

- States that the Legislature intends to prevent job loss and provide protective measures for workers adversely impacted by the transition to a clean energy economy as part of the findings and intent section.
- Revises "biofuels" definition to require at 40%, rather than 50%, lower GHG emissions based on a full life-cycle analysis when compared to petroleum fuels.
- Adds that the definition of cost burden includes administrative costs from the utility's participation in the program.
- Directs the Department of Ecology (Ecology) to deploy an air monitoring network in high priority overburdened communities to collect sufficient air quality data for the 2025 review and subsequent reviews of greenhouse gas and criteria pollutant reductions in those communities.
- Provides that the air quality and emissions review in overburdened communities includes other sources in addition to covered entities.
- If the air quality and emissions review finds that greenhouse gases and criteria pollutants are not being reduced in an identified overburdened community, requires Ecology to establish air quality targets to achieve air quality consistent with neighboring communities that are not identified as overburdened; identify covered entities and other sources that are the contributors of those emissions; and achieve the reduction targets as expeditiously as possible through adoption of emissions control strategies or other methods.
- Specifies that the Environmental Justice and Equity Advisory Panel's recommendations on the development of the cap and invest program include designation of emissions-intensive and trade-exposed industries.
- Delays the inclusion of emissions from landfills until 2031.
- Revises the specified amounts directed to the Forward Flexible Account for fiscal years 2023, 2024, and 2025, and fiscal years 2026 through 2037.
- Clarifies that a facility, rather than a covered entity, receives an allocation of allowances at no cost if it is classified as emissions-intensive and trade exposed (EITE) and revises the industrial classification code for petroleum refining.
- Adds that criteria for identifying an EITE during the second compliance period must be developed using numeric, quantitative, objective measurements and the department is encouraged to use criteria from other established national and global entities that are already engaged in carbon cap programs.
- References consumer-owned utilities (COUs) and investor-owned utilities (IOUs) rather than consumer-owned or investor-owned utilities in section 13.
- Authorizes allowances allocated at no cost to IOUs, as well as COUs, to be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both for the first compliance period, but requires Ecology to adopt rules governing the amount of allowances allocated at no cost that must be consigned to auction for the second compliance period.
- Adds that customer benefits from allowances consigned to auction by natural gas utilities must be in addition to existing requirements in statute, rule, or other requirements.
- Increases from 50 to 75 percent the amount of offsets in the second compliance period that must provide direct environmental benefits in Washington, but authorizes Ecology to reduce the requirement if it determines there is not sufficient offset supply in the state to meet offset demand during the second compliance period.
- Directs that section 19, which requires compliance obligations for covered and opt-in entities, will not take effect until a separate additive transportation funding act is enacted. An additive transportation funding act means an act where the combined total of new state revenues deposited into the motor vehicle fund and multimodal transportation account exceed \$500,000,000 per biennium.

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 a contingent  
4 effective date; providing an expiration date; and declaring an  
5 emergency.

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

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

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

1 gas emissions in the state, meeting these limits will require  
2 coordinated, comprehensive, and multisectoral implementation of  
3 policies, programs, and laws, as currently enacted systems approaches  
4 are insufficient to meet the limits.

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

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

24 (5) Therefore, in establishing a program to ensure that the  
25 state's 2030, 2040, and 2050 greenhouse gas emissions limits are  
26 achieved, the legislature intends to ensure that overburdened  
27 communities and vulnerable populations are no longer overlooked in  
28 the establishment of environmental policies. Under the program, the  
29 legislature intends to identify overburdened communities where the  
30 highest concentrations of greenhouse gas emissions and criteria  
31 pollutants occur, determine the sources of those emissions and  
32 pollutants, and ensure that emissions or concentration reductions are  
33 achieved in those communities. The legislature further intends to  
34 conduct an environmental justice assessment to ensure that funds and  
35 programs created under this chapter provide direct and meaningful  
36 benefits to vulnerable populations and overburdened communities.  
37 Additionally, the legislature intends to prevent job loss and provide  
38 protective measures for workers adversely impacted by the transition  
39 to a clean energy economy through transition and assistance programs,  
40 worker-support projects, and workforce development and other

1 activities designed to grow and expand the clean manufacturing sector  
2 in communities across Washington state. The legislature further  
3 intends to establish an environmental justice and equity advisory  
4 panel to provide recommendations for the development and  
5 implementation of the program, the distribution of funds, and the  
6 establishment of programs, activities, and projects to achieve  
7 environmental justice and environmental health goals. The legislature  
8 further intends to create and adopt community engagement plans and  
9 tribal consultation frameworks in the administration of the program  
10 to ensure equitable practices for meaningful community and federally  
11 recognized tribal involvement. Finally, the legislature intends to  
12 establish this program to contribute to a healthy environment for all  
13 of Washington's communities.

14 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
15 section apply throughout this chapter unless the context clearly  
16 requires otherwise.

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

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

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

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

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

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

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

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

17 (9) "Biomass-derived fuels," "biomass fuels," or "biofuels" means  
18 fuels derived from biomass that have at least 40 percent lower  
19 greenhouse gas emissions based on a full life-cycle analysis when  
20 compared to petroleum fuels.

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

24 (11) "Carbon dioxide removal" means deliberate human activities  
25 removing carbon dioxide from the atmosphere and durably storing it in  
26 geological, terrestrial, or ocean reservoirs, or in products. "Carbon  
27 dioxide removal" includes existing and potential anthropogenic  
28 enhancement of biological or geochemical sinks and including, but not  
29 limited to, direct air capture and storage and carbon mineralization,  
30 but excludes natural carbon dioxide uptake not directly caused by  
31 human activities.

32 (12) "Climate commitment" means the process and institutional  
33 mechanism established pursuant to this act for the state to achieve  
34 the statewide greenhouse gas limits established in RCW 70A.45.020 by  
35 certain dates.

36 (13) "Climate resilience" is the ongoing process of anticipating,  
37 preparing, and adapting to changes in climate and minimizing negative  
38 impacts to our natural systems, infrastructure, and communities. For  
39 natural systems, increasing resiliency involves restoring and  
40 increasing the health, function, and integrity of our ecosystems and

1 improving their ability to absorb and recover from climate-driven  
2 disturbances. For communities, increasing resiliency means enhancing  
3 their ability to understand, prevent, adapt, and recover from climate  
4 impacts to people and infrastructure.

5 (14) "Compliance instrument" means an allowance or offset credit  
6 issued by the department or by an external greenhouse gas emissions  
7 trading program to which Washington has linked its greenhouse gas  
8 emissions cap and invest program. One compliance instrument is equal  
9 to one metric ton of carbon dioxide equivalent.

10 (15) "Compliance obligation" means the requirement to turn into  
11 the department the number of compliance instruments equivalent to a  
12 covered or opt-in entity's covered emissions during the compliance  
13 period.

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

16 (17) "Comprehensive program" means the governance structure  
17 established pursuant to this act to carry out the state's greenhouse  
18 gas limits in RCW 70A.45.020, ensure a coordinated and strategic  
19 approach to advancing climate resilience and environmental justice,  
20 and achieving an equitable and inclusive transition to a carbon-  
21 neutral economy.

22 (18) "Cost burden" means the impact on rates or charges to  
23 customers of electric utilities in Washington state for the  
24 incremental cost of electricity service to serve load due to the  
25 compliance cost for greenhouse gas emissions caused by the program.  
26 Cost burden includes administrative costs from the utility's  
27 participation in the program.

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

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

32 (21) "Cumulative impact" means the combined, multiple  
33 environmental harms and health impacts on a vulnerable population or  
34 overburdened community.

35 (22) "Department" means the department of ecology.

36 (23) "Electricity importer" means:

37 (a) For electricity that is scheduled with a NERC e-tag to a  
38 final point of delivery inside the state of Washington, the  
39 electricity importer is identified on the NERC e-tag as the  
40 purchasing-selling entity on the last segment of the tag's physical

1 path with the point of receipt located outside the state of  
2 Washington and the point of delivery located inside the state of  
3 Washington;

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

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

12 (d) For electricity from facilities allocated to serve retail  
13 electricity customers of a multijurisdictional electric company, the  
14 electricity importer is the multijurisdictional electric company;

15 (e) If the importer identified under (a) of this subsection is a  
16 federal power marketing administration over which the state of  
17 Washington does not have jurisdiction, and the federal power  
18 marketing administration has not voluntarily elected to comply with  
19 the program, then the electricity importer is the next purchasing-  
20 selling entity in the physical path on the NERC e-tag, or if no  
21 additional purchasing-selling entity over which the state of  
22 Washington has jurisdiction, then the electricity importer is the  
23 electric utility that operates the Washington transmission or  
24 distribution system, or the generation balancing authority; or

25 (f) If the importer identified under (b) of this subsection is a  
26 federal power marketing administration over which the state of  
27 Washington does not have jurisdiction, and the federal power  
28 marketing administration has not voluntarily elected to comply with  
29 the program, then the electricity importer is the electric utility  
30 that operates the Washington transmission or distribution system, or  
31 the generation balancing authority.

32 (24) "Emissions containment reserve allowance" means a  
33 conditional allowance that is withheld from sale at an auction by the  
34 department or its agent to secure additional emissions reductions in  
35 the event prices fall below the emissions containment reserve trigger  
36 price.

37 (25) "Emissions containment reserve trigger price" means the  
38 price below which allowances will be withheld from sale by the  
39 department or its agent at an auction, as determined by the  
40 department by rule.

1 (26) "Emissions threshold" means the greenhouse gas emission  
2 level at or above which a person has a compliance obligation.

3 (27) "Environmental benefits" means activities that:

4 (a) Prevent or reduce existing environmental harms or associated  
5 risks that contribute significantly to cumulative environmental  
6 health impacts;

7 (b) Prevent or mitigate impacts to overburdened communities and  
8 vulnerable populations from, or support community response to, the  
9 impacts of environmental harm; or

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

13 (28) "Environmental harm" means the individual or cumulative  
14 environmental health impacts and risks to communities caused by  
15 historic, current, and projected:

16 (a) Exposure to pollution, conventional or toxic pollutants,  
17 environmental hazards, or other contamination in the air, water, and  
18 land;

19 (b) Adverse environmental effects, including exposure to  
20 contamination, hazardous substances, or pollution that increase the  
21 risk of adverse environmental health outcomes or create  
22 vulnerabilities to climate impacts; and

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

24 (29) "Environmental impacts" means environmental benefits or  
25 environmental harms, or the combination of environmental benefits and  
26 harms, resulting from a proposed action.

27 (30) "Environmental justice" means the fair treatment and  
28 meaningful involvement of all people regardless of race, color,  
29 national origin, or income with respect to the development,  
30 implementation, and enforcement of environmental laws, regulations,  
31 and policies. This includes addressing disproportionate environmental  
32 and health impacts in all laws, rules, and policies with  
33 environmental impacts by prioritizing vulnerable populations and  
34 overburdened communities, equitably distributing resources and  
35 benefits, and eliminating harm.

36 (31) "Environmental justice assessment" means using an  
37 intersectional lens to address disproportionate environmental and  
38 health impacts in all laws, rules, and policies with environmental  
39 impacts by prioritizing vulnerable populations in overburdened

1 communities, equitably distributing resources and benefits, and  
2 eliminating harm.

3 (32) "External greenhouse gas emissions trading program" means a  
4 government program, other than Washington's program created in this  
5 chapter, that restricts greenhouse gas emissions from sources outside  
6 of Washington through emissions trading.

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

13 (34) "First jurisdictional deliverer" means the owner or operator  
14 of an electric generating facility in Washington or an electricity  
15 importer.

16 (35) "General market participant" means a registered entity that  
17 is not identified as a covered entity or an opt-in entity that is  
18 registered in the program registry and intends to purchase, hold,  
19 sell, or voluntarily retire compliance instruments.

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

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

23 (38) "Imported electricity" means electricity generated outside  
24 the state of Washington with a final point of delivery within the  
25 state, but which did not originate from any jurisdiction with which  
26 Washington has a linkage agreement.

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

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

32 (c) "Imported electricity" does not include electricity imports  
33 of unspecified electricity that are netted by exports of unspecified  
34 electricity to any jurisdiction not covered by a linked program by  
35 the same entity within the same hour.

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

1 (39) "Leakage" means a reduction in emissions of greenhouse gases  
2 within the state that is offset by a directly attributable increase  
3 in greenhouse gas emissions outside the state and outside the  
4 geography of another jurisdiction with a linkage agreement.

5 (40) "Limits" means the greenhouse gas emissions reductions  
6 required by RCW 70A.45.020.

7 (41) "Linkage" means a bilateral or multilateral decision between  
8 greenhouse gas market programs to accept compliance instruments  
9 issued by a participating jurisdiction to meet the obligations of  
10 regulated entities in a partner jurisdiction and to otherwise  
11 coordinate activities to facilitate operation of a joint market.

12 (42) "Linkage agreement" means a nonbinding agreement that  
13 connects two or more greenhouse gas market programs and articulates a  
14 mutual understanding of how jurisdictions will work together to  
15 facilitate a connected greenhouse gas market.

16 (43) "Multijurisdictional electric company" means an investor-  
17 owned utility that provides electricity to customers in Washington  
18 and in one or more other states in a contiguous service territory or  
19 from a common power system.

20 (44) "NERC e-tag" means North American electric reliability  
21 corporation (NERC) energy tag representing transactions on the North  
22 American bulk electricity market scheduled to flow between or across  
23 balancing authority areas.

24 (45) "Offset credit" means a tradable compliance instrument that  
25 represents an emissions reduction or emissions removal of one metric  
26 ton of carbon dioxide equivalent.

27 (46) "Offset project" means a project that reduces or removes  
28 greenhouse gases that are not covered emissions under this chapter.

29 (47) "Offset protocols" means a set of procedures and standards  
30 to quantify greenhouse gas reductions or greenhouse gas removals  
31 achieved by an offset project.

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

36 (49) "Person" has the same meaning as defined in RCW  
37 70A.15.2200(5)(h)(iii).

38 (50) "Point of delivery" means a point on the electricity  
39 transmission or distribution system physically located in Washington  
40 where a power supplier delivers electricity. This point may be an

1 interconnection with another system or a substation where the  
2 transmission provider's transmission and distribution systems are  
3 connected to another system, or a distribution substation where  
4 electricity is imported into the state over a multijurisdictional  
5 retail provider's distribution system.

6 (51) "Program" means the greenhouse gas emissions cap and invest  
7 program created by and implemented pursuant to this chapter.

8 (52) "Program registry" means the data system in which covered  
9 parties, opt-in entities, and general market participants are  
10 registered and in which compliance instruments are recorded and  
11 tracked.

12 (53) "Registered entity" means a covered entity, opt-in entity,  
13 or general market participant that has completed the process for  
14 registration in the program registry.

15 (54) "Resilience" is the ability to prepare, mitigate and plan  
16 for, withstand, recover from, and more successfully adapt to adverse  
17 events and changing conditions, and reorganize in an equitable manner  
18 that results in a new and better condition.

19 (55) "Retire" means to permanently remove a compliance instrument  
20 such that the compliance instrument may never be sold, traded, or  
21 otherwise used again.

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

24 (57) "Transfer" means to transfer an allowance or compliance  
25 instrument to the department, either to meet a compliance obligation  
26 or on a voluntary basis.

27 (58)(a) "Vulnerable populations" means population groups that may  
28 be more likely to have adverse health outcomes in response to  
29 environmental harms, due to: (i) Adverse socioeconomic factors, such  
30 as unemployment, high housing and transportation costs relative to  
31 income, limited access to nutritious food and adequate health care,  
32 linguistic isolation, and other factors that negatively affect health  
33 outcomes and increase vulnerability to the effects of environmental  
34 harms; and (ii) sensitivity factors, such as low birth weight and  
35 higher rates of hospitalization.

36 (b) "Vulnerable populations" includes, but is not limited to,  
37 racial or ethnic minority, low-income populations, populations  
38 disproportionately impacted by environmental harms or pollution, and  
39 populations of workers experiencing environmental risks.

1        NEW SECTION.        **Sec. 3.**        ENVIRONMENTAL JUSTICE REVIEW. (1) To

2 ensure that the program created in sections 7 through 21 of this act  
3 achieves reductions in greenhouse gas emissions and other criteria  
4 pollutants in overburdened communities highly impacted by air  
5 pollution, the department must:

6        (a) Utilize the department of health's environmental health  
7 disparities map and complementary data to identify a high priority  
8 list of overburdened communities where the highest emissions or  
9 concentrations of greenhouse gas emissions and criteria pollutants  
10 are occurring;

11        (b) Deploy an air monitoring network in high priority  
12 overburdened communities to collect sufficient air quality data for  
13 the 2025 review and subsequent reviews of greenhouse gas and criteria  
14 pollutant reductions conducted under subsection (2) of this section;  
15 and

16        (c) Within the identified communities, analyze and determine  
17 which covered entities and other sources are the greatest  
18 contributors of emissions and criteria pollutants and develop a high  
19 priority list of significant emitters.

20        (2)(a) Beginning in 2025, and every two years thereafter, the  
21 department must conduct a review to determine if greenhouse gases and  
22 criteria pollutants are being reduced in the overburdened communities  
23 identified under subsection (1) of this section.

24        (b) If this review finds that greenhouse gases and criteria  
25 pollutants are not being reduced in any identified overburdened  
26 community, then the department, in consultation with local air  
27 pollution control authorities, must establish air quality targets to  
28 achieve air quality consistent with neighboring communities that are  
29 not identified as overburdened; identify the covered entities and  
30 other sources that are the contributors of those emissions that are  
31 either increasing or not decreasing; and achieve the reduction  
32 targets as expeditiously as possible through adoption of emission  
33 control strategies or other methods and:

34        (i) Adopt, along with local air pollution control authorities,  
35 stricter air quality standards, emission standards, or emissions  
36 limitations;

37        (ii) Reduce offset limits as established in section 17 of this  
38 act for any covered entity identified under this subsection (2)(b);  
39 or

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

4 (3)(a) In developing the lists and air monitoring network under  
5 subsection (1) of this section, the department must create and adopt  
6 a community engagement plan to describe how it will engage with  
7 overburdened communities and vulnerable populations in:

8 (i) Identifying high priority communities and emitters in those  
9 communities; and

10 (ii) Monitoring and evaluating greenhouse gases and criteria  
11 pollutant emissions in those areas.

12 (b) The community engagement plan must include methods for  
13 outreach and communication with those who face barriers, language or  
14 otherwise, to participation.

15 NEW SECTION. **Sec. 4.** ENVIRONMENTAL JUSTICE ASSESSMENT. (1) When  
16 allocating funds from the climate investment account created in  
17 section 23 of this act or administering grants or programs funded by  
18 the account, agencies shall conduct an environmental justice  
19 assessment and establish a minimum of not less than 35 percent and a  
20 goal of 40 percent of total investments that provide direct and  
21 meaningful benefits to vulnerable populations within the boundaries  
22 of overburdened communities identified in section 3 of this act  
23 through: (a) The direct reduction of environmental burdens in  
24 overburdened communities; (b) the reduction of disproportionate,  
25 cumulative risk from environmental burdens, including climate change;  
26 (c) the support of community led project development, planning, and  
27 participation costs; or (d) meeting a community need identified by  
28 vulnerable members of the community that is consistent with the  
29 intent of this chapter.

30 (2) The environmental justice assessment must adhere to the  
31 following principles: (a) Benefits and programs should be directed to  
32 areas and targeted to vulnerable populations and overburdened  
33 communities to reduce statewide disparities; (b) investments and  
34 benefits should be made proportional to the health disparities that a  
35 specific community experiences to eliminate the disparities; (c)  
36 investments and programs should focus on creating environmental  
37 benefits, including eliminating health burdens, creating community  
38 and population resilience, and raising the quality of life of those  
39 in the community; and (d) efforts should be made to balance

1 investments and benefits across the state and within counties, local  
2 jurisdictions, and unincorporated areas as appropriate to reduce  
3 disparities by location and to ensure efforts contribute to a  
4 reduction in disparities that exist based on race or ethnicity,  
5 socioeconomic status, or other factors.

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

8 (a) Report annually to the environmental justice and equity  
9 advisory panel in section 5 of this act and the office of equity  
10 regarding progress toward meeting environmental justice and  
11 environmental health goals; and

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

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

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

21 NEW SECTION. **Sec. 5.** ENVIRONMENTAL JUSTICE AND EQUITY ADVISORY  
22 PANEL. (1) The office of equity shall establish an environmental  
23 justice and equity advisory panel to provide recommendations to the  
24 legislature, agencies, and the governor in the development and  
25 implementation of the program established in sections 7 through 21 of  
26 this act, and the programs funded from the climate investment account  
27 created in section 23 of this act.

28 (2) The office of equity must convene the environmental justice  
29 and equity advisory panel by January 1, 2023. The office of equity  
30 may seek nominations or recommendations from organizations across the  
31 state representing the interests specified in this section. Members  
32 of the panel must be selected for geographic and organizational  
33 diversity and must include the following:

34 (a) Individuals representing the interests of vulnerable  
35 populations residing in overburdened communities in different  
36 geographic areas of the state with expertise in environmental justice  
37 and equity issues;

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

4 (c) At least two members representing federally recognized  
5 tribes, with at least one from eastern Washington and one from  
6 western Washington; and

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

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

9 (a) Provide recommendations to the legislature, agencies, and the  
10 governor in the development of:

11 (i) The program established in sections 7 through 21 of this act  
12 including, but not limited to, linkage agreements with other  
13 jurisdictions, protocols for establishing offset projects and  
14 securing offset credits, designation of emissions-intensive and  
15 trade-exposed industries, and administration of allowances under the  
16 program; and

17 (ii) Investment plans and funding proposals for the programs  
18 funded from the climate investment account for the purpose of  
19 providing environmental benefits and reducing environmental health  
20 disparities within overburdened communities identified under section  
21 3 of this act;

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

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

27 (d) Recommend copollutant emissions reduction goals in  
28 overburdened communities;

29 (e) Evaluate the level of funding provided to assist vulnerable  
30 populations, low-income individuals, and impacted workers and the  
31 funding of projects and activities located within or benefiting  
32 overburdened communities;

33 (f) Recommend environmental justice and environmental health  
34 goals for programs, activities, and projects funded from the climate  
35 investment account, and review agency annual reports on outcomes and  
36 progress toward meeting goals;

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

1 (h) Recommend how to support public participation through  
2 capacity grants for participation.

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

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

15 (6) The office of equity shall provide all administrative and  
16 staff support for the environmental justice and equity advisory  
17 panel.

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

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

29 NEW SECTION. **Sec. 6.** TRIBAL CONSULTATION. (1) Before allocating  
30 funding or administering grant programs appropriated from the climate  
31 investment account, agencies must engage in consultation with  
32 federally recognized tribes on all funding decisions and programs  
33 that may impact, infringe upon, or impair the governmental efforts of  
34 federally recognized tribes to adopt or enforce their own standards  
35 governing or protecting the tribe's resources or other rights and  
36 interests in their tribal lands and lands within which a tribe or  
37 tribes possess rights reserved by treaty. The consultation shall  
38 occur pursuant to chapter 43.376 RCW and is independent of any public  
39 participation process required by state law, or by a state agency,

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

6 (2) If any funding decision or program that impacts lands within  
7 which a tribe or tribes possess rights reserved by federal treaty,  
8 statute, or executive order is undertaken or funded under this act  
9 without such consultation with a federally recognized tribe, an  
10 affected tribe may request that all further action on the decision or  
11 program cease until meaningful consultation with any directly  
12 impacted federally recognized tribe is completed.

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

19 (2) The program must consist of:

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

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

26 (c) Distribution of emission allowances, as provided in section  
27 11 of this act, and through the allowance price containment  
28 provisions under sections 15 and 16 of this act;

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

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

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

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

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

4 (i) Providing monitoring and oversight of the sale and transfer  
5 of allowances; and

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

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

21 NEW SECTION. **Sec. 8.** PROGRAM BUDGET AND TIMELINES. (1)(a) The  
22 department shall commence the program by January 1, 2023, by  
23 determining an emissions baseline establishing the proportionate  
24 share that the total greenhouse gas emissions of covered entities for  
25 the first compliance period bears to the total anthropogenic  
26 greenhouse gas emissions in the state during 2015 through 2019, based  
27 on data reported to the department under RCW 70A.15.2200 or provided  
28 as required by this chapter. By October 1, 2022, the department shall  
29 adopt a program budget of allowances for the first compliance period  
30 of the program, calendar years 2023 through 2026, to be distributed  
31 from January 1, 2023, through December 31, 2026. If the first  
32 compliance period is delayed pursuant to section 19(7) of this act,  
33 the department shall adjust the program budget to reflect a shorter  
34 first compliance period.

35 (b) By October 1, 2026, the department shall add to its emissions  
36 baseline by incorporating the proportionate share that the total  
37 greenhouse gas emissions of new covered entities in the second  
38 compliance period bear to the total anthropogenic greenhouse gas  
39 emissions in the state during 2023 through 2025. In determining the

1 addition to the baseline, the department may exclude a year from the  
2 determination if the department identifies that year to have been an  
3 outlier due to a state of emergency. The department shall adopt a  
4 program budget of allowances for the second compliance period of the  
5 program, calendar years 2027 through 2030, that will be incorporated  
6 into the program budget of allowances for the first compliance period  
7 of the program to be distributed from January 1, 2027, through  
8 December 31, 2030.

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

12 (2) The program budgets must be set to achieve the share of  
13 reductions by covered entities necessary to achieve the 2030, 2040,  
14 and 2050 statewide emissions limits established in RCW 70A.45.020,  
15 based on data reported to the department under chapter 70A.15 RCW or  
16 provided as required by this chapter. The department must adopt  
17 annual allowance budgets for the program on a calendar year basis  
18 that provide for substantially equivalent reductions on an absolute  
19 basis for each year. An allowance distributed under the program,  
20 either directly by the department under sections 12 through 14 of  
21 this act or through auctions under section 11 of this act, does not  
22 expire and may be held or banked consistent with sections 11(6) and  
23 16(1) of this act.

24 (3) The department must complete an evaluation by December 31,  
25 2028, and by December 31, 2035, of the performance of the program,  
26 including its performance in reducing greenhouse gases and criteria  
27 pollutants in overburdened communities. If the evaluation shows that  
28 adjustments to the annual budgets are necessary to ensure achievement  
29 of 2030 and 2040 emission reduction limits identified in RCW  
30 70A.45.020 and reduce greenhouse gases and criteria pollutants in  
31 overburdened communities, the department shall adjust the annual  
32 budgets accordingly. The department must complete additional  
33 evaluations by December 31, 2040, and by December 31, 2045, of the  
34 performance of the program, and make adjustments in the annual  
35 budgets to ensure achievement of 2050 emission reduction limits  
36 identified in RCW 70A.45.020. Nothing in this subsection precludes  
37 the department from making additional adjustments as necessary to  
38 ensure successful achievement of emission reduction limits. If any  
39 evaluation finds that greenhouse gases and criteria pollutants are  
40 not being reduced in overburdened communities, the department must

1 also prioritize the adoption of air quality standards, emission  
2 standards, or emissions limitations on covered entities located in  
3 those areas.

4 (4) Data reported to the department under RCW 70A.15.2200 or  
5 provided as required by this chapter for 2015 through 2019 is deemed  
6 sufficient for the purpose of adopting annual program budgets and  
7 demonstrating compliance under the first compliance period of the  
8 program. Data reported to the department under RCW 70A.15.2200 or  
9 provided as required by this chapter for 2023 through 2025 is deemed  
10 sufficient for adopting annual program budgets and demonstrating  
11 compliance under the second compliance period of the program.

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

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

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

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

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

35 (ii) Where the person who is not a natural gas company and has a  
36 tariff with a natural gas company to deliver to an end-use customer  
37 in the state in amounts that would result in exceeding 25,000 metric  
38 tons of carbon dioxide equivalent if fully combusted or oxidized,  
39 excluding the amounts: (A) Supplied to covered entities under (a)

1 through (c) of this subsection or subsection (2)(a) of this section;  
2 and (B) the amounts delivered to opt-in entities;

3 (iii) Where the person is an end-use customer in the state who  
4 directly purchases natural gas from a person that is not a natural  
5 gas company and has the natural gas delivered through an interstate  
6 pipeline to a distribution system owned by the purchaser in amounts  
7 that would result in exceeding 25,000 metric tons of carbon dioxide  
8 equivalent if fully combusted or oxidized, excluding the amounts: (A)  
9 Supplied to covered entities under (a) through (c) of this subsection  
10 or subsection (2)(a) of this section; and (B) delivered to opt-in  
11 entities.

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

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

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

35 (3) A person is a covered entity beginning January 1, 2031, and  
36 all subsequent compliance periods if the person reported emissions  
37 under RCW 70A.15.2200 or provided emissions data as required by this  
38 chapter for any calendar year from 2027 through 2029, where the  
39 person operates a landfill utilized by a county and city solid waste

1 management program and the facility's emissions equal or exceed  
2 25,000 metric tons of carbon dioxide equivalent.

3 (4) When a covered entity reports, during a compliance period,  
4 emissions from a facility under RCW 70A.15.2200 that are below the  
5 thresholds specified in subsection (1) or (2) of this section, the  
6 covered entity continues to have a compliance obligation through the  
7 current compliance period. When a covered entity reports emissions  
8 below the threshold during an entire compliance period, or has ceased  
9 all processes at the facility requiring reporting under RCW  
10 70A.15.2200, the entity is no longer a covered entity unless the  
11 department provides notice at least 12 months before the end of the  
12 compliance period that the facility's emissions were within 10  
13 percent of the threshold and that the person will continue to be  
14 designated as a covered entity in order to ensure equity among all  
15 covered entities.

16 (5) For types of emission sources described in subsection (1) of  
17 this section that begin or modify operation after January 1, 2023,  
18 and types of emission sources described in subsection (2) of this  
19 section that begin or modify operation after 2027, coverage under the  
20 program starts in the calendar year in which emissions from the  
21 source exceed the applicable thresholds in subsection (1) or (2) of  
22 this section, or upon formal notice from the department that the  
23 source is expected to exceed the applicable emissions threshold,  
24 whichever happens first. Sources meeting these conditions are  
25 required to transfer their first allowances on the first transfer  
26 deadline of the year following the year in which their emissions were  
27 equal to or exceeded the emissions threshold.

28 (6) For emission sources described in subsection (1) of this  
29 section that are in operation or otherwise active between 2015 and  
30 2019 but were not required to report emissions for those years under  
31 RCW 70A.15.2200 as written for the reporting periods between 2015 and  
32 2019, coverage under the program starts in the calendar year  
33 following the year in which emissions from the source exceed the  
34 applicable thresholds in subsection (1) of this section as reported  
35 pursuant to RCW 70A.15.2200 or provided as required by this chapter,  
36 or upon formal notice from the department that the source is expected  
37 to exceed the applicable emissions threshold for the first year that  
38 source is required to report emissions, whichever happens first.  
39 Sources meeting these conditions are required to transfer their first  
40 allowances on the first transfer deadline of the year following the

1 year in which their emissions, as reported under RCW 70A.15.2200 or  
2 provided as required by this chapter, were equal to or exceeded the  
3 emissions threshold.

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

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

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

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

13 (d) Carbon dioxide emissions from the combustion of biomass or  
14 biofuels; and

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

17 (8) The department shall not require multiple covered entities to  
18 have a compliance obligation for the same emissions. The department  
19 may by rule authorize refineries, fuel suppliers, facilities using  
20 natural gas, and natural gas local distribution companies to provide  
21 by agreement for the assumption of the compliance obligation for fuel  
22 or natural gas supplied and combusted in the state. The department  
23 must be notified of such an agreement at least 12 months prior to the  
24 compliance obligation period for which the agreement is applicable

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

28 (2) Entities registering to participate in the program must  
29 describe any direct or indirect affiliation with other registered  
30 entities.

31 (3) A person responsible for greenhouse gas emissions that is not  
32 a covered entity may voluntarily participate in the program by  
33 registering as an opt-in entity. An opt-in entity must satisfy the  
34 same registration requirements as covered entities. Once registered,  
35 an opt-in entity is allowed to participate as a covered entity in  
36 auctions and must assume the same compliance obligation to transfer  
37 compliance instruments equal to their emissions at the appointed  
38 transfer dates. An opt-in entity may opt out of the program at the  
39 end of any compliance period by providing written notice to the

1 department at least six months prior to the end of the compliance  
2 period. The opt-in entity continues to have a compliance obligation  
3 through the current compliance period. An opt-in entity is not  
4 eligible to receive allowances directly distributed under section 12,  
5 13, or 14 of this act.

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

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

13 (6) The department shall use a secure, online electronic tracking  
14 system to: Register entities in the state program; issue compliance  
15 instruments; track ownership of compliance instruments; enable and  
16 record compliance instrument transfers; facilitate program  
17 compliance; and support market oversight.

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

20 (a) A compliance account where the compliance instruments are  
21 transferred to the department for retirement. Compliance instruments  
22 in compliance accounts may not be sold, traded, or otherwise provided  
23 to another account or person, except as provide for in section 11 of  
24 this act.

25 (b) A holding account that is used when a registered entity is  
26 interested in trading allowances. Allowances in holding accounts may  
27 be bought, sold, transferred to another registered entity, or traded.  
28 The amount of allowances a registered entity may have in its holding  
29 account is constrained by the holding limit as determined by the  
30 department by rule.

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

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

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

1 (2) The department shall hold a maximum of four auctions  
2 annually, plus any necessary reserve auctions. An auction may include  
3 allowances from the annual allowance budget of the current year and  
4 allowances from the annual allowance budgets from prior years that  
5 remain to be distributed. The department must make future vintage  
6 allowances available through parallel auctions at least twice  
7 annually in addition to the auctions through which current vintage  
8 allowances are exclusively offered.

9 (3) The department shall engage a qualified, independent  
10 contractor to run the auctions. The department shall also engage a  
11 qualified financial services administrator to hold the bid  
12 guarantees, evaluate bid guarantees, and inform the department of the  
13 value of bid guarantees once the bids are accepted.

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

18 (a) Registered entities intending to participate in an auction  
19 must submit an application to participate at least 30 days prior to  
20 the auction. The application must include the documentation required  
21 for review and approval by the department. A registered entity is  
22 eligible to participate only after receiving a notice of approval by  
23 the department.

24 (b) Each registered entity that elects to participate in the  
25 auction must have a different representative. Only a representative  
26 with an approved auction account is authorized to access the auction  
27 platform to submit an application or confirm the intent to bid for  
28 the registered entity, submit bids on behalf of the registered entity  
29 during the bidding window, or to download reports specific to the  
30 auction.

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

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

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

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

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

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

11 (7)(a) For fiscal year 2023, upon completion and verification of  
12 the auction results, the financial services administrator shall  
13 notify winning bidders and transfer the auction proceeds to the state  
14 treasurer for deposit as follows: (i) \$127,341,000 must first be  
15 deposited into the forward flexible account created in (g) of this  
16 subsection; and (ii) the remaining auction proceeds to the climate  
17 investment account created in section 23 of this act.

18 (b) For fiscal year 2024, upon completion and verification of the  
19 auction results, the financial services administrator shall notify  
20 winning bidders and transfer the auction proceeds to the state  
21 treasurer for deposit as follows: (i) \$356,697,000 must first be  
22 deposited into the forward flexible account created in (g) of this  
23 subsection; and (ii) the remaining auction proceeds to the climate  
24 investment account created in section 23 of this act.

25 (c) For fiscal year 2025, upon completion and verification of the  
26 auction results, the financial services administrator shall notify  
27 winning bidders and transfer the auction proceeds to the state  
28 treasurer for deposit as follows: (i) \$366,558,000 must first be  
29 deposited into the forward flexible account created in (g) of this  
30 subsection; and (ii) the remaining auction proceeds to the climate  
31 investment account created in section 23 of this act.

32 (d) For fiscal years 2026 through 2037, upon completion and  
33 verification of the auction results, the financial services  
34 administrator shall notify winning bidders and transfer the auction  
35 proceeds to the state treasurer for deposit as follows: (i)  
36 \$359,117,000 per year must first be deposited into the forward  
37 flexible account created in (g) of this subsection; and (ii) the  
38 remaining auction proceeds to the climate investment account created  
39 in section 23 of this act.

1 (e) The deposits into the forward flexible account pursuant to  
2 (a) through (d) of this subsection must not exceed \$5,200,000,000  
3 over the first 16 years and any remaining auction proceeds must be  
4 deposited into the climate investment account created in section 23  
5 of this act.

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

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

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

32 (a) Provided false or misleading facts;

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

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

36 (d) Violated registration requirements; or

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

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

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

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

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

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

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

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

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

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

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

1 (g) Computer and electronic product manufacturing, including  
2 semiconductor and related device manufacturing, North American  
3 industry classification system codes beginning with 334;

4 (h) Food manufacturing, North American industry classification  
5 system codes beginning with 311;

6 (i) Cement manufacturing, North American industry classification  
7 system code 327310; and

8 (j) Petroleum refining, North American industry classification  
9 system codes beginning with 324110.

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

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

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

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

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

20 (3)(a) By January 1, 2024, the department must adopt by rule  
21 objective criteria for both emissions' intensity and trade exposure  
22 for the purpose of identifying emissions-intensive, trade-exposed  
23 manufacturing businesses during the second compliance period of the  
24 program and subsequent compliance periods. The criteria must be  
25 developed using numeric, quantitative, objective measurements and the  
26 department is encouraged to use criteria from other established  
27 national and global entities that are already engaged in carbon cap  
28 programs to harmonize definitions. A manufacturing business that can  
29 demonstrate to the department that it meets this criteria, whether or  
30 not it is listed in subsection (1)(a) through (i) of this section, is  
31 eligible for treatment as an emissions-intensive, trade-exposed  
32 industry and is eligible for free allocation of allowances as  
33 described in this section, and by the department by rule.

34 (b) By July 1, 2024, the department must adopt rules for  
35 allocating allowances that must be transferred by those covered  
36 entities that the department determines are engaged in emissions-  
37 intensive, trade-exposed processes during the second compliance  
38 period of the program. The rules must establish a schedule for the  
39 second compliance period of the program that provides for a declining  
40 portion of the allocation to such covered entities that must be

1 provided at no cost. By December 31, 2029, the department must adopt  
2 rules following the same process and requirements for 2031 through  
3 2040. Both sets of rules may be amended to align with adjustments  
4 made under section 8 of this act.

5 (4) Rules adopted under this section may utilize a combined  
6 output-based and emissions intensity-based assessment benchmarking  
7 methodology for determining the allocation of allowances to  
8 emissions-intensive, trade-exposed industries. A covered entity or  
9 process with a lower emissions intensity benchmark may receive a  
10 larger allocation than other covered entities engaged in the same  
11 industry with higher emissions intensities. The rules must provide a  
12 means for attributing a covered entity's emissions to the manufacture  
13 of goods and requirements for providing pertinent records to verify  
14 the output data used to calculate the emissions intensity benchmark.

15 (5) The annual allocation of allowances for direct distribution  
16 to an entity identified as emissions-intensive and trade-exposed in  
17 the second compliance period of the program must be equal to the sum  
18 of the annual goods-specific emissions calculation for the goods  
19 manufactured by the covered entity, multiplied by a percentage that  
20 is adjusted annually, as set forth in a schedule adopted by the  
21 department by rule. The schedule must result in an amount of annual  
22 allowances that a covered entity may receive under this section and  
23 from the allowance price containment reserve that declines annually  
24 by a constant amount proportionate to the decline in the amount of  
25 allowances available in annual allowance budgets pursuant to section  
26 8 of this act.

27 (6) The department shall by rule provide for covered entities to  
28 apply to the department for an adjustment to the allocation for  
29 direct distribution of allowances. The department may grant the  
30 adjustment based on either:

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

36 (b) Significant changes to a covered entity's external  
37 competitive environment that result in a significant increase in  
38 leakage risk.

39 (7) The department must withhold or withdraw the relevant share  
40 of allowances allocated to a covered entity under this section in the

1 event that the covered entity curtails production in the state. Any  
2 allowances withheld or withdrawn under this subsection must be  
3 permanently retired.

4 NEW SECTION. **Sec. 13.** ALLOCATION OF ALLOWANCES TO ELECTRIC  
5 UTILITIES. (1) The legislature intends by this section to allow all  
6 consumer-owned electric utilities and investor-owned electric  
7 utilities subject to the requirements of chapter 19.405 RCW, the  
8 Washington clean energy transformation act, to be eligible for  
9 allowance allocation as provided in this section in order to mitigate  
10 the cost burden of the program on electricity customers.

11 (2)(a) By October 1, 2022, the department shall adopt rules, in  
12 consultation with the department of commerce and the utilities and  
13 transportation commission, establishing the methods and procedures  
14 for allocating allowances for consumer-owned and investor-owned  
15 electric utilities. The rules must take into account the cost burden  
16 of the program on electricity customers.

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

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

38 (d) By October 1, 2028, the department shall adopt an allocation  
39 schedule by rule, in consultation with the department of commerce and

1 the utilities and transportation commission, for the provision of  
2 allowances at no cost to consumer-owned and investor-owned electric  
3 utilities for the compliance periods contained within calendar years  
4 2031 through 2040. This allocation must be consistent with a  
5 forecast, that is approved by the appropriate governing board or the  
6 utilities and transportation commission, of each utility's supply and  
7 demand, and the cost burden resulting from the inclusion of the  
8 covered entities in the compliance periods.

9 (3) (a) During the first compliance period, allowances allocated  
10 at no cost to consumer-owned and investor-owned electric utilities  
11 may be consigned to auction for the benefit of ratepayers, deposited  
12 for compliance, or a combination of both. The rules adopted by the  
13 department under subsection (2) of this section must include  
14 provisions for directing revenues generated under this subsection to  
15 the applicable utilities.

16 (b) By October 1, 2026, the department, in consultation with the  
17 department of commerce and the utilities and transportation  
18 commission, must adopt rules governing the amount of allowances  
19 allocated at no cost under subsection (2)(c) of this section that  
20 must be consigned to auction.

21 (4) The benefits of all allowances consigned to auction under  
22 this section must be used by consumer-owned and investor-owned  
23 electric utilities for the benefit of ratepayers, with the first  
24 priority the mitigation of any rate impacts to low-income customers.

25 (5) If an entity is identified by the department as an emissions-  
26 intensive, trade-exposed industry under section 12 of this act,  
27 unless allowances have been otherwise allocated for electricity-  
28 related emissions to the entity under section 12 of this act or to a  
29 consumer-owned utility under this section, the department shall  
30 allocate allowances at no cost to the electric utility or power  
31 marketing administration that is providing electricity to the entity  
32 in an amount equal to the forecasted emissions for electricity  
33 consumption for the entity for the compliance period.

34 (6) The department shall allow for allowances to be transferred  
35 between a power marketing administration and electric utilities and  
36 used for direct compliance.

37 (7) Rules establishing the allocation of allowances to consumer-  
38 owned utilities and investor-owned utilities must consider the impact  
39 of electrification of buildings, transportation, and industry on the  
40 electricity sector.

1 (8) Nothing in this section affects the requirements of chapter  
2 19.405 RCW.

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

7 (a) By October 1, 2022, the department shall adopt rules, in  
8 consultation with the utilities and transportation commission,  
9 establishing the methods and procedures for allocating allowances to  
10 natural gas utilities. Rules adopted under this subsection must allow  
11 for a natural gas utility to be provided allowances at no cost to  
12 cover their emissions and decline proportionally with the cap,  
13 consistent with section 8 of this act. Allowances allocated at no  
14 cost to natural gas utilities must be consigned to auction for the  
15 benefit of ratepayers consistent with subsection (2) of this section,  
16 deposited for compliance, or a combination of both. The rules adopted  
17 by the department pursuant to this section must include provisions  
18 directing revenues generated under this subsection to the applicable  
19 utilities.

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

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

30 (2)(a) Beginning in 2023, 65 percent of the no cost allowances  
31 must be consigned to auction for the benefit of customers, including  
32 at a minimum eliminating any additional cost burden to low-income  
33 customers, from the implementation of this chapter. Rules adopted  
34 under this subsection must increase the percentage of allowances  
35 consigned to auction by five percent each year until a total of 100  
36 percent is reached.

37 (b) Revenues from allowances sold at auction must be returned by  
38 providing nonvolumetric credits on ratepayer utility bills,  
39 prioritizing low-income customers, or used to minimize cost impacts

1 on low-income, residential, and small business customers through  
2 actions that include, but are not limited to, weatherization,  
3 decarbonization, conservation and efficiency services, and bill  
4 assistance. The customer benefits provided from allowances consigned  
5 to auction under this section must be in addition to existing  
6 requirements in statute, rule, or other legal requirements.

7 (c) Except for low-income customers, the credits under this  
8 subsection are reserved exclusively for customers at locations  
9 connected to a natural gas utility's system on the effective date of  
10 this section. Credits may not be provided to customers of the gas  
11 utility at a location connected to the system after the effective  
12 date of this section.

13 (3) In order to qualify for no cost allowances, covered entities  
14 that are natural gas utilities must provide copies of their  
15 greenhouse gas emissions reports filed with the United States  
16 environmental protection agency under 40 C.F.R. Part 98 subpart NN -  
17 suppliers of natural gas and natural gas liquids for calendar years  
18 2015 through 2021 to the department on or before March 31, 2022. The  
19 copies of the reports must be provided in electronic form to the  
20 department, in a manner prescribed by the department. The reports  
21 must be complete and contain all information required by 40 C.F.R.  
22 Sec. 98.406 including, but not limited to, information on large end-  
23 users served by the natural gas utility. For any year where a natural  
24 gas utility was not required to file this report with the United  
25 States environmental protection agency, a report may be submitted in  
26 a manner prescribed by the department containing all of the  
27 information required in the subpart NN report.

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

33 NEW SECTION. **Sec. 15.** EMISSIONS CONTAINMENT RESERVE  
34 WITHHOLDING. (1) To help ensure that the price of allowances remains  
35 sufficient to incentivize reductions in greenhouse gas emissions, the  
36 department must establish an emissions containment reserve and set an  
37 emissions containment reserve trigger price by rule. The price must  
38 be set at a reasonable amount above the auction floor price. The  
39 purpose of withholding allowances in the emissions containment

1 reserve is to secure additional emissions reductions consistent with  
2 the greenhouse gas emissions limits in RCW 70A.45.020 in the event  
3 auction prices fall below the emissions containment reserve trigger  
4 price.

5 (2) In the event that the emissions containment reserve trigger  
6 price is met during an auction, the department must automatically  
7 withhold allowances as needed. The department must convert and  
8 transfer any allowances that have been withheld from auction into the  
9 emissions containment reserve account.

10 (3) Emissions containment reserve allowances may only be withheld  
11 from an auction if the demand for allowances would result in an  
12 auction clearing price that is less than the emissions containment  
13 reserve trigger price prior to the withholding from the auction of  
14 any emissions containment reserve allowances.

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

20 NEW SECTION. **Sec. 16.** ALLOWANCE PRICE CONTAINMENT. (1) To help  
21 minimize allowance price volatility in the auction, the department  
22 shall adopt by rule an auction floor price and a schedule for the  
23 floor price to increase by a predetermined amount every year. The  
24 department may not sell allowances at bids lower than the auction  
25 floor price. The department's rules must specify holding limits that  
26 determine the maximum number of allowances that may be held for use  
27 or trade by a registered entity at any one time. The department shall  
28 also establish an auction ceiling price to limit extraordinary prices  
29 and to determine when to offer allowances through the allowance price  
30 containment reserve auctions authorized under this section.

31 (2) For calendar years 2023 through 2026, the department must  
32 place no less than four percent of the total number of allowances  
33 available from the allowance budgets for those years in an allowance  
34 price containment reserve. The reserve must be designed as a  
35 mechanism to assist in containing compliance costs for covered and  
36 opt-in entities in the event of unanticipated high costs for  
37 compliance instruments.

38 (3) The department shall adopt rules for holding auctions of  
39 allowances from the price containment reserve when the settlement

1 prices in the preceding auction approach the adopted auction ceiling  
2 price. The auction must be separate from auctions of other  
3 allowances.

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

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

9 (6) The department shall by rule:

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

13 (b) Establish the requirements and schedule for the allowance  
14 price containment reserve auctions; and

15 (c) Establish the amount of allowances to be placed in the  
16 allowance price containment reserve after the first compliance period  
17 ending in 2026.

18 NEW SECTION. **Sec. 17.** OFFSETS. (1) The department shall adopt  
19 by rule the protocols for establishing offset projects and securing  
20 offset credits that may be used to meet a portion of a covered or  
21 opt-in entity's compliance obligation under section 19 of this act.  
22 The protocols adopted by the department under this section must align  
23 with the policies of the state established under RCW 70A.45.090 and  
24 70A.45.100.

25 (2) Offset projects must:

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

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

30 (i) Are real, permanent, quantifiable, verifiable, and  
31 enforceable; and

32 (ii) Are in addition to greenhouse gas emission reductions or  
33 removals otherwise required by law and other greenhouse gas emission  
34 reductions or removals that would otherwise occur; and

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

38 (3) (a) A total of no more than five percent of a covered or opt-  
39 in entity's compliance obligation during the first compliance period

1 may be met by transferring offset credits. During these years, at  
2 least 50 percent of a covered or opt-in entity's compliance  
3 obligation satisfied by offset credits must be sourced from offset  
4 projects that provide direct environmental benefits in the state.

5 (b) A total of no more than four percent of a covered or opt-in  
6 entity's compliance obligation during the second compliance period  
7 may be met by transferring offset credits. During these years, at  
8 least 75 percent of a covered or opt-in entity's compliance  
9 obligation satisfied by offset credits must be sourced from offset  
10 projects that provide direct environmental benefits in the state. The  
11 department may reduce the 75 percent requirement if it determines  
12 there is not sufficient offset supply in the state to meet offset  
13 demand during the second compliance period.

14 (c) The limits in (a) and (b) of this subsection may be modified  
15 by rule as adopted by the department when appropriate to ensure  
16 achievement of the statewide emissions limits established in RCW  
17 70A.45.020 and to provide for alignment with other jurisdictions to  
18 which the state has entered or proposes to enter a linkage agreement.

19 (d) The limits in (a) and (b) of this subsection may be reduced  
20 for a specific covered or opt-in entity if the department determines  
21 that the covered or opt-in entity has or is likely to:

22 (i) Contribute substantively to cumulative air pollution burden  
23 in an overburdened community as determined by criteria established by  
24 the department; or

25 (ii) Violate any permits required by any federal, state, or local  
26 air pollution control agency where the violation may result in an  
27 increase in emissions.

28 (e) An offset project on federally recognized tribal land does  
29 not count against the offset credit limits described in (a) and (b)  
30 of this subsection. No more than three percent of a covered or opt-in  
31 entity's compliance obligation may be met by transferring offset  
32 credits from projects on federally recognized tribal land during the  
33 first compliance period. No more than two percent of a covered or  
34 opt-in entity's compliance obligation may be met by transferring  
35 offset credits from projects on federally recognized tribal land  
36 during the second compliance period.

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

39 (a) Take into consideration standards, rules, or protocols for  
40 offset projects and offset credits established by other states,

1 provinces, and countries with programs comparable to the program  
2 established in this chapter;

3 (b) Encourage opportunities for the development of offset  
4 projects in this state by adopting offset protocols that may include,  
5 but need not be limited to, protocols that make use of aggregation or  
6 other mechanisms to reduce transaction costs related to the  
7 development of offset projects and that support the development of  
8 carbon dioxide removal projects;

9 (c) Adopt a process for monitoring and invalidating offset  
10 credits as necessary to ensure the credit reflects emission  
11 reductions or removals that continue to meet the standards required  
12 by subsection (1) of this section. If an offset credit is  
13 invalidated, the covered or opt-in entity must, within six months of  
14 the invalidation, transfer replacement credits or allowances to meet  
15 its compliance obligation. Failure to transfer the required credits  
16 or allowances is a violation subject to penalties as provided in  
17 section 20 of this act.

18 (5) Any offset credits used may not be in addition to or allow  
19 for an increase in the allowance budgets established under section 8  
20 of this act.

21 (6) The offset credit must be registered and tracked as a  
22 compliance instrument.

23 NEW SECTION. **Sec. 18.** ASSISTANCE PROGRAM FOR OFFSETS ON TRIBAL  
24 LANDS. (1) In order to ensure that a sufficient number of high  
25 quality offset projects are available under the limits set in section  
26 17 of this act, the department must establish an assistance program  
27 for offset projects on federally recognized tribal lands in  
28 Washington. The assistance may include, but is not limited to,  
29 funding or consultation for federally recognized tribal governments  
30 to assess a project's technical feasibility, investment requirements,  
31 development and operational costs, expected returns, administrative  
32 and legal hurdles, and project risks and pitfalls. Funding or  
33 assistance may be provided upon request by a federally recognized  
34 tribe.

35 (2) It is the intent of the legislature that not less than  
36 \$5,000,000 be provided in the biennial omnibus operating  
37 appropriations act for the purposes of this section.

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

16        (2) Submission of allowances occurs through the transfer of  
17 compliance instruments, on or before the transfer date, from the  
18 holding account to the compliance account of the covered or opt-in  
19 entity as described in section 9 of this act.

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

23        (4) Allowances must be transferred in the order in which they  
24 were purchased.

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

28        (6) Upon receipt by the department of all compliance instruments  
29 transferred by a covered entity or opt-in entity to meet its  
30 compliance obligation, the department shall retire the allowances or  
31 offset credits.

32        (7) (a) This section does not take effect until a separate  
33 additive transportation funding act becomes law, at which time the  
34 department of licensing must provide written notice to the chief  
35 clerk of the house of representatives, the secretary of the senate,  
36 and the office of the code reviser.

37        (b) For the purposes of this subsection, "additive transportation  
38 funding act" means an act in which the combined total of new state  
39 revenues deposited into the motor vehicle fund and multimodal

1 transportation account exceed \$500,000,000 per biennium attributable  
2 solely to an increase in revenue from the enactment of the act.

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

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

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

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

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

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

37 (7) For the first compliance period, the department may reduce  
38 the amount of the penalty by adjusting the monetary amount or the

1 number of penalty allowances described in subsections (2) and (3) of  
2 this section.

3 NEW SECTION. **Sec. 21.** LINKAGE WITH OTHER JURISDICTIONS. (1)  
4 Subject to making the findings and conducting the public comment  
5 process described in subsection (3) of this section, the department  
6 shall seek to link with other jurisdictions with established external  
7 greenhouse gas emissions trading programs in order to:

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

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

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

14 (d) Enhance market security;

15 (e) Reduce program administration costs; and

16 (f) Provide consistent requirements for covered entities whose  
17 operations span jurisdictional boundaries.

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

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

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

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

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

38 (e) Provisions to ensure coordinated administrative and technical  
39 support;

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

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

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

17 (a) Achieve the purposes identified in subsection (1) of this  
18 section;

19 (b) Ensure that the linking jurisdiction has provisions to ensure  
20 the distribution of benefits from the program to vulnerable  
21 populations and overburdened communities;

22 (c) Be determined by the department to not yield net adverse  
23 impacts to either jurisdictions' highly impacted communities or  
24 analogous communities in the aggregate, relative to the baseline  
25 level of emissions; and

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

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

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

1        NEW SECTION.        **Sec. 23.**        CLIMATE INVESTMENT ACCOUNT. (1) The  
2 climate investment account is created in the state treasury. Except  
3 as otherwise provided in this act, all receipts from the auction of  
4 allowances authorized in this chapter must be deposited into the  
5 account. Projects or activities funded from the account must meet  
6 high labor standards, including family sustaining wages, providing  
7 benefits including health care and pensions, career development  
8 opportunities, and maximize access to economic benefits from such  
9 projects for local workers and diverse businesses. Each contracting  
10 entity's proposal must be reviewed for equity and opportunity  
11 improvement efforts, including: (a) Employer paid sick leave  
12 programs; (b) pay practices in relation to living wage indicators  
13 such as the federal poverty level; (c) efforts to evaluate pay equity  
14 based on gender identity, race, and other protected status under  
15 Washington law; (d) facilitating career development opportunities,  
16 such as apprenticeship programs, internships, job-shadowing, and on-  
17 the-job training; and (e) employment assistance and employment  
18 barriers for justice affected individuals.

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

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

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

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

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

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

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

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

37 (ii) Reductions in dependence on fossil fuels used for  
38 transportation, including public and shared transportation for access  
39 and mobility;

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

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

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

21 (vi) Transportation, municipal service delivery, and technology  
22 investments that increase a community's capacity for clean  
23 manufacturing, with an emphasis on communities in greatest need of  
24 job creation and economic development and potential for commute-  
25 reduction;

26 (g) Emissions reduction projects and programs that yield real,  
27 verifiable reductions in greenhouse gas emissions in excess of  
28 baseline estimates. Projects and programs eligible for funding from  
29 the account must be physically located in Washington state and  
30 include, but are not limited to, the following programs, activities,  
31 or projects that: (i) Deploy renewable energy resources, such as  
32 solar and wind power, and projects to deploy distributed generation,  
33 energy storage, demand-side technologies and strategies, and other  
34 grid modernization projects; (ii) increase the energy efficiency or  
35 reduce greenhouse gas emissions of industrial facilities including,  
36 but not limited to, proposals to implement combined heat and power,  
37 district energy, or on-site renewables, such as solar and wind power,  
38 to upgrade the energy efficiency of existing equipment, to reduce  
39 process emissions, and to switch to less emission intensive fuel  
40 sources; (iii) achieve energy efficiency or emission reductions in

1 the agricultural sector, including fertilizer management, soil  
2 management, bioenergy, and biofuels; (iv) promote low-carbon  
3 architecture, including use of newly emerging alternative building  
4 materials that result in a lower carbon footprint in the built  
5 environment over the life cycle of the building and component  
6 building materials; (v) promote the decarbonization of new and  
7 existing buildings, including residential, commercial, and industrial  
8 buildings; (vi) improve energy efficiency, including district energy,  
9 and investments in market transformation of high-efficiency electric  
10 appliances and equipment for space and water heating; (vii) reduce  
11 emissions from landfills and waste to energy facilities through  
12 diversion of organic materials, methane capture or conversion  
13 strategies, or other means; (viii) retrofit vehicles and vessels for  
14 increased efficiency when electrification options are unavailable;  
15 and (ix) develop carbon dioxide removal projects and technologies.

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

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

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

34 (2) Except as provided in subsection (3) of this section, any  
35 person operating or responsible for the operation of air contaminant  
36 sources of any class for which the ordinances, resolutions, rules or  
37 regulations of the department or board of the authority, require  
38 registration or reporting shall register therewith and make reports  
39 containing information as may be required by such department or board

1 concerning location, size and height of contaminant outlets,  
2 processes employed, nature of the contaminant emission and such other  
3 information as is relevant to air pollution and available or  
4 reasonably capable of being assembled. In the case of emissions of  
5 greenhouse gases as defined in RCW 70A.45.010 the department shall  
6 adopt rules requiring reporting of those emissions. The department or  
7 board may require that such registration or reporting be accompanied  
8 by a fee, and may determine the amount of such fee for such class or  
9 classes: PROVIDED, That the amount of the fee shall only be to  
10 compensate for the costs of administering such registration or  
11 reporting program which shall be defined as initial registration and  
12 annual or other periodic reports from the source owner providing  
13 information directly related to air pollution registration, on-site  
14 inspections necessary to verify compliance with registration  
15 requirements, data storage and retrieval systems necessary for  
16 support of the registration program, emission inventory reports and  
17 emission reduction credits computed from information provided by  
18 sources pursuant to registration program requirements, staff review,  
19 including engineering or other reliable analysis for accuracy and  
20 currentness, of information provided by sources pursuant to  
21 registration program requirements, clerical and other office support  
22 provided in direct furtherance of the registration program, and  
23 administrative support provided in directly carrying out the  
24 registration program: PROVIDED FURTHER, That any such registration  
25 made with either the board or the department shall preclude a further  
26 registration and reporting with any other board or the department,  
27 except that emissions of greenhouse gases as defined in RCW  
28 70A.45.010 must be reported as required under subsection (5) of this  
29 section.

30 All registration program and reporting fees collected by the  
31 department shall be deposited in the air pollution control account.  
32 All registration program fees collected by the local air authorities  
33 shall be deposited in their respective treasuries.

34 (3) If a registration or report has been filed for a grain  
35 warehouse or grain elevator as required under this section,  
36 registration, reporting, or a registration program fee shall not,  
37 after January 1, 1997, again be required under this section for the  
38 warehouse or elevator unless the capacity of the warehouse or  
39 elevator as listed as part of the license issued for the facility has  
40 been increased since the date the registration or reporting was last

1 made. If the capacity of the warehouse or elevator listed as part of  
2 the license is increased, any registration or reporting required for  
3 the warehouse or elevator under this section must be made by the date  
4 the warehouse or elevator receives grain from the first harvest  
5 season that occurs after the increase in its capacity is listed in  
6 the license.

7 This subsection does not apply to a grain warehouse or grain  
8 elevator if the warehouse or elevator handles more than ten million  
9 bushels of grain annually.

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

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

16 (b) A "license" is a license issued by the department of  
17 agriculture licensing a facility as a grain warehouse or grain  
18 elevator under chapter 22.09 RCW or a license issued by the federal  
19 government licensing a facility as a grain warehouse or grain  
20 elevator for purposes similar to those of licensure for the facility  
21 under chapter 22.09 RCW; and

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

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

34 (i) Emissions of greenhouse gases resulting from the combustion  
35 of fossil fuels be reported separately from emissions of greenhouse  
36 gases resulting from the combustion of biomass; and

37 ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each  
38 annual report must include emissions data for the preceding calendar  
39 year and must be submitted to the department by ~~((October))~~ March  
40 31st of the year in which the report is due. ~~((However, starting in~~

1 2011, a person who is required to report greenhouse gas emissions to  
2 the United States environmental protection agency under 40 C.F.R.  
3 Part 98, as adopted on September 22, 2009, must submit the report  
4 required under this section to the department concurrent with the  
5 submission to the United States environmental protection agency.  
6 Except as otherwise provided in this section, the data for emissions  
7 in Washington and any corrections thereto that are reported to the  
8 United States environmental protection agency must be the emissions  
9 data reported to the department; and

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

32 (b) (i) ((Except as otherwise provided in this subsection, the  
33 rules adopted by the department under (a) of this subsection must be  
34 consistent with the regulations adopted by the United States  
35 environmental protection agency in 40 C.F.R. Part 98 on September 22,  
36 2009.

37 (ii)) The department may by rule include additional gases to the  
38 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has  
39 been designated as a greenhouse gas by the United States congress  
40 ((~~or~~)), by the United States environmental protection agency, or

1 included in external greenhouse gas emission trading programs where  
2 Washington has a linkage agreement in effect pursuant to section 21  
3 of this act. Prior to including additional gases to the definition of  
4 "greenhouse gas" in RCW 70A.45.010, the department shall notify the  
5 appropriate committees of the legislature. ~~((Decisions to amend the~~  
6 ~~rule to include additional gases must be made prior to December 1st~~  
7 ~~of any year and the amended rule may not take effect before the end~~  
8 ~~of the regular legislative session in the next year.~~

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

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

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

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

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

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

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

29 (e) The fee provisions in subsection (2) of this section apply to  
30 reporting of emissions of greenhouse gases. Persons required to  
31 report under (a) of this subsection who fail to report or pay the fee  
32 required in subsection (2) of this section are subject to enforcement  
33 penalties under this chapter. The department shall enforce the  
34 reporting rule requirements ~~((unless it approves a local air~~  
35 ~~authority's request to enforce the requirements for persons operating~~  
36 ~~within the authority's jurisdiction. However, neither the department~~  
37 ~~nor a local air authority approved under this section are authorized~~  
38 ~~to assess enforcement penalties on persons required to report under~~  
39 ~~(a) of this subsection until six months after the department adopts~~  
40 ~~its reporting rule in 2010)).~~ When a person that holds a compliance

1 obligation under section 9 of this act fails to submit an emissions  
2 data report or fails to obtain a positive emissions data verification  
3 statement in accordance with (g)(ii) of this subsection, the  
4 department may assign an emissions level for that person.

5 (f) The energy facility site evaluation council shall,  
6 simultaneously with the department, adopt rules that impose  
7 greenhouse gas reporting requirements in site certifications on  
8 owners or operators of a facility permitted by the energy facility  
9 site evaluation council. The greenhouse gas reporting requirements  
10 imposed by the energy facility site evaluation council must be the  
11 same as the greenhouse gas reporting requirements imposed by the  
12 department. The department shall share any information reported to it  
13 from facilities permitted by the energy facility site evaluation  
14 council with the council, including notice of a facility that has  
15 failed to report as required. The energy facility site evaluation  
16 council shall contract with the department to monitor the reporting  
17 requirements adopted under this section.

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

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

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

39 (ii) For the purpose of this subsection (5), the term "supplier"  
40 includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel~~

~~importer, as those terms are defined in RCW 82.36.010; (B) a special fuel supplier or a special fuel importer, as those terms are defined in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms are defined in RCW 82.42.010)~~ Suppliers that produce, import, or deliver, or any combination of producing, importing, or delivering, a quantity of fuel products in Washington that, if completely combusted, oxidized, or used in other processes, would result in the release of greenhouse gases equivalent to or higher than the threshold established under (a) of this subsection; and (B) suppliers of carbon dioxide that produce, import, or deliver a quantity of carbon dioxide in Washington that, if released, would result in emissions equivalent to or higher than the threshold established under (a) of this subsection.

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

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

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

NEW SECTION. Sec. 25. CLIMATE COMMITMENT. (1) The governor shall establish a comprehensive program to implement the state's climate commitment. The purpose of the comprehensive program is to provide accountability and authority for achieving the state's greenhouse gas limits in RCW 70A.45.020, to establish a coordinated

1 and strategic statewide approach to climate resilience, and to build  
2 an equitable and inclusive clean energy economy.

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

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

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

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

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

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

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

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

31 (h) The program must achieve progress in meeting emissions limits  
32 in the most effective and efficient manner possible and must include  
33 periodic measurement and reporting of progress and changes to the  
34 program as needed to meet the limits.

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

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

1 (b) Common state policies, standards, and procedures for  
2 addressing greenhouse gas emissions and climate resilience, including  
3 grant and funding programs, infrastructure investments, and planning  
4 and siting decisions;

5 (c) A process for prioritizing and coordinating funding  
6 consistent with strategic needs for greenhouse gas reductions, equity  
7 and environmental justice, economic prosperity and job creation, and  
8 climate resilience actions;

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

11 (e) A comprehensive community engagement plan that addresses and  
12 mitigates barriers to engagement from vulnerable populations,  
13 overburdened communities, and other historically or currently  
14 marginalized groups; and

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

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

35 NEW SECTION. **Sec. 26.** CLIMATE COMMITMENT TASK FORCE. (1)(a) The  
36 governor's office shall convene a climate commitment task force with  
37 state agencies, other governments, and stakeholders by July 1, 2021.  
38 In making these appointments the governor shall seek diverse  
39 representation of stakeholders, including members of overburdened

1 communities. The governor or the governor's designee must chair the  
2 climate commitment task force convened under this section and must  
3 appoint task force members. The governor or the governor's designee  
4 must convene the initial meeting of the task force. The task force is  
5 a class one group under RCW 43.03.220.

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

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

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

21 (ii) Reporting requirements and frequency, and other  
22 accountability measures, including mechanisms for legislative and  
23 executive oversight and any changes to existing statutory reporting  
24 requirements, such as RCW 70A.45.020;

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

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

32 (v) Suggested duties and roles related to resilience that  
33 considers recommendations and 2020 reports on disaster resilience and  
34 climate resilience from the office of the insurance commissioner and  
35 office of financial management;

36 (vi) Necessary changes to statutory requirements and additional  
37 authority needed to implement the state's climate commitment. This  
38 includes proposed legislation, necessary funding, and a schedule to  
39 implement the recommended comprehensive program in section 25 of this

1 act, including any reorganization or consolidation of existing state  
2 programs or authorities.

3 (b) It is the intent of the legislature that the appropriate  
4 committees of the legislature review the report submitted under (a)  
5 of this subsection and take appropriate action during the 2022  
6 legislative session.

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

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 32.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

--- **END** ---