8 of this act. Allowances allocated at no
38 cost to natural gas utilities must be consigned to auction for the
39 benefit of ratepayers consistent with subsection (2) of this section,

1 deposited for compliance, or a combination of both. The rules adopted
2 by the department pursuant to this section must include provisions
3 directing revenues generated under this subsection to the applicable
4 utilities.

5 (b) By October 1, 2022, the department shall adopt an allocation
6 schedule by rule, in consultation with the utilities and
7 transportation commission, for the first two compliance periods for
8 the provision of allowances for the benefit of ratepayers at no cost
9 to natural gas utilities.

10 (c) By October 1, 2028, the department shall adopt an allocation
11 schedule by rule, in consultation with the utilities and
12 transportation commission, for the provision of allowances for the
13 benefit of ratepayers at no cost to natural gas utilities for the
14 compliance periods contained within calendar years 2031 through 2040.

15 (2)(a) Beginning in 2023, 65 percent of the no cost allowances
16 must be consigned to auction for the benefit of customers,
17 prioritizing low-income customers. Rules adopted under this
18 subsection must increase the percentage of allowances consigned to
19 auction by five percent each year until a total of 100 percent is
20 reached.

21 (b) Revenues from allowances sold at auction must be returned by
22 providing nonvolumetric credits on ratepayer utility bills,
23 prioritizing low-income customers, or used exclusively to minimize
24 cost impacts on low-income, residential, and small business customers
25 through actions that include, but are not limited to, weatherization,
26 decarbonization, conservation and efficiency services, and bill
27 assistance.

28 (3) In order to qualify for no cost allowances, covered entities
29 that are natural gas utilities must provide copies of their
30 greenhouse gas emissions reports filed with the United States
31 environmental protection agency under 40 C.F.R. Part 98 subpart NN -
32 suppliers of natural gas and natural gas liquids for calendar years
33 2015 through 2021 to the department on or before March 31, 2022. The
34 copies of the reports must be provided in electronic form to the
35 department, in a manner prescribed by the department. The reports
36 must be complete and contain all information required by 40 C.F.R.
37 Sec. 98.406 including, but not limited to, information on large end-
38 users served by the natural gas utility. For any year where a natural
39 gas utility was not required to file this report with the United
40 States environmental protection agency, a report may be submitted in

1 a manner prescribed by the department containing all of the
2 information required in the subpart NN report.

3 (4) To continue receiving no cost allowances, the United States
4 environmental protection agency subpart NN greenhouse gas emissions
5 reports must be provided to the department for each reporting year in
6 the manner and by the dates provided by RCW 70A.15.2200(5) as part of
7 the greenhouse gas reporting requirements of this chapter.

8 NEW SECTION. **Sec. 15.** EMISSIONS CONTAINMENT RESERVE
9 WITHHOLDING. (1) To help ensure that the price of allowances remains
10 sufficient to incentivize reductions in greenhouse gas emissions, the
11 department must establish an emissions containment reserve and set an
12 emissions containment reserve trigger price by rule. The price must
13 be set at a reasonable amount above the auction floor price. The
14 purpose of withholding allowances in the emissions containment
15 reserve is to secure additional emissions reductions consistent with
16 the greenhouse gas emissions limits in RCW 70A.45.020 in the event
17 auction prices fall below the emissions containment reserve trigger
18 price.

19 (2) In the event that the emissions containment reserve trigger
20 price is met during an auction, the department must automatically
21 withhold allowances as needed. The department must convert and
22 transfer any allowances that have been withheld from auction into the
23 emissions containment reserve account.

24 (3) Emissions containment reserve allowances may only be withheld
25 from an auction if the demand for allowances would result in an
26 auction clearing price that is less than the emissions containment
27 reserve trigger price prior to the withholding from the auction of
28 any emissions containment reserve allowances.

29 (4) Allowances may be distributed from the emissions containment
30 reserve by auction when new covered and opt-in entities enter the
31 program, provided the department determines that the distribution
32 will not jeopardize achievement of the state's emission reduction
33 limits.

34 NEW SECTION. **Sec. 16.** ALLOWANCE PRICE CONTAINMENT. (1) To help
35 minimize allowance price volatility in the auction, the department
36 shall adopt by rule an auction floor price and a schedule for the
37 floor price to increase by a predetermined amount every year. The
38 department may not sell allowances at bids lower than the auction

1 floor price. The department's rules must specify holding limits that
2 determine the maximum number of allowances that may be held for use
3 or trade by a registered entity at any one time. The department shall
4 also establish an auction ceiling price to limit extraordinary prices
5 and to determine when to offer allowances through the allowance price
6 containment reserve auctions authorized under this section.

7 (2) For calendar years 2023 through 2026, the department must
8 place no less than four percent of the total number of allowances
9 available from the allowance budgets for those years in an allowance
10 price containment reserve. The reserve must be designed as a
11 mechanism to assist in containing compliance costs for covered and
12 opt-in entities in the event of unanticipated high costs for
13 compliance instruments.

14 (3) The department shall adopt rules for holding auctions of
15 allowances from the price containment reserve when the settlement
16 prices in the preceding auction approach the adopted auction ceiling
17 price. The auction must be separate from auctions of other
18 allowances.

19 (4) Only covered and opt-in entities may participate in the
20 auction of allowances from the allowance price containment reserve.

21 (5) The process for reserve auctions is the same as the process
22 provided in section 11 of this act and the proceeds from reserve
23 auctions must be treated the same.

24 (6) The department shall by rule:

25 (a) Set the reserve auction floor price in advance of the reserve
26 auction. The department may choose to establish multiple price tiers
27 for the allowances from the reserve;

28 (b) Establish the requirements and schedule for the allowance
29 price containment reserve auctions; and

30 (c) Establish the amount of allowances to be placed in the
31 allowance price containment reserve after the first compliance period
32 ending in 2026.

33 NEW SECTION. **Sec. 17.** OFFSETS. (1) The department shall adopt
34 by rule the protocols for establishing offset projects and securing
35 offset credits that may be used to meet a portion of a covered or
36 opt-in entity's compliance obligation under section 19 of this act.
37 The protocols adopted by the department under this section must align
38 with the policies of the state established under RCW 70A.45.090 and
39 70A.45.100.

1 (2) Offset projects must:

2 (a) Provide direct environmental benefits to the state or be
3 located in a jurisdiction with which the department has entered into
4 a linkage agreement or memorandum of understanding;

5 (b) Result in greenhouse gas reductions or removals that:

6 (i) Are real, permanent, quantifiable, verifiable, and
7 enforceable; and

8 (ii) Are in addition to greenhouse gas emission reductions or
9 removals otherwise required by law and other greenhouse gas emission
10 reductions or removals that would otherwise occur; and

11 (c) Have been certified by a recognized registry after the
12 effective date of this section or within two years prior to the
13 effective date of this section.

14 (3) During the first two compliance periods, at least 50 percent
15 of a covered or opt-in entity's compliance obligation satisfied by
16 offset credits must be sourced from offset projects that provide
17 direct environmental benefits in the state.

18 (a) A total of no more than five percent of a covered or opt-in
19 entity's compliance obligation during the first compliance period may
20 be met by transferring offset credits.

21 (b) A total of no more than four percent of a covered or opt-in
22 entity's compliance obligation during the second compliance period
23 may be met by transferring offset credits.

24 (c) The limits in (a) and (b) of this subsection may be modified
25 by rule as adopted by the department when appropriate to ensure
26 achievement of the statewide emissions limits established in RCW
27 70A.45.020 and to provide for alignment with other jurisdictions to
28 which the state has entered or proposes to enter a linkage agreement.

29 (d) The limits in (a) and (b) of this subsection may be reduced
30 for a specific covered or opt-in entity if the department determines
31 that the covered or opt-in entity:

32 (i) Contributes substantively to cumulative air pollution burden
33 in an overburdened community as determined by criteria established by
34 the department; or

35 (ii) Is in violation of any permits required by any federal,
36 state, or local air pollution control agency that may result in an
37 increase in emissions.

38 (e) An offset project on federally recognized tribal land does
39 not count against the offset credit limits described in (a) and (b)
40 of this subsection. No more than three percent of a covered or opt-in

1 entity's compliance obligation may be met by transferring offset
2 credits from projects on federally recognized tribal land during the
3 first compliance period. No more than two percent of a covered or
4 opt-in entity's compliance obligation may be met by transferring
5 offset credits from projects on federally recognized tribal land
6 during the second compliance period.

7 (4) In adopting protocols governing offset projects and covered
8 and opt-in entities' use of offset credits, the department shall:

9 (a) Take into consideration standards, rules, or protocols for
10 offset projects and offset credits established by other states,
11 provinces, and countries with programs comparable to the program
12 established in this chapter;

13 (b) Encourage opportunities for the development of offset
14 projects in this state by adopting offset protocols that may include,
15 but need not be limited to, protocols that make use of aggregation or
16 other mechanisms to reduce transaction costs related to the
17 development of offset projects;

18 (c) Adopt a process for monitoring and invalidating offset
19 credits as necessary to ensure the credit reflects emission
20 reductions or removals that continue to meet the standards required
21 by subsection (1) of this section. If an offset credit is
22 invalidated, the covered or opt-in entity must, within six months of
23 the invalidation, transfer replacement credits or allowances to meet
24 its compliance obligation. Failure to transfer the required credits
25 or allowances is a violation subject to penalties as provided in
26 section 20 of this act.

27 (5) The offset credit must be registered and tracked as a
28 compliance instrument.

29 NEW SECTION. **Sec. 18.** ASSISTANCE PROGRAM FOR OFFSETS ON TRIBAL
30 LANDS. (1) In order to ensure that a sufficient number of high
31 quality offset projects are available under the limits set in section
32 17 of this act, the department must establish an assistance program
33 for offset projects on federally recognized tribal lands in
34 Washington. The assistance may include, but is not limited to,
35 funding or consultation for federally recognized tribal governments
36 to assess a project's technical feasibility, investment requirements,
37 development and operational costs, expected returns, administrative
38 and legal hurdles, and project risks and pitfalls. Funding or

1 assistance may be provided upon request by a federally recognized
2 tribe.

3 (2) It is the intent of the legislature that not less than
4 \$5,000,000 be provided in the biennial omnibus operating
5 appropriations act for the purposes of this section.

6 NEW SECTION. **Sec. 19.** COMPLIANCE OBLIGATIONS. (1) A covered or
7 opt-in entity has a compliance obligation for its emissions during
8 each four-year compliance period, with the first compliance period
9 commencing January 1, 2023. A covered or opt-in entity shall transfer
10 a number of compliance instruments equal to their covered emissions
11 by November 1st of each calendar year in which a covered or opt-in
12 entity has a compliance obligation. The department shall set by rule
13 a minimum of 25 percent of compliance instruments that must be
14 transferred in each year of the compliance period such that covered
15 or opt-in entities are allowed to smooth their compliance obligation
16 within the compliance period but must fully satisfy their compliance
17 obligation over the course of the compliance period, in a manner
18 similar to external greenhouse gas emissions trading programs in
19 other jurisdictions.

20 (2) Submission of allowances occurs through the transfer of
21 compliance instruments, on or before the transfer date, from the
22 holding account to the compliance account of the covered or opt-in
23 entity as described in section 9 of this act. Submission of
24 allowances includes consignment of allowances to auction as described
25 in sections 13 and 14 of this act.

26 (3) A covered or opt-in entity submitting insufficient compliance
27 instruments to meet its compliance obligation is subject to a penalty
28 as provided in section 20 of this act.

29 (4) Allowances must be transferred in the order in which they
30 were purchased.

31 (5) A covered or opt-in entity may not borrow an allowance from a
32 future allowance year to meet a current or past compliance
33 obligation.

34 (6) Upon receipt by the department of all compliance instruments
35 transferred by a covered entity or opt-in entity to meet its
36 compliance obligation, the department shall retire the allowances or
37 offset credits.

1 NEW SECTION. **Sec. 20.** ENFORCEMENT. (1) All covered and opt-in
2 entities are required to submit compliance instruments in a timely
3 manner to meet the entities' compliance obligations and shall comply
4 with all requirements for monitoring, reporting, holding, and
5 transferring emission allowances and other provisions of this
6 chapter.

7 (2) If a covered or opt-in entity does not submit sufficient
8 allowances to meet its compliance obligation by the specified
9 transfer dates, a penalty of four allowances for every one allowance
10 that is missing must be submitted to the department within six
11 months. When a covered entity or opt-in entity reasonably believes
12 that it will be unable to meet a compliance obligation, the entity
13 shall immediately notify the department. Upon receiving notification,
14 the department shall issue an order requiring the entity to submit
15 the penalty allowances.

16 (3) If a covered entity or opt-in entity fails to submit penalty
17 allowances as required by subsection (2) of this section, the
18 department must issue an order or issue a penalty of up to \$10,000
19 per day per violation, or both, for failure to submit penalty
20 allowances as required by subsection (2) of the section. The order
21 may include a plan and schedule for coming into compliance.

22 (4) The department may issue a penalty up to \$50,000 per day per
23 violation for violations of section 11(8) (a) through (e) of this
24 act.

25 (5) Except as provided in subsections (3) and (4) of this
26 section, any person that violates the terms of this chapter or an
27 order issued under this chapter will incur a penalty of up to \$10,000
28 per day per violation for each day that the person does not comply.
29 All penalties under subsections (3) and (4) of this section and this
30 subsection must be deposited into the climate investment account
31 created in section 23 of this act.

32 (6) Appeals of orders and penalties issued under this chapter
33 must be to the pollution control hearings board under chapter 43.21B
34 RCW.

35 (7) For the first compliance period, the department may reduce
36 the amount of the penalty by adjusting the monetary amount or the
37 number of penalty allowances described in subsections (2) and (3) of
38 this section.

1 NEW SECTION. **Sec. 21.** LINKAGE WITH OTHER JURISDICTIONS. (1)

2 Subject to making the findings and conducting the public comment
3 process described in subsection (3) of this section, the department
4 shall seek to link with other jurisdictions with established external
5 greenhouse gas emissions trading programs in order to:

6 (a) Allow for the mutual use and recognition of compliance
7 instruments issued by Washington and other linked jurisdictions;

8 (b) Broaden the greenhouse gas emission reduction opportunities
9 to reduce the costs of compliance on covered entities and consumers;

10 (c) Enable allowance auctions to be held jointly and provide for
11 the use of a unified tracking system for compliance instruments;

12 (d) Enhance market security;

13 (e) Reduce program administration costs; and

14 (f) Provide consistent requirements for covered entities whose
15 operations span jurisdictional boundaries.

16 (2) The director of the department is authorized to execute
17 linkage agreements with other jurisdictions with established external
18 greenhouse gas emissions trading programs consistent with the
19 requirements in this chapter. A linkage agreement must cover the
20 following:

21 (a) Provisions relating to quarterly auctions, including
22 requirements for eligibility for auction participation, the use of a
23 single auction provider to facilitate joint auctions, publication of
24 auction-related information, processes for auction participation,
25 purchase limits by auction participant type, bidding processes, dates
26 of auctions, and financial requirements;

27 (b) Provisions related to holding limits to ensure no entities in
28 any of the programs are disadvantaged relative to their counterparts
29 in the other jurisdictions;

30 (c) Other requirements, such as greenhouse gas reporting and
31 verification, offset protocols, criteria and process, and supervision
32 and enforcement, to prevent fraud, abuse, and market manipulation;

33 (d) Common program registry, electronic auction platform,
34 tracking systems for compliance instruments, and monitoring of
35 compliance instruments;

36 (e) Provisions to ensure coordinated administrative and technical
37 support;

38 (f) Provisions for public notice and participation; and

39 (g) Provisions to collectively resolve differences, amend the
40 agreements, and delink or otherwise withdraw from the agreements.

1 (3) Before entering into a linkage agreement under this section,
2 the department must establish a finding that the linking jurisdiction
3 and the linkage agreement meets certain criteria identified under
4 this subsection and conduct a public comment process to obtain input
5 and a review of the linkage agreement by relevant stakeholders and
6 other interested parties. The input received from the public comment
7 process must be considered before finalizing a linkage agreement. In
8 the event that the department determines that a full linkage
9 agreement is unlikely to meet the criteria, it may enter into a
10 linkage agreement with limitations, including limits on the share of
11 compliance that may be met with allowances originating from linked
12 jurisdictions and other limitations deemed necessary by the
13 department. A linkage agreement approved by the department must:

14 (a) Achieve the purposes identified in subsection (1) of this
15 section;

16 (b) Ensure that the linking jurisdiction has provisions to ensure
17 the distribution of benefits from the program to vulnerable
18 populations and overburdened communities;

19 (c) Include an agreement to not yield net adverse impacts to
20 either jurisdictions' highly impacted communities or analogous
21 communities in the aggregate, relative to the baseline level of
22 emissions; and

23 (d) Not adversely impact Washington's ability to achieve the
24 emission reduction limits established in RCW 70A.45.020.

25 (4) The state must retain legal and policymaking authority over
26 its program design and enforcement.

27 NEW SECTION. **Sec. 22.** RULES. The department shall adopt rules
28 to implement the provisions of the program established in sections 7
29 through 21 of this act. The department may adopt emergency rules
30 pursuant to RCW 34.05.350 for initial implementation of the program,
31 to implement the state omnibus appropriations act for the 2021-2023
32 fiscal biennium, and to ensure that reporting and other program
33 requirements are determined early for the purpose of program design
34 and early notice to registered entities with a compliance obligation
35 under the program.

36 NEW SECTION. **Sec. 23.** CLIMATE INVESTMENT ACCOUNT. (1) The
37 climate investment account is created in the state treasury. Except
38 as provided in section 11(7) of this act, all receipts from the

1 auction of allowances authorized in this chapter must be deposited
2 into the account. Projects or activities funded from the account must
3 meet high labor standards, including family sustaining wages,
4 providing benefits including health care and pensions, career
5 development opportunities, and maximize access to economic benefits
6 from such projects for local workers and diverse businesses. Each
7 contracting entity's proposal must be reviewed for equity and
8 opportunity improvement efforts, including: (a) Employer paid sick
9 leave programs; (b) pay practices in relation to living wage
10 indicators such as the federal poverty level; (c) efforts to evaluate
11 pay equity based on gender identity, race, and other protected status
12 under Washington law; (d) facilitating career development
13 opportunities, such as apprenticeship programs, internships, job-
14 shadowing, and on-the-job training; and (e) employment assistance and
15 employment barriers for justice affected individuals.

16 (2) Moneys in the account may only be spent after appropriation
17 and must be used for the following purposes:

18 (a) To cover the department's and other agencies' costs to
19 support and administer the program, including coordination of
20 allowance auctions, tracking of emissions and allowances, rule
21 making, evaluation, monitoring, and verification, and stakeholder
22 communication and outreach such as capacity grants for participation
23 to engage communities in the decision making and guidance of these
24 funds, and developing the comprehensive program under section 25 of
25 this act, as appropriated pursuant to the biennial and supplemental
26 omnibus operating appropriations acts, as enacted;

27 (b) Deposited into the state general fund to implement the
28 working families tax rebate in RCW 82.08.0206;

29 (c) Programs, activities, or projects that reduce and mitigate
30 impacts from greenhouse gases and copollutants in overburdened
31 communities, including strengthening the air quality monitoring
32 network to measure, track, and better understand air pollution levels
33 and trends and to inform the analysis, monitoring, and pollution
34 reduction measures required in section 3 of this act;

35 (d) Clean transportation programs, activities, or projects that
36 reduce transportation-related greenhouse gas emissions;

37 (e) Natural climate resilience solutions that improve the
38 resilience of the state's waters, forests, and other vital ecosystems
39 to the impacts of climate change, and increase their carbon pollution
40 reduction capacity through sequestration, storage, and overall

1 ecosystem integrity. This includes programs, activities, or projects
2 that: (i) Restore and protect estuaries, fisheries, and marine and
3 freshwater shoreline and riparian habitats, and prepare for sea level
4 rise; (ii) increase the ability to remediate and adapt to the impacts
5 of ocean acidification; (iii) reduce flood risk and restore natural
6 floodplain ecological function; (iv) increase the sustainable supply
7 of water and improve aquatic habitat, including groundwater mapping
8 and modeling; (v) improve infrastructure treating stormwater from
9 previously developed areas within an urban growth boundary designated
10 under chapter 36.70A RCW, with a preference given to projects that
11 use green stormwater infrastructure; (vi) either preserve or
12 increase, or both, carbon sequestration and storage benefits in
13 forests and agricultural soils; (vii) either preserve or establish,
14 or both, carbon sequestration in marine and freshwater riparian areas
15 through forest management sufficient to promote climate resilience,
16 protect cold water fisheries, and achieve water quality standards;
17 (viii) increase forest and community resilience to wildfire in the
18 face of increased seasonal temperatures and drought; (ix) improve
19 forest health and reduce vulnerability to changes in hydrology,
20 insect infestation, and other impacts of climate change; or (x)
21 prevent emissions through preserving natural lands from the threat of
22 conversion to development;

23 (f) Clean energy transition and assistance programs, activities,
24 or projects that assist affected workers or people with lower incomes
25 during the transition to a clean energy economy, or grow and expand
26 clean manufacturing capacity in communities across Washington state
27 including, but not limited to:

28 (i) Programs, activities, or projects that directly improve
29 energy affordability and reduce the energy burden of people with
30 lower incomes, as well as the higher transportation fuel burden of
31 rural residents, such as bill assistance, energy efficiency, and
32 weatherization programs;

33 (ii) Reductions in dependence on fossil fuels used for
34 transportation, including public and shared transportation for access
35 and mobility;

36 (iii) Community renewable energy projects that allow qualifying
37 participants to own or receive the benefits of those projects at
38 reduced or no cost;

39 (iv) Programs, activities, or other worker-support projects for
40 bargaining unit and nonsupervisory fossil fuel workers who are

1 affected by the transition away from fossil fuels to a clean energy
2 economy. Worker support may include, but is not limited to: (A) Full
3 wage replacement, health benefits, and pension contributions for
4 every worker within five years of retirement; (B) full wage
5 replacement, health benefits, and pension contributions for every
6 worker with at least one year of service for each year of service up
7 to five years of service; (C) wage insurance for up to five years for
8 workers reemployed who have more than five years of service; (D) up
9 to two years of retraining costs, including tuition and related
10 costs, based on in-state community and technical college costs; (E)
11 peer counseling services during transition; (F) employment placement
12 services, prioritizing employment in the clean energy sector; and (G)
13 relocation expenses;

14 (v) Direct investment in workforce development, via technical
15 education, community college, apprenticeships, and other programs;

16 (vi) Transportation, municipal service delivery, and technology
17 investments that increase a community's capacity for clean
18 manufacturing, with an emphasis on communities in greatest need of
19 job creation and economic development and potential for commute-
20 reduction;

21 (g) Emissions reduction projects and programs that yield real,
22 verifiable reductions in greenhouse gas emissions in excess of
23 baseline estimates. Projects and programs eligible for funding from
24 the account must be physically located in Washington state and
25 include, but are not limited to, the following programs, activities,
26 or projects that: (i) Deploy renewable energy resources, such as
27 solar and wind power, and projects to deploy distributed generation,
28 energy storage, demand-side technologies and strategies, and other
29 grid modernization projects; (ii) increase the energy efficiency or
30 reduce greenhouse gas emissions of industrial facilities including,
31 but not limited to, proposals to implement combined heat and power,
32 district energy, or on-site renewables, such as solar and wind power,
33 to upgrade the energy efficiency of existing equipment, to reduce
34 process emissions, and to switch to less emission intensive fuel
35 sources; (iii) achieve energy efficiency or emission reductions in
36 the agricultural sector, including fertilizer management, soil
37 management, bioenergy, and biofuels; (iv) promote low-carbon
38 architecture, including use of newly emerging alternative building
39 materials that result in a lower carbon footprint in the built
40 environment over the life cycle of the building and component

1 building materials; (v) promote the decarbonization of new and
2 existing buildings, including residential, commercial, and industrial
3 buildings; (vi) improve energy efficiency, including district energy,
4 and investments in market transformation of high-efficiency electric
5 appliances and equipment for space and water heating; (vii) reduce
6 emissions from landfills through diversion of organic materials,
7 methane capture or conversion strategies, or other means; and (viii)
8 retrofit vehicles and vessels for increased efficiency when
9 electrification options are unavailable.

10 (3) Moneys in the account may not be used for projects that would
11 violate tribal treaty rights or result in significant long-term
12 damage to critical habitat or ecological functions. Investments from
13 this account must result in long-term environmental benefits and
14 increased resiliency to the impacts of climate change.

15 **Sec. 24.** RCW 70A.15.2200 and 2020 c 20 s 1090 are each amended
16 to read as follows:

17 (1) The board of any activated authority or the department, may
18 classify air contaminant sources, by ordinance, resolution, rule or
19 regulation, which in its judgment may cause or contribute to air
20 pollution, according to levels and types of emissions and other
21 characteristics which cause or contribute to air pollution, and may
22 require registration or reporting or both for any such class or
23 classes. Classifications made pursuant to this section may be for
24 application to the area of jurisdiction of such authority, or the
25 state as a whole or to any designated area within the jurisdiction,
26 and shall be made with special reference to effects on health,
27 economic and social factors, and physical effects on property.

28 (2) Except as provided in subsection (3) of this section, any
29 person operating or responsible for the operation of air contaminant
30 sources of any class for which the ordinances, resolutions, rules or
31 regulations of the department or board of the authority, require
32 registration or reporting shall register therewith and make reports
33 containing information as may be required by such department or board
34 concerning location, size and height of contaminant outlets,
35 processes employed, nature of the contaminant emission and such other
36 information as is relevant to air pollution and available or
37 reasonably capable of being assembled. In the case of emissions of
38 greenhouse gases as defined in RCW 70A.45.010 the department shall
39 adopt rules requiring reporting of those emissions. The department or

1 board may require that such registration or reporting be accompanied
2 by a fee, and may determine the amount of such fee for such class or
3 classes: PROVIDED, That the amount of the fee shall only be to
4 compensate for the costs of administering such registration or
5 reporting program which shall be defined as initial registration and
6 annual or other periodic reports from the source owner providing
7 information directly related to air pollution registration, on-site
8 inspections necessary to verify compliance with registration
9 requirements, data storage and retrieval systems necessary for
10 support of the registration program, emission inventory reports and
11 emission reduction credits computed from information provided by
12 sources pursuant to registration program requirements, staff review,
13 including engineering or other reliable analysis for accuracy and
14 currentness, of information provided by sources pursuant to
15 registration program requirements, clerical and other office support
16 provided in direct furtherance of the registration program, and
17 administrative support provided in directly carrying out the
18 registration program: PROVIDED FURTHER, That any such registration
19 made with either the board or the department shall preclude a further
20 registration and reporting with any other board or the department,
21 except that emissions of greenhouse gases as defined in RCW
22 70A.45.010 must be reported as required under subsection (5) of this
23 section.

24 All registration program and reporting fees collected by the
25 department shall be deposited in the air pollution control account.
26 All registration program fees collected by the local air authorities
27 shall be deposited in their respective treasuries.

28 (3) If a registration or report has been filed for a grain
29 warehouse or grain elevator as required under this section,
30 registration, reporting, or a registration program fee shall not,
31 after January 1, 1997, again be required under this section for the
32 warehouse or elevator unless the capacity of the warehouse or
33 elevator as listed as part of the license issued for the facility has
34 been increased since the date the registration or reporting was last
35 made. If the capacity of the warehouse or elevator listed as part of
36 the license is increased, any registration or reporting required for
37 the warehouse or elevator under this section must be made by the date
38 the warehouse or elevator receives grain from the first harvest
39 season that occurs after the increase in its capacity is listed in
40 the license.

1 This subsection does not apply to a grain warehouse or grain
2 elevator if the warehouse or elevator handles more than ten million
3 bushels of grain annually.

4 (4) For the purposes of subsection (3) of this section:

5 (a) A "grain warehouse" or "grain elevator" is an establishment
6 classified in standard industrial classification (SIC) code 5153 for
7 wholesale trade for which a license is required and includes, but is
8 not limited to, such a licensed facility that also conducts cleaning
9 operations for grain;

10 (b) A "license" is a license issued by the department of
11 agriculture licensing a facility as a grain warehouse or grain
12 elevator under chapter 22.09 RCW or a license issued by the federal
13 government licensing a facility as a grain warehouse or grain
14 elevator for purposes similar to those of licensure for the facility
15 under chapter 22.09 RCW; and

16 (c) "Grain" means a grain or a pulse.

17 (5)(a) The department shall adopt rules requiring persons to
18 report emissions of greenhouse gases as defined in RCW 70A.45.010
19 where those emissions from a single facility, ~~((source, or site,))~~ or
20 from electricity or fossil fuels sold in Washington by a single
21 supplier or local distribution company, meet or exceed ten thousand
22 metric tons of carbon dioxide equivalent annually. ~~The ((department~~
23 ~~may phase in the requirement to report greenhouse gas emissions until~~
24 ~~the reporting threshold in this subsection is met, which must occur~~
25 ~~by January 1, 2012)) rules adopted by the department must support~~
26 implementation of the program created in section 7 of this act. In
27 addition, the rules must require that:

28 (i) Emissions of greenhouse gases resulting from the combustion
29 of fossil fuels be reported separately from emissions of greenhouse
30 gases resulting from the combustion of biomass; and

31 ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each
32 annual report must include emissions data for the preceding calendar
33 year and must be submitted to the department by ~~((October))~~ March
34 31st of the year in which the report is due. ~~((However, starting in~~
35 ~~2011, a person who is required to report greenhouse gas emissions to~~
36 ~~the United States environmental protection agency under 40 C.F.R.~~
37 ~~Part 98, as adopted on September 22, 2009, must submit the report~~
38 ~~required under this section to the department concurrent with the~~
39 ~~submission to the United States environmental protection agency.~~
40 ~~Except as otherwise provided in this section, the data for emissions~~

1 in Washington and any corrections thereto that are reported to the
2 United States environmental protection agency must be the emissions
3 data reported to the department; and

4 ~~(iii) Emissions of carbon dioxide associated with the complete
5 combustion or oxidation of liquid motor vehicle fuel, special fuel,
6 or aircraft fuel that is sold in Washington where the annual
7 emissions associated with that combustion or oxidation equal or
8 exceed ten thousand metric tons be reported to the department. Each
9 person who is required to file periodic tax reports of motor vehicle
10 fuel sales under RCW 82.36.031 or special fuel sales under RCW
11 82.38.150, or each distributor of aircraft fuel required to file
12 periodic tax reports under RCW 82.42.040 must report to the
13 department the annual emissions of carbon dioxide from the complete
14 combustion or oxidation of the fuels listed in those reports as sold
15 in the state of Washington. The department shall not require
16 suppliers to use additional data to calculate greenhouse gas
17 emissions other than the data the suppliers report to the department
18 of licensing. The rules may allow this information to be aggregated
19 when reported to the department. The department and the department of
20 licensing shall enter into an interagency agreement to ensure
21 proprietary and confidential information is protected if the
22 departments share reported information. Any proprietary or
23 confidential information exempt from disclosure when reported to the
24 department of licensing is exempt from disclosure when shared by the
25 department of licensing with the department under this provision.)~~

26 (b) (i) ~~((Except as otherwise provided in this subsection, the
27 rules adopted by the department under (a) of this subsection must be
28 consistent with the regulations adopted by the United States
29 environmental protection agency in 40 C.F.R. Part 98 on September 22,
30 2009.~~

31 ~~(ii))~~ The department may by rule include additional gases to the
32 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has
33 been designated as a greenhouse gas by the United States congress
34 ~~((or)),~~ by the United States environmental protection agency, or
35 included in external greenhouse gas emission trading programs where
36 Washington has a linkage agreement in effect pursuant to section 21
37 of this act. Prior to including additional gases to the definition of
38 "greenhouse gas" in RCW 70A.45.010, the department shall notify the
39 appropriate committees of the legislature. ~~((Decisions to amend the
40 rule to include additional gases must be made prior to December 1st~~

1 of any year and the amended rule may not take effect before the end
2 of the regular legislative session in the next year.

3 ~~(iii))~~ (ii) The department may by rule exempt persons who are
4 required to report greenhouse gas emissions to the United States
5 environmental protection agency and who emit less than ten thousand
6 metric tons carbon dioxide equivalent annually.

7 ~~((iv))~~ (iii) The department must establish a methodology for
8 persons who are not required to report under this section to
9 voluntarily report their greenhouse gas emissions.

10 (c) (i) The department shall review and if necessary update its
11 rules whenever ~~((the))~~:

12 (A) The United States environmental protection agency adopts
13 final amendments to 40 C.F.R. Part 98 to ensure consistency with
14 federal reporting requirements for emissions of greenhouse gases; or

15 (B) Needed to ensure consistency with emissions reporting
16 requirements for jurisdictions with a linkage agreement pursuant to
17 section 21 of this act. ((However, the))

18 (ii) The department shall not amend its rules in a manner that
19 conflicts with ~~((a) of)~~ this ~~((subsection))~~ section.

20 (d) The department shall share any reporting information reported
21 to it with the local air authority in which the person reporting
22 under the rules adopted by the department operates.

23 (e) The fee provisions in subsection (2) of this section apply to
24 reporting of emissions of greenhouse gases. Persons required to
25 report under (a) of this subsection who fail to report or pay the fee
26 required in subsection (2) of this section are subject to enforcement
27 penalties under this chapter. The department shall enforce the
28 reporting rule requirements ~~((unless it approves a local air~~
29 ~~authority's request to enforce the requirements for persons operating~~
30 ~~within the authority's jurisdiction. However, neither the department~~
31 ~~nor a local air authority approved under this section are authorized~~
32 ~~to assess enforcement penalties on persons required to report under~~
33 ~~(a) of this subsection until six months after the department adopts~~
34 ~~its reporting rule in 2010)).~~ When a person that holds a compliance
35 obligation under section 9 of this act fails to submit an emissions
36 data report or fails to obtain a positive emissions data verification
37 statement in accordance with (g)(ii) of this subsection, the
38 department may assign an emissions level for that person.

39 (f) The energy facility site evaluation council shall,
40 simultaneously with the department, adopt rules that impose

1 greenhouse gas reporting requirements in site certifications on
2 owners or operators of a facility permitted by the energy facility
3 site evaluation council. The greenhouse gas reporting requirements
4 imposed by the energy facility site evaluation council must be the
5 same as the greenhouse gas reporting requirements imposed by the
6 department. The department shall share any information reported to it
7 from facilities permitted by the energy facility site evaluation
8 council with the council, including notice of a facility that has
9 failed to report as required. The energy facility site evaluation
10 council shall contract with the department to monitor the reporting
11 requirements adopted under this section.

12 (g) (i) ~~The ((inclusion or failure to include any person, source,~~
13 ~~classes of persons or sources, or types of emissions of greenhouse~~
14 ~~gases into the department's rules for reporting under this section~~
15 ~~does not indicate whether such a person, source, or category is~~
16 ~~appropriate for inclusion in state, regional, or national greenhouse~~
17 ~~gas reduction programs or strategies. Furthermore, aircraft fuel~~
18 ~~purchased in the state may not be considered equivalent to aircraft~~
19 ~~fuel combusted in the state)) department must establish by rule the~~
20 ~~methods of verifying the accuracy of emissions reports.~~

21 (ii) Verification requirements apply at a minimum to persons
22 required to report under (a) of this subsection with emissions that
23 equal or exceed 25,000 metric tons of carbon dioxide equivalent
24 emissions, including carbon dioxide from biomass-derived fuels, or to
25 persons who have a compliance obligation under section 9 of this act
26 in any year of the current compliance period. The department may
27 adopt rules to accept verification reports from another jurisdiction
28 with a linked agreement pursuant to section 18 of this act in cases
29 where the department deems that the methods or procedures are
30 substantively similar.

31 (h) (i) The definitions in RCW 70A.45.010 apply throughout this
32 subsection (5) unless the context clearly requires otherwise.

33 (ii) For the purpose of this subsection (5), the term "supplier"
34 includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel~~
35 ~~importer, as those terms are defined in RCW 82.36.010; (B) a special~~
36 ~~fuel supplier or a special fuel importer, as those terms are defined~~
37 ~~in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those~~
38 ~~terms are defined in RCW 82.42.010)) Suppliers that produce, import,~~
39 ~~or deliver, or any combination of producing, importing, or~~
40 ~~delivering, a quantity of fuel products in Washington that, if~~

1 completely combusted, oxidized, or used in other processes, would
2 result in the release of greenhouse gases equivalent to or higher
3 than the threshold established under (a) of this subsection; and (B)
4 suppliers of carbon dioxide that produce, import, or deliver a
5 quantity of carbon dioxide in Washington that, if released, would
6 result in emissions equivalent to or higher than the threshold
7 established under (a) of this subsection.

8 (iii) For the purpose of this subsection (5), the term "person"
9 includes: (A) An owner or operator(~~(, as those terms are defined by~~
10 ~~the United States environmental protection agency in its mandatory~~
11 ~~greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted~~
12 ~~on September 22, 2009; and (B) a supplier)) of a facility; (B) a~~

13 supplier; or (C) an electric power entity.
14 (iv) For the purpose of this subsection (5), the term "facility"
15 includes facilities that directly emit greenhouse gases in Washington
16 equivalent to the threshold established under (a) of this subsection
17 with at least one source category listed in the United States
18 environmental protection agency's mandatory greenhouse gas reporting
19 regulation, 40 C.F.R. Part 98 Subparts C through II and RR through
20 UU, as adopted on April 25, 2011.

21 (v) For the purpose of this subsection (5), the term "electric
22 power entity" includes any of the following that supply electric
23 power in Washington with associated emissions of greenhouse gases
24 equal to or above the threshold established under (a) of this
25 subsection: (A) Electricity importers and exporters; (B) retail
26 providers, including multijurisdictional retail providers; and (C)
27 first jurisdictional deliverers, as defined in section 2 of this act,
28 not otherwise included here.

29 NEW SECTION. Sec. 25. CLIMATE COMMITMENT. (1) The governor
30 shall establish a comprehensive program to implement the state's
31 climate commitment. The purpose of the comprehensive program is to
32 provide accountability and authority for achieving the state's
33 greenhouse gas limits in RCW 70A.45.020, to establish a coordinated
34 and strategic statewide approach to climate resilience, and to build
35 an equitable and inclusive clean energy economy.

36 (2) The comprehensive program for implementing the state's
37 climate commitment must be based on the state's following principles:

38 (a) The program must be holistic and address the needs,
39 challenges, and opportunities to meet the climate commitment.

1 (b) The program must address emission reductions from all
2 relevant sectors and sources by ensuring that emitters are
3 responsible for meeting targeted greenhouse gas reductions and that
4 the government provides clear policy and requirements, financial
5 tools, and other mechanisms to support achieving those reductions.

6 (c) The program must support an equitable transition for
7 vulnerable populations and overburdened communities, including
8 communities in rural Washington, with early and meaningful engagement
9 of overburdened communities and workers to ensure the program
10 achieves equitable and just outcomes. The program must prioritize
11 funding for overburdened communities and workers in meeting the
12 state's climate commitment, including climate resilience and clean
13 energy economy efforts.

14 (d) The program must build increasing climate resilience for at-
15 risk communities and ecosystems through cross-sectoral coordination,
16 strategic planning, and cohesive policies.

17 (e) The program must apply the most current, accurate, and
18 complete scientific and technical information available to guide the
19 state's climate actions and strategies.

20 (f) The program must be developed and implemented in consultation
21 and collaboration with all levels of government and civil society.

22 (g) The program must be implemented with sustained leadership,
23 resources, clear governance, and prioritized investments at the scale
24 necessary to meet the statutory emissions limits.

25 (h) The program must achieve progress in meeting emissions limits
26 in the most effective and efficient manner possible and must include
27 periodic measurement and reporting of progress and changes to the
28 program as needed to meet the limits.

29 (3) The comprehensive program for implementing the state's
30 climate commitment must include, but not be limited to, the following
31 elements:

32 (a) A strategic plan for aligning existing law, rules, policies,
33 programs, and plans with the state's greenhouse gas limits, to the
34 full extent allowed under existing authority;

35 (b) Common state policies, standards, and procedures for
36 addressing greenhouse gas emissions and climate resilience, including
37 grant and funding programs, infrastructure investments, and planning
38 and siting decisions;

39 (c) A process for prioritizing and coordinating funding
40 consistent with strategic needs for greenhouse gas reductions, equity

1 and environmental justice, economic prosperity and job creation, and
2 climate resilience actions;

3 (d) An updated statewide strategy for addressing climate risks
4 and improving resilience of communities and ecosystems;

5 (e) A comprehensive community engagement plan that addresses and
6 mitigates barriers to engagement from vulnerable populations,
7 overburdened communities, and other historically or currently
8 marginalized groups; and

9 (f) An analysis of gaps and conflicts in state law and programs,
10 with recommendations for improvements to state law;

11 (4) To ensure mutual respect for the rights, interests, and
12 obligations of each federally recognized tribe, the governor must
13 develop a framework for government-to-government consultation with
14 federally recognized tribes consistent with the centennial accord,
15 chapter 43.376 RCW, and applicable tribal policies. The consultation
16 must ensure meaningful tribal engagement on the implementation of
17 this act, including rule making, programmatic decisions, and funding
18 decisions. Within this framework, at least once each year the
19 governor must invite all federally recognized Indian tribes with
20 reserved rights within the geographical boundaries of the state to
21 meet in government-to-government consultation. The purpose of the
22 meeting is to share information, views, tribal knowledge and science,
23 and recommendations regarding the progress of implementing the
24 state's carbon commitment and investing carbon-related revenues, to
25 strengthen climate resilience in communities throughout the state, to
26 strengthen climate resilience in the water and natural resources
27 shared by all citizens in the state, and to ensure a just transition
28 to a clean energy economy.

29 NEW SECTION. **Sec. 26.** CLIMATE COMMITMENT TASK FORCE. (1)(a) The
30 governor's office shall convene a climate commitment task force with
31 state agencies, other governments, and stakeholders by July 1, 2021.
32 In making these appointments the governor shall seek diverse
33 representation of stakeholders, including members of overburdened
34 communities. The governor or the governor's designee must chair the
35 climate commitment task force convened under this section and must
36 appoint task force members. The governor or the governor's designee
37 must convene the initial meeting of the task force. The task force is
38 a class one group under RCW 43.03.220.

1 (b) The duties of the climate commitment task force are to
2 develop recommendations to the legislature on the establishment of a
3 state comprehensive climate, energy, and resilience program to
4 implement the state's climate commitment in accordance with the
5 purpose, principles, and elements in section 25 of this act.

6 (2) (a) The climate commitment task force must develop preliminary
7 recommendations by November 1, 2021. By December 1, 2021, the
8 governor's office must submit, in compliance with RCW 43.01.036, a
9 report to the legislature with findings and recommendations of the
10 climate commitment task force. The report must include
11 recommendations for the following:

12 (i) A governance structure to achieve the desired outcomes
13 described in section 25 of this act that considers both existing
14 state capacity, resources, expertise, and authorities, and necessary
15 enhancements to these governance features;

16 (ii) Reporting requirements and frequency, and other
17 accountability measures, including mechanisms for legislative and
18 executive oversight and any changes to existing statutory reporting
19 requirements, such as RCW 70A.45.020;

20 (iii) A formal process for coordinating across state government,
21 with other governments, including federally recognized tribes and
22 local governments, and with key stakeholder groups, such as
23 interagency councils, advisory boards, or expert panels;

24 (iv) The funding authorities and structures necessary to
25 facilitate investments, including recommendations around public-
26 private partnerships and capacity grants for participation;

27 (v) Suggested duties and roles related to resilience that
28 considers recommendations and 2020 reports on disaster resilience and
29 climate resilience from the office of the insurance commissioner and
30 office of financial management;

31 (vi) Necessary changes to statutory requirements and additional
32 authority needed to implement the state's climate commitment. This
33 includes proposed legislation, necessary funding, and a schedule to
34 implement the recommended comprehensive program in section 25 of this
35 act, including any reorganization or consolidation of existing state
36 programs or authorities.

37 (b) It is the intent of the legislature that the appropriate
38 committees of the legislature review the report submitted under (a)
39 of this subsection and take appropriate action during the 2022
40 legislative session.

1 (3) The definitions in section 2 of this act apply throughout
2 this section unless the context clearly requires otherwise.

3 (4) This section expires December 31, 2022.

4 NEW SECTION. **Sec. 27.** PREEMPTION. No city, town, county,
5 township, or other subdivision or municipal corporation of the state
6 may implement a charge or tax based exclusively upon the quantity of
7 greenhouse gas emissions.

8 NEW SECTION. **Sec. 28.** This act may be known and cited as the
9 Washington climate commitment act.

10 NEW SECTION. **Sec. 29.** Sections 1 through 23, 25, 27, and 28 of
11 this act constitute a new chapter in Title 70A RCW.

12 NEW SECTION. **Sec. 30.** (1) Sections 7 through 21 of this act,
13 and any rules adopted by the department of ecology to implement the
14 program established under those sections, are suspended on December
15 31, 2055, in the event that the department of ecology determines by
16 December 1, 2055, that the 2050 emissions limits of RCW 70A.45.020
17 have been met for two or more consecutive years.

18 (2) Upon the occurrence of the events identified in subsection
19 (1) of this section, the department of ecology must provide written
20 notice of the suspension date of sections 7 through 21 of this act to
21 affected parties, the chief clerk of the house of representatives,
22 the secretary of the senate, the office of the code reviser, and
23 others as deemed appropriate by the department.

24 NEW SECTION. **Sec. 31.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of
26 the state government and its existing public institutions, and takes
27 effect immediately.

28 NEW SECTION. **Sec. 32.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

--- END ---