

By Representative Fitzgibbon

E2SSB 5126 - H COMM AMD

By Committee on Environment & Energy

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS AND INTENT. (1) The legislature finds that climate change is one of the greatest challenges facing our state and the world today, an existential crisis with major negative impacts on environmental and human health. Washington is experiencing environmental and community impacts due to climate change through increasingly devastating wildfires, flooding, droughts, rising temperatures and sea levels, and ocean acidification. Greenhouse gas emissions already in the atmosphere will increase impacts for some period of time. Actions to increase resilience of our communities, natural resource lands, and ecosystems can prevent and reduce impacts to communities and our environment and improve their ability to recover.

(2) In 2020, the legislature updated the state's greenhouse gas emissions limits that are to be achieved by 2030, 2040, and 2050, based on current science and emissions trends, to support local and global efforts to avoid the most significant impacts from climate change. Meeting these limits will require coordinated, comprehensive, and multisectoral implementation of policies, programs, and laws, as currently enacted systems approaches are insufficient to meet the limits.

(3) The legislature further finds that while climate change is a global problem, there are communities that have historically borne the disproportionate impacts of environmental burdens and that now bear the disproportionate negative impacts of climate change. Although the state has done great work in the past to highlight these environmental health disparities, beginning with senator Rosa Franklin's environmental equity study, and continuing through the work of the governor's interagency council on health disparities, the creation of the Washington environmental health disparities map, and

1 recommendations of the environmental justice task force, the state
2 can do much more to ensure that state programs address environmental
3 equity.

4 (4) The legislature further finds that while enacted carbon
5 policies can be well-intended to reduce greenhouse gas emissions and
6 provide environmental benefits to communities, the policies may not
7 do enough to ensure environmental health disparities are reduced and
8 environmental benefits are provided to those communities most
9 impacted by environmental harms from greenhouse gas and air pollutant
10 emissions.

11 (5) The legislature further finds that wildfires have become one
12 of the largest sources of black carbon in the last five years. From
13 2014 through 2018, wildfires in Washington state generated 39,200,000
14 metric tons of carbon, the equivalent of more than 8,500,000 cars on
15 the road a year. In 2015, when 1,130,000 acres burned in Washington,
16 wildfires were the second largest source of greenhouse gas emissions
17 releasing 17,975,112 metric tons of carbon dioxide into the
18 atmosphere. Wildfire pollution affects all Washingtonians, but has
19 disproportionate health effects on low-income communities,
20 communities of color, and the most vulnerable of our population.
21 Restoring the health of our forests and investing in wildfire
22 prevention and preparedness will therefore contribute to improved air
23 quality and improved public health outcomes.

24 (6) The legislature further finds that by exercising a leadership
25 role in addressing climate change, Washington will position its
26 economy, technology centers, financial institutions, and
27 manufacturers to benefit from national and international efforts that
28 must occur to reduce greenhouse gases. The legislature intends to
29 create climate policy that recognizes the special nature of
30 emissions-intensive, trade-exposed industries by minimizing leakage
31 and increased life-cycle emissions associated with product imports.
32 The legislature further finds that climate policies must be
33 appropriately designed, in order to avoid leakage that results in net
34 increases in global greenhouse gas emissions and increased negative
35 impacts to those communities most impacted by environmental harms
36 from climate change. The legislature further intends to encourage
37 these industries to continue to innovate, find new ways to be more
38 energy efficient, use lower carbon products, and be positioned to be
39 global leaders in a low carbon economy.

(7) Under the program, the legislature intends to identify overburdened communities where the highest concentrations of criteria pollutants occur, determine the sources of those emissions and pollutants, and ensure that emissions or concentration reductions are achieved in those communities. The legislature further intends to conduct an environmental justice assessment to ensure that funds and programs created under this chapter provide direct and meaningful benefits to vulnerable populations and overburdened communities. Additionally, the legislature intends to prevent job loss and provide protective measures for workers adversely impacted by the transition to a clean energy economy through transition and assistance programs, worker-support projects, and workforce development and other activities designed to grow and expand the clean manufacturing sector in communities across Washington state. The legislature further intends to establish an environmental justice and equity advisory panel to provide recommendations for the development and implementation of the program, the distribution of funds, and the establishment of programs, activities, and projects to achieve environmental justice and environmental health goals. The legislature further intends to create and adopt community engagement plans and tribal consultation frameworks in the administration of the program to ensure equitable practices for meaningful community and federally recognized tribal involvement. Finally, the legislature intends to establish this program to contribute to a healthy environment for all of Washington's communities.

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

(1) "Allowance" means an authorization to emit up to one metric ton of carbon dioxide equivalent.

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

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

1 (4) "Asset controlling supplier" means any entity that owns or
2 operates interconnected electricity generating facilities or serves
3 as an exclusive marketer for these facilities even though it does not
4 own them, and has been designated by the department and received a
5 department-published emissions factor for the wholesale electricity
6 procured from its system. The department shall use a methodology
7 consistent with the methodology used by an external greenhouse gas
8 emissions trading program that shares the regional electricity
9 transmission system. Electricity from asset controlling suppliers is
10 considered a specified source of electricity.

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

14 (6) "Auction floor price" means a price for allowances below
15 which bids at auction are not eligible to be accepted.

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

20 (8) "Balancing authority" means the responsible entity that
21 integrates resource plans ahead of time, maintains load-interchange-
22 generation balance within a balancing authority area, and supports
23 interconnection frequency in real time.

24 (9) "Balancing authority area" means the collection of
25 generation, transmission, and load within the metered boundaries of a
26 balancing authority. A balancing authority maintains load-resource
27 balance within this area.

28 (10) "Biomass" means nonfossilized and biodegradable organic
29 material originating from plants, animals, and microorganisms,
30 including products, by-products, residues, and waste from
31 agriculture, forestry, and related industries as well as the
32 nonfossilized and biodegradable organic fractions of industrial
33 waste, including gases and liquids recovered from the decomposition
34 of nonfossilized and biodegradable organic material.

35 (11) "Biomass-derived fuels," "biomass fuels," or "biofuels"
36 means fuels derived from biomass that have at least 40 percent lower
37 greenhouse gas emissions based on a full life-cycle analysis when
38 compared to petroleum fuels for which biofuels are capable as serving
39 as a substitute.

1 (12) "Carbon dioxide equivalents" means a measure used to compare
2 the emissions from various greenhouse gases based on their global
3 warming potential.

4 (13) "Carbon dioxide removal" means deliberate human activities
5 removing carbon dioxide from the atmosphere and durably storing it in
6 geological, terrestrial, or ocean reservoirs, or in products. "Carbon
7 dioxide removal" includes existing and potential anthropogenic
8 enhancement of biological or geochemical sinks and including, but not
9 limited to, carbon mineralization, direct air capture and storage,
10 and carbon mineralization.

11 (14) "Climate commitment" means the process and mechanisms to
12 ensure a coordinated and strategic approach to advancing climate
13 resilience and environmental justice and achieving an equitable and
14 inclusive transition to a carbon neutral economy.

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

25 (16) "Closed facility" means a facility at which the current
26 owner or operator has elected to permanently stop production and will
27 no longer be an emissions source.

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

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

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

1 (20) "Cost burden" means the impact on rates or charges to
2 customers of electric utilities in Washington state for the
3 incremental cost of electricity service to serve load due to the
4 compliance cost for greenhouse gas emissions caused by the program.
5 Cost burden includes administrative costs from the utility's
6 participation in the program.

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

9 (22) "Covered entity" means a person that is designated by the
10 department as subject to sections 8 through 23 of this act.

11 (23) "Cumulative environmental health impact" has the same
12 meaning as provided in RCW 70A.---.--- (section 2, chapter . . . ,
13 Laws of 2021 (section 2 of Engrossed Second Substitute Senate Bill
14 No. 5141)).

15 (24) "Curtailed facility" means a facility at which the owner or
16 operator has temporarily suspended production but for which the owner
17 or operator maintains operating permits and retains the option to
18 resume production if conditions become amenable.

19 (25) "Department" means the department of ecology.

20 (26) "Electricity importer" means:

21 (a) For electricity that is scheduled with a NERC e-tag to a
22 final point of delivery into a balancing authority area located
23 entirely within the state of Washington, the electricity importer is
24 identified on the NERC e-tag as the purchasing-selling entity on the
25 last segment of the tag's physical path with the point of receipt
26 located outside the state of Washington and the point of delivery
27 located inside the state of Washington;

28 (b) For facilities physically located outside the state of
29 Washington with the first point of interconnection to a balancing
30 authority area located entirely within the state of Washington when
31 the electricity is not scheduled on a NERC e-tag, the electricity
32 importer is the facility operator or owner;

33 (c) For electricity imported through a centralized market, the
34 electricity importer will be defined by rule consistent with the
35 rules required under section 10(1)(c) of this act;

36 (d) For electricity from facilities allocated to serve retail
37 electricity customers of a multijurisdictional electric company, the
38 electricity importer is the multijurisdictional electric company;

39 (e) If the importer identified under (a) of this subsection is a
40 federal power marketing administration over which the state of

1 Washington does not have jurisdiction, and the federal power
2 marketing administration has not voluntarily elected to comply with
3 the program, then the electricity importer is the next purchasing-
4 selling entity in the physical path on the NERC e-tag, or if no
5 additional purchasing-selling entity over which the state of
6 Washington has jurisdiction, then the electricity importer is the
7 electric utility that operates the Washington transmission or
8 distribution system, or the generation balancing authority;

9 (f) For electricity that is imported into the state by a federal
10 power marketing administration and sold to a public body or
11 cooperative customer or direct service industrial customer located in
12 Washington pursuant to section 5(b) or (d) of the Pacific Northwest
13 electric power planning and conservation act of 1980, P.L. 96-501,
14 the electricity importer is the federal marketing administration;

15 (g) If the importer identified under (f) of this subsection has
16 not voluntarily elected to comply with the program, then the
17 electricity importer is the public body or cooperative customer or
18 direct service industrial customer; or

19 (h) For electricity from facilities allocated to a consumer-owned
20 utility inside the state of Washington from a multijurisdictional
21 consumer-owned utility, the electricity importer is the consumer-
22 owned utility inside the state of Washington.

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

28 (28) "Emissions containment reserve trigger price" means the
29 price below which allowances will be withheld from sale by the
30 department or its agent at an auction, as determined by the
31 department by rule.

32 (29) "Emissions threshold" means the greenhouse gas emission
33 level at or above which a person has a compliance obligation.

34 (30) "Environmental benefits" has the same meaning as defined in
35 RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of
36 Engrossed Second Substitute Senate Bill No. 5141)).

37 (31) "Environmental harm" has the same meaning as defined in RCW
38 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of
39 Engrossed Second Substitute Senate Bill No. 5141)).

1 (32) "Environmental impacts" has the same meaning as defined in
2 RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of
3 Engrossed Second Substitute Senate Bill No. 5141)).

4 (33) "Environmental justice" has the same meaning as defined in
5 RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of
6 Engrossed Second Substitute Senate Bill No. 5141)).

7 (34) "Environmental justice assessment" has the same meaning as
8 identified in RCW 70A.---.--- (section 14, chapter . . ., Laws of
9 2021 (section 14 of Engrossed Second Substitute Senate Bill No.
10 5141)).

11 (35) "External greenhouse gas emissions trading program" means a
12 government program, other than Washington's program created in this
13 chapter, that restricts greenhouse gas emissions from sources outside
14 of Washington and that allows emissions trading.

15 (36) "Facility" means any physical property, plant, building,
16 structure, source, or stationary equipment located on one or more
17 contiguous or adjacent properties in actual physical contact or
18 separated solely by a public roadway or other public right-of-way and
19 under common ownership or common control, that emits or may emit any
20 greenhouse gas.

21 (37) "First jurisdictional deliverer" means the owner or operator
22 of an electric generating facility in Washington or an electricity
23 importer.

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

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

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

31 (41) "Imported electricity" means electricity generated outside
32 the state of Washington with a final point of delivery within the
33 state.

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

36 (b) "Imported electricity" includes imports from linked
37 jurisdictions, but such imports shall be construed as having no
38 emissions.

1 (c) Electricity from a system that is marketed by a federal power
2 marketing administration shall be construed as "imported
3 electricity," not electricity generated in the state of Washington.

4 (d) "Imported electricity" does not include electricity imports
5 of unspecified electricity that are netted by exports of unspecified
6 electricity to any jurisdiction not covered by a linked program by
7 the same entity within the same hour.

8 (e) For a multijurisdictional electric company, "imported
9 electricity" includes electricity from facilities and wholesale
10 electricity purchases that contribute to a common system power pool.
11 Where a multijurisdictional electric company has a cost allocation
12 methodology approved by the utilities and transportation commission,
13 the allocation of specific facilities to Washington's retail load
14 will be in accordance with that methodology.

15 (f) For a multijurisdictional consumer-owned utility, "imported
16 electricity" includes electricity from facilities that contribute to
17 a common system power pool that are allocated to a consumer-owned
18 utility inside the state of Washington pursuant to a methodology
19 approved by the governing board of the consumer-owned utility.

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

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

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

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

37 (46) "Multijurisdictional consumer-owned utility" means a
38 consumer-owned utility that provides electricity to member owners in
39 Washington and in one or more other states in a contiguous service
40 territory or from a common power system.

1 (47) "Multijurisdictional electric company" means an investor-
2 owned utility that provides electricity to customers in Washington
3 and in one or more other states in a contiguous service territory or
4 from a common power system.

5 (48) "NERC e-tag" means North American electric reliability
6 corporation (NERC) energy tag representing transactions on the North
7 American bulk electricity market scheduled to flow between or across
8 balancing authority areas.

9 (49) "Offset credit" means a tradable compliance instrument that
10 represents an emissions reduction or emissions removal of one metric
11 ton of carbon dioxide equivalent.

12 (50) "Offset project" means a project that reduces or removes
13 greenhouse gases that are not covered emissions under this chapter.

14 (51) "Offset protocols" means a set of procedures and standards
15 to quantify greenhouse gas reductions or greenhouse gas removals
16 achieved by an offset project.

17 (52) "Overburdened community" means a geographic area identified
18 by the department through the process established under
19 chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill
20 No. 5141).

21 (53) "Person" has the same meaning as defined in RCW
22 70A.15.2200(5)(h)(iii).

23 (54) "Point of delivery" means a point on the electricity
24 transmission or distribution system where a deliverer makes
25 electricity available to a receiver, or available to serve load. This
26 point may be an interconnection with another system or a substation
27 where the transmission provider's transmission and distribution
28 systems are connected to another system, or a distribution substation
29 where electricity is imported into the state over a
30 multijurisdictional retail provider's distribution system.

31 (55) "Price ceiling unit" means the units issued at a fixed price
32 by the department for the purpose of limiting price increases and
33 funding further investments in greenhouse gas reductions.

34 (56) "Program" means the greenhouse gas emissions cap and invest
35 program created by and implemented pursuant to this chapter.

36 (57) "Program registry" means the data system in which covered
37 entities, opt-in entities, and general market participants are
38 registered and in which compliance instruments are recorded and
39 tracked.

1 (58) "Registered entity" means a covered entity, opt-in entity,
2 or general market participant that has completed the process for
3 registration in the program registry.

4 (59) "Resilience" means the ability to prepare, mitigate and plan
5 for, withstand, recover from, and more successfully adapt to adverse
6 events and changing conditions, and reorganize in an equitable manner
7 that results in a new and better condition.

8 (60) "Retire" means to permanently remove a compliance instrument
9 such that the compliance instrument may never be sold, traded, or
10 otherwise used again.

11 (61) "Specified source of electricity" or "specified source"
12 means a facility, unit, or asset controlling supplier that is
13 permitted to be claimed as the source of electricity delivered. The
14 reporting entity must have either full or partial ownership in the
15 facility or a written power contract to procure electricity generated
16 by that facility or unit or from an asset controlling supplier at the
17 time of entry into the transaction to procure electricity.

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

20 (63) "Transfer" means to transfer an allowance or compliance
21 instrument to the department, either to meet a compliance obligation
22 or on a voluntary basis.

23 (64) "Tribal lands" has the same meaning as defined in RCW
24 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2 of
25 Engrossed Second Substitute Senate Bill No. 5141)).

26 (65) "Unspecified source of electricity" or "unspecified source"
27 means a source of electricity that is not a specified source at the
28 time of entry into the transaction to procure electricity.

29 (66) "Voluntary renewable reserve account" means a holding
30 account maintained by the department from which allowances may be
31 retired for voluntary renewable electricity generation, which is
32 directly delivered to the state and has not and will not be sold or
33 used to meet any other mandatory requirements in the state or any
34 other jurisdiction, on behalf of voluntary renewable energy
35 purchasers or end users.

36 (67)(a) "Vulnerable populations" has the same meaning as defined
37 in RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (section 2
38 of Engrossed Second Substitute Senate Bill No. 5141)).

1 NEW SECTION. **Sec. 3.** ENVIRONMENTAL JUSTICE REVIEW. (1) To
2 ensure that the program created in sections 8 through 23 of this act
3 achieves reductions in criteria pollutants as well as greenhouse gas
4 emissions in overburdened communities highly impacted by air
5 pollution, the department must:

6 (a) Identify overburdened communities, consistent with the
7 requirements of chapter . . . , Laws of 2021 (Engrossed Second
8 Substitute Senate Bill No. 5141);

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

13 (c)(i) Within the identified overburdened communities, analyze
14 and determine which sources are the greatest contributors of criteria
15 pollutants and develop a high priority list of significant emitters.

16 (ii) Prior to listing any entity as a high priority emitter, the
17 department must notify that entity and share the data used to rank
18 that entity as a high priority emitter, and provide a period of not
19 less than 60 days for the covered entity to submit more recent data
20 or other information relevant to the designation of that entity as a
21 high priority emitter.

22 (2)(a) Beginning in 2025, and every two years thereafter, the
23 department must conduct a review to determine if criteria pollutants,
24 as well as greenhouse gas emissions, are being reduced in the
25 overburdened communities identified under subsection (1) of this
26 section.

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

36 (i) Adopt, along with local air pollution control authorities,
37 stricter air quality standards, emission standards, or emissions
38 limitations on criteria pollutants, consistent with the authority of
39 the department provided under chapter 70A.15 RCW;

1 (ii) If a covered entity or opt-in entity is identified as a high
2 priority emitter of criteria pollutants, and the emissions of
3 greenhouse gases and the source of criteria pollutants are
4 correlated, reduce offset limits as established in section 19 of this
5 act and the allocation of allowances at no cost under section 13 of
6 this act, if applicable, for any covered entity identified under this
7 subsection (2)(b); or

8 (iii) Revise any linkage agreement necessary to ensure reductions
9 of criteria pollutant emissions by any covered entity identified
10 under this subsection (2)(b).

11 (c) Actions imposed under this section may not impose
12 requirements on covered entities or opt-in entities that are
13 disproportionate to their contribution to air pollution compared to
14 other sources of criteria pollutants in the overburdened community.

15 (3)(a) The department must create and adopt a supplement to the
16 department's community engagement plan developed pursuant to
17 chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill
18 No. 5141). The supplement must describe how the department will
19 engage with overburdened communities and vulnerable populations in:

20 (i) Identifying emitters in overburdened communities; and

21 (ii) Monitoring and evaluating criteria pollutant emissions in
22 those areas.

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

26 NEW SECTION. **Sec. 4. ENVIRONMENTAL JUSTICE ASSESSMENT.** (1) When
27 allocating funds from the carbon emissions reduction account created
28 in section 26 of this act or from the climate investment account
29 created in section 27 of this act, or administering grants or
30 programs funded by the accounts, agencies shall conduct an
31 environmental justice assessment consistent with the requirements of
32 RCW 70A.---.--- (section 14, chapter . . . , Laws of 2021 (Engrossed
33 Second Substitute Senate Bill No. 5141)) and establish a minimum of
34 not less than 35 percent and a goal of 40 percent of total
35 investments that provide direct and meaningful benefits to vulnerable
36 populations within the boundaries of overburdened communities
37 identified under chapter . . . , Laws of 2021 (Engrossed Second
38 Substitute Senate Bill No. 5141) through: (a) The direct reduction of
39 environmental burdens in overburdened communities; (b) the reduction

1 of disproportionate, cumulative risk from environmental burdens,
2 including those associated with climate change; (c) the support of
3 community led project development, planning, and participation costs;
4 or (d) meeting a community need identified by the community that is
5 consistent with the intent of this chapter.

6 (2) The allocation of funding under subsection (1) of this
7 section must adhere to the following principles, additional to the
8 requirements of RCW 70A.---.--- (section 16, chapter . . ., Laws of
9 2021 (Engrossed Second Substitute Senate Bill No. 5141)): (a)
10 Benefits and programs should be directed to areas and targeted to
11 vulnerable populations and overburdened communities to reduce
12 statewide disparities; (b) investments and benefits should be made
13 roughly proportional to the health disparities that a specific
14 community experiences, with a goal of eliminating the disparities;
15 (c) investments and programs should focus on creating environmental
16 benefits, including eliminating health burdens, creating community
17 and population resilience, and raising the quality of life of those
18 in the community; and (d) efforts should be made to balance
19 investments and benefits across the state and within counties, local
20 jurisdictions, and unincorporated areas as appropriate to reduce
21 disparities by location and to ensure efforts contribute to a
22 reduction in disparities that exist based on race or ethnicity,
23 socioeconomic status, or other factors.

24 (3) State agencies allocating funds or administering grants or
25 programs from the climate investment account created in section 27 of
26 this act must:

27 (a) Report annually to the environmental justice council created
28 in RCW 70A.---.--- (section 20, chapter . . ., Laws of 2021
29 (Engrossed Second Substitute Senate Bill No. 5141)) regarding
30 progress toward meeting environmental justice and environmental
31 health goals;

32 (b) Consider recommendations by the environmental justice
33 council; and

34 (c)(i) If the agency is not a covered agency subject to the
35 requirements of chapter . . ., Laws of 2021 (Engrossed Second
36 Substitute Senate Bill No. 5141), create and adopt a community
37 engagement plan to describe how it will engage with overburdened
38 communities and vulnerable populations in allocating funds or
39 administering grants or programs from the climate investment account.

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

NEW SECTION. **Sec. 5.** ENVIRONMENTAL JUSTICE COUNCIL. (1) The environmental justice council created in RCW 70A.---.--- (section 20, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)) must provide recommendations to the legislature, agencies, and the governor in the development and implementation of the program established in sections 8 through 23 of this act, and the programs funded from the carbon emissions reduction account created in section 26 of this act and from the climate investment account created in section 27 of this act.

(2) In addition to the duties and authorities granted in chapter 70A.--- RCW (the new chapter created in section 22, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)) to the environmental justice council, the environmental justice council must:

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

(i) The program established in sections 8 through 23 of this act including, but not limited to, linkage with other jurisdictions, protocols for establishing offset projects and securing offset credits, designation of emissions-intensive and trade-exposed industries, and administration of allowances under the program; and

(ii) Investment plans and funding proposals for the programs funded from the climate investment account created in section 27 of this act for the purpose of providing environmental benefits and reducing environmental health disparities within overburdened communities identified under chapter 70A.--- RCW (the new chapter created in section 22, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141));

(b) Provide a forum to analyze policies adopted under this chapter to determine if the policies lead to improvements within overburdened communities identified under chapter 70A.--- RCW (the new chapter created in section 22, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141));

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

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

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

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

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

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

(3) For the purpose of performing the duties under subsection (2) of this section, two additional tribal members are added to the council.

NEW SECTION. **Sec. 6.** TRIBAL CONSULTATION. (1) Agencies that allocate funding or administer grant programs appropriated from the climate investment account created in section 27 of this act must develop a consultation framework in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with federally recognized tribes. Under this consultation framework, before allocating funding or administering grant programs appropriated from the climate investment account, agencies must offer consultation with federally recognized tribes on all funding decisions and programs that may impact, infringe upon, or impair the governmental efforts of federally recognized tribes to adopt or enforce their own standards governing or protecting the tribe's resources or other rights and interests in their tribal lands and lands within which a tribe or tribes possess rights reserved by treaty. The consultation is independent of any public participation process required by state law, or by a state agency, and regardless of whether the agency receives a request for consultation from a federally recognized tribe.

(2)(a) If any funding decision, program, project, or activity that impacts lands within which a tribe or tribes possess rights reserved by federal treaty, statute, or executive order is undertaken

1 or funded under this chapter without such consultation with a
2 federally recognized tribe, an affected tribe may request that all
3 further action on the decision, program, project, or activity cease
4 until meaningful consultation with any directly impacted federally
5 recognized tribe is completed.

6 (b) A project or activity funded in whole or in part from the
7 account created in section 27 of this act must be paused or ceased in
8 the event that an affected federally recognized Indian tribe or the
9 department of archaeology and historic preservation provides timely
10 notice of a determination to the department that the project will
11 adversely impact cultural resources, archaeological sites, or sacred
12 sites. A project or activity paused at the direction of the
13 department under this subsection may not be resumed or completed
14 unless the potentially impacted tribe provides consent to the
15 department and the proponent of the project or activity.

16 NEW SECTION. **Sec. 7.** GOVERNANCE STRUCTURE. (1) The governor
17 shall establish a governance structure to implement the state's
18 climate commitment to provide accountability for achieving the
19 state's greenhouse gas limits in RCW 70A.45.020, to establish a
20 coordinated and strategic statewide approach to climate resilience,
21 to build an equitable and inclusive clean energy economy, and to
22 ensure that the government provides clear policy and requirements,
23 financial tools, and other mechanisms to support achieving those
24 limits.

25 (2) The governance structure for implementing the state's climate
26 commitment must be based on the state's following principles:

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

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

34 (c) The program must support an equitable transition for
35 vulnerable populations and overburdened communities, including
36 through early and meaningful engagement of overburdened communities
37 and workers to ensure the program achieves equitable and just
38 outcomes.

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

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

(3) The governance structure for implementing the state's climate commitment must include, but not be limited to, the following elements:

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

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

(c) A process for prioritizing and coordinating funding consistent with strategic needs for greenhouse gas reductions, equity and environmental justice, and climate resilience actions;

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

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

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

(4) The governor's office shall develop policy and budget recommendations to the legislature necessary to implement the state's climate commitment by December 31, 2021, in accordance with the purpose, principles, and elements in subsections (1) through (3) of this section.

NEW SECTION. **Sec. 8.** CAP ON GREENHOUSE GAS EMISSIONS. (1) In order to ensure that greenhouse gas emissions are reduced by covered entities consistent with the limits established in RCW 70A.45.020, the department must implement a cap on greenhouse gas emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments.

(2) The program must consist of:

1 (a) Annual allowance budgets that limit emissions from covered
2 entities, as provided in this section and sections 9 and 10 of this
3 act;

4 (b) Defining those entities covered by the program, and those
5 entities that may voluntarily opt into coverage under the program, as
6 provided in this section and sections 9 and 10 of this act;

7 (c) Distribution of emission allowances, as provided in section
8 12 of this act, and through the allowance price containment
9 provisions under sections 16 and 17 of this act;

10 (d) Providing for offset credits as a method for meeting a
11 compliance obligation, pursuant to section 19 of this act;

12 (e) Defining the compliance obligations of covered entities, as
13 provided in section 21 of this act;

14 (f) Establishing the authority of the department to enforce the
15 program requirements, as provided in section 22 of this act;

16 (g) Creating a climate investment account for the deposit of
17 receipts from the distribution of emission allowances, as provided in
18 section 27 of this act;

19 (h) Providing for the transfer of allowances and recognition of
20 compliance instruments, including those issued by jurisdictions with
21 which Washington has linkage agreements;

22 (i) Providing monitoring and oversight of the sale and transfer
23 of allowances by the department; and

24 (j) Creating a price ceiling and associated mechanisms as
25 provided in section 18 of this act.

26 (3) The department shall consider opportunities to implement the
27 program in a manner that allows linking the state's program with
28 those of other jurisdictions. The department must evaluate whether
29 such linkage will provide for a more cost-effective means for covered
30 entities to meet their compliance obligations in Washington while
31 recognizing the special characteristics of the state's economy,
32 communities, and industries. The department is authorized to enter
33 into a linkage agreement with another jurisdiction after formal
34 notice and opportunity for a public hearing, and when consistent with
35 the requirements of section 23 of this act.

36 NEW SECTION. **Sec. 9.** PROGRAM BUDGET AND TIMELINES. (1)(a) The
37 department shall commence the program by January 1, 2023, by
38 determining an emissions baseline establishing the proportionate
39 share that the total greenhouse gas emissions of covered entities for

1 the first compliance period bears to the total anthropogenic
2 greenhouse gas emissions in the state during 2015 through 2019, based
3 on data reported to the department under RCW 70A.15.2200 or provided
4 as required by this chapter, as well as other relevant data. By
5 October 1, 2022, the department shall adopt a program budget of
6 allowances for the first compliance period of the program, calendar
7 years 2023 through 2026, to be distributed from January 1, 2023,
8 through December 31, 2026. If the first compliance period is delayed
9 pursuant to section 21(7) of this act, the department shall adjust
10 the program allowance budget to reflect a shorter first compliance
11 period.

12 (b) By October 1, 2026, the department shall add to its emissions
13 baseline by incorporating the proportionate share that the total
14 greenhouse gas emissions of new covered entities in the second
15 compliance period bear to the total anthropogenic greenhouse gas
16 emissions in the state during 2023 through 2025. In determining the
17 addition to the baseline, the department may exclude a year from the
18 determination if the department identifies that year to have been an
19 outlier due to a state of emergency. The department shall adopt a
20 program budget of allowances for the second compliance period of the
21 program, calendar years 2027 through 2030, that will be distributed
22 from January 1, 2027, through December 31, 2030.

23 (c) By October 1, 2028, the department shall adopt by rule the
24 annual program budgets of allowances for calendar years 2031 through
25 2040.

26 (2) The program budgets of allowances must be set to achieve the
27 share of reductions by covered entities necessary to achieve the
28 2030, 2040, and 2050 statewide emissions limits established in RCW
29 70A.45.020, based on data reported to the department under chapter
30 70A.15 RCW or provided as required by this chapter. The department
31 must adopt annual allowance budgets for the program on a calendar
32 year basis that provide for progressively equivalent reductions year
33 over year. An allowance distributed under the program, either
34 directly by the department under sections 13 through 15 of this act
35 or through auctions under section 12 of this act, expire eight years
36 after their issuance and may be held or banked consistent with
37 sections 12(6) and 17(1) of this act.

38 (3) The department must complete an evaluation by December 31,
39 2027, and by December 31, 2035, of the performance of the program,
40 including its performance in reducing greenhouse gases. If the

1 evaluation shows that adjustments to the annual budgets are necessary
2 for covered entities to achieve their proportionate share of the 2030
3 and 2040 emission reduction limits identified in RCW 70A.45.020, as
4 applicable, the department shall adjust the annual budgets
5 accordingly. The department must complete additional evaluations of
6 the performance of the program by December 31, 2040, and by December
7 31, 2045, and make any necessary adjustments in the annual program
8 allowance budgets to ensure that covered entities achieve their
9 proportionate share of the 2050 emission reduction limit identified
10 in RCW 70A.45.020. Nothing in this subsection precludes the
11 department from making additional adjustments to annual program
12 allowance budgets as necessary to ensure successful achievement of
13 the proportionate emission reduction limits by covered entities. The
14 department shall determine and make public the circumstances,
15 metrics, and processes that would initiate the public consideration
16 of additional program allowance budget adjustments to ensure
17 successful achievement of the emission reduction limits.

18 (4) Data reported to the department under RCW 70A.15.2200 or
19 provided as required by this chapter for 2015 through 2019 is deemed
20 sufficient for the purpose of adopting annual program budgets and
21 serving as the baseline by which covered entities demonstrate
22 compliance under the first compliance period of the program. Data
23 reported to the department under RCW 70A.15.2200 or provided as
24 required by this chapter for 2023 through 2025 is deemed sufficient
25 for adopting annual program budgets and serving as the baseline by
26 which covered entities demonstrate compliance under the second
27 compliance period of the program.

28 NEW SECTION. **Sec. 10.** PROGRAM COVERAGE. (1) A person is a
29 covered entity as of the beginning of the first compliance period and
30 all subsequent compliance periods if the person reported emissions
31 under RCW 70A.15.2200 for any calendar year from 2015 through 2019,
32 or if additional data provided as required by this chapter indicates
33 that emissions for any calendar year from 2015 through 2019 equaled
34 or exceeded any of the following thresholds, or if the person is a
35 first jurisdictional deliverer and imports electricity into the state
36 during the compliance period:

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

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

5 (c) Where the person is a first jurisdictional deliverer
6 importing electricity into the state from a specified source whose
7 total annual emissions equals or exceeds 25,000 metric tons of carbon
8 dioxide equivalent or from an unspecified source. In consultation
9 with any jurisdiction that is linked to the program created by this
10 chapter, by October 1, 2026, the department, in consultation with the
11 department of commerce and the utilities and transportation
12 commission, shall adopt a methodology for addressing imported
13 electricity associated with a centralized electricity market;

14 (d) Where the person is a supplier of fossil fuel other than
15 natural gas and from that fuel 25,000 metric tons or more of carbon
16 dioxide equivalent emissions would result from the full combustion or
17 oxidation; and

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

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

30 (iii) Where the person is an end-use customer in the state who
31 directly purchases natural gas from a person that is not a natural
32 gas company and has the natural gas delivered through an interstate
33 pipeline to a distribution system owned by the purchaser in amounts
34 that would result in exceeding 25,000 metric tons of carbon dioxide
35 equivalent emissions if fully combusted or oxidized, excluding the
36 amounts: (A) Supplied to covered entities under (a) through (d) of
37 this subsection; and (B) delivered to opt-in entities.

38 (2) A person is a covered entity as of the beginning of the
39 second compliance period and all subsequent compliance periods if the
40 person reported emissions under RCW 70A.15.2200 or provided emissions

1 data as required by this chapter for any calendar year from 2023
2 through 2025, where the person operates a waste to energy facility
3 utilized by a county and city solid waste management program and the
4 facility's emissions equal or exceed 25,000 metric tons of carbon
5 dioxide equivalent.

6 (3) A person is a covered entity beginning January 1, 2031, and
7 all subsequent compliance periods if the person reported emissions
8 under RCW 70A.15.2200 or provided emissions data as required by this
9 chapter for any calendar year from 2027 through 2029, where the
10 person operates a landfill utilized by a county and city solid waste
11 management program and the facility's emissions equal or exceed
12 25,000 metric tons of carbon dioxide equivalent.

13 (4) When a covered entity reports, during a compliance period,
14 emissions from a facility under RCW 70A.15.2200 that are below the
15 thresholds specified in subsection (1) or (2) of this section, the
16 covered entity continues to have a compliance obligation through the
17 current compliance period. When a covered entity reports emissions
18 below the threshold for each year during an entire compliance period,
19 or has ceased all processes at the facility requiring reporting under
20 RCW 70A.15.2200, the entity is no longer a covered entity as of the
21 beginning of the subsequent compliance period unless the department
22 provides notice at least 12 months before the end of the compliance
23 period that the facility's emissions were within 10 percent of the
24 threshold and that the person will continue to be designated as a
25 covered entity in order to ensure equity among all covered entities.
26 Whenever a covered entity ceases to be a covered entity, the
27 department shall notify the legislature of the name of the entity and
28 the reason the entity is no longer a covered entity.

29 (5) For types of emission sources described in subsection (1) of
30 this section that begin or modify operation after January 1, 2023,
31 and types of emission sources described in subsection (2) of this
32 section that begin or modify operation after 2027, coverage under the
33 program starts in the calendar year in which emissions from the
34 source exceed the applicable thresholds in subsection (1) or (2) of
35 this section, or upon formal notice from the department that the
36 source is expected to exceed the applicable emissions threshold,
37 whichever happens first. Sources meeting these conditions are
38 required to transfer their first allowances on the first transfer
39 deadline of the year following the year in which their emissions were
40 equal to or exceeded the emissions threshold.

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

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

(a) Emissions from the combustion of aviation fuels;

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

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

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

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

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

(9) (a) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other locations. The legislature further intends to

1 see innovative new businesses locate and grow in Washington that
2 contribute to Washington's prosperity and environmental objectives.

3 (b) Consistent with the intent of the legislature to avoid the
4 leakage of emissions to other jurisdictions, in achieving the state's
5 greenhouse gas limits in RCW 70A.45.020, the state shall pursue the
6 limits in a manner that recognizes that the siting and placement of
7 new best-in-class facilities that provide for the displacement of
8 more carbon intensive processes is in the economic and environmental
9 interests of the state of Washington.

10 (c) For new or expanded facilities that require review under
11 chapter 43.21C RCW and which would result in annual greenhouse gas
12 emissions in excess of 25,000 metric tons per year, the department
13 must evaluate the net cumulative greenhouse gas emissions of the
14 facility, attributing any net displacement of global emissions
15 resulting from the project in the department's decision making. The
16 department may adopt rules to determine how to evaluate net
17 cumulative emissions reductions.

18 (d) The limits in RCW 70A.45.020 or greenhouse gas emissions that
19 are addressed in this chapter may not be the basis for denial of a
20 permit application or for judicial review of the grant of a permit
21 for a new or expanded emissions-intensive and trade-exposed facility.

22 (e) Compliance with the requirements of this chapter is the only
23 mitigation for greenhouse gases that can be required by any state
24 agency, city, town, county, township, other subdivision, or municipal
25 corporation of the state from these facilities.

26 (f) Inclusion as a covered or an opt-in entity under this chapter
27 constitutes adequate mitigation of any significant adverse impacts
28 with respect to greenhouse gases for a facility subject to the
29 requirements of chapter 43.21C RCW.

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

33 (2) Entities registering to participate in the program must
34 describe any direct or indirect affiliation with other registered
35 entities.

36 (3) A person responsible for greenhouse gas emissions that is not
37 a covered entity may voluntarily participate in the program by
38 registering as an opt-in entity. An opt-in entity must satisfy the
39 same registration requirements as covered entities. Once registered,

1 an opt-in entity is allowed to participate as a covered entity in
2 auctions and must assume the same compliance obligation to transfer
3 compliance instruments equal to their emissions at the appointed
4 transfer dates. An opt-in entity may opt out of the program at the
5 end of any compliance period by providing written notice to the
6 department at least six months prior to the end of the compliance
7 period. The opt-in entity continues to have a compliance obligation
8 through the current compliance period. An opt-in entity is not
9 eligible to receive allowances directly distributed under section 13,
10 14, or 15 of this act.

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

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

18 (6) The department shall use a secure, online electronic tracking
19 system to: Register entities in the state program; issue compliance
20 instruments; track ownership of compliance instruments; enable and
21 record compliance instrument transfers; facilitate program
22 compliance; and support market oversight.

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

25 (a) A compliance account where the compliance instruments are
26 transferred to the department for retirement. Compliance instruments
27 in compliance accounts may not be sold, traded, or otherwise provided
28 to another account or person.

29 (b) A holding account that is used when a registered entity is
30 interested in trading allowances. Allowances in holding accounts may
31 be bought, sold, transferred to another registered entity, or traded.
32 The amount of allowances a registered entity may have in its holding
33 account is constrained by the holding limit as determined by the
34 department by rule. Information about the contents of each holding
35 account, including but not limited to the number of allowances in the
36 account, must be displayed on a regularly maintained and searchable
37 public website established and updated by the department.

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

(9) The department shall maintain an account for the purpose of retiring allowances transferred by registered entities and from the voluntary renewable reserve account.

(10) The department shall maintain a public roster of all covered entities, opt-in entities, and general market participants on the department's public website.

NEW SECTION. **Sec. 12.** AUCTIONS OF ALLOWANCES. (1) Except as provided in sections 13, 14, and 15 of this act, the department shall distribute allowances through auctions as provided in this section and in rules adopted by the department to implement these sections. An allowance is not a property right.

(2)(a) The department shall hold a maximum of four auctions annually, plus any necessary reserve auctions. An auction may include allowances from the annual allowance budget of the current year and allowances from the annual allowance budgets from prior years that remain to be distributed.

(b) The department must make future vintage allowances available through parallel auctions at least twice annually in addition to the auctions through which current vintage allowances are exclusively offered under (a) of this subsection.

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

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

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

(b) Each registered entity that elects to participate in the auction must have a different representative. Only a representative with an approved auction account is authorized to access the auction platform to submit an application or confirm the intent to bid for

1 the registered entity, submit bids on behalf of the registered entity
2 during the bidding window, or to download reports specific to the
3 auction.

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

8 (6) To protect the integrity of the auctions, a registered entity
9 or group of registered entities with a direct corporate association
10 are subject to auction purchase and holding limits. The department
11 may impose additional limits if it deems necessary to protect the
12 integrity and functioning of the auctions:

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

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

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

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

23 (7)(a) For fiscal year 2023, upon completion and verification of
24 the auction results, the financial services administrator shall
25 notify winning bidders and transfer the auction proceeds to the state
26 treasurer for deposit as follows: (i) \$127,341,000 must be deposited
27 into the carbon emissions reduction account created in section 26 of
28 this act; and (ii) the remaining auction proceeds to the climate
29 investment account created in section 27 of this act.

30 (b) For fiscal year 2024, upon completion and verification of the
31 auction results, the financial services administrator shall notify
32 winning bidders and transfer the auction proceeds to the state
33 treasurer for deposit as follows: (i) \$356,697,000 must be deposited
34 into the carbon emissions reduction account created in section 26 of
35 this act; and (ii) the remaining auction proceeds to the climate
36 investment account created in section 27 of this act.

37 (c) For fiscal year 2025, upon completion and verification of the
38 auction results, the financial services administrator shall notify
39 winning bidders and transfer the auction proceeds to the state
40 treasurer for deposit as follows: (i) \$366,558,000 must be deposited

1 into the carbon emissions reduction account created in section 26 of
2 this act; and (ii) the remaining auction proceeds to the climate
3 investment account created in section 27 of this act.

4 (d) For fiscal years 2026 through 2037, upon completion and
5 verification of the auction results, the financial services
6 administrator shall notify winning bidders and transfer the auction
7 proceeds to the state treasurer for deposit as follows: (i)
8 \$359,117,000 per year must be deposited into the carbon emissions
9 reduction account created in section 26 of this act; and (ii) the
10 remaining auction proceeds to the climate investment account created
11 in section 27 of this act.

12 (e) The deposits into the forward flexible account pursuant to
13 (a) through (d) of this subsection must not exceed \$5,200,000,000
14 over the first 16 years and any remaining auction proceeds must be
15 deposited into the climate investment account created in section 27
16 of this act. The deposits into the forward flexible account pursuant
17 to (a) through (d) of this subsection must be prorated equally from
18 the proceeds of each of the auctions occurring during each fiscal
19 year.

20 (f) For fiscal year 2038 and each year thereafter, upon
21 completion and verification of the auction results, the financial
22 services administrator shall notify winning bidders and transfer the
23 auction proceeds to the state treasurer for deposit as follows: (i)
24 50 percent of the auction proceeds to the carbon emissions reduction
25 account created in section 26 of this act; and (ii) the remaining
26 auction proceeds to the climate investment account created in section
27 of this act.

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

38 (a) Provided false or misleading facts;

39 (b) Withheld material information that could influence a decision
40 by the department;

(c) Violated any part of the auction rules;
(d) Violated registration requirements; or
(e) Violated any of the rules regarding the conduct of the auction.

(9) Any cancellation or restriction approved by the department under subsection (8) of this section may be permanent or for a specified number of auctions and the cancellation or restriction imposed is not exclusive and is in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other state or federal laws, if applicable.

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

(11) The department shall include a voluntary renewable reserve account.

NEW SECTION. **Sec. 13.** ALLOCATION OF ALLOWANCES TO EMISSIONS-INTENSIVE, TRADE-EXPOSED INDUSTRIES. (1) Facilities owned or operated by a covered entity must receive an allocation of allowances for the covered emissions at those facilities under this subsection at no cost if the operations of the facility are classified as emissions-intensive and trade-exposed, as determined by being engaged in one or more of the processes described by the following industry descriptions and codes in the North American industry classification system:

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

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

1 (c) Aerospace product and parts manufacturing, North American
2 industry classification system codes beginning with 3364;

3 (d) Wood products manufacturing, North American industry
4 classification system codes beginning with 321;

5 (e) Nonmetallic mineral manufacturing, including glass container
6 manufacturing, North American industry classification system codes
7 beginning with 327;

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

10 (g) Computer and electronic product manufacturing, including
11 semiconductor and related device manufacturing, North American
12 industry classification system codes beginning with 334;

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

15 (i) Cement manufacturing, North American industry classification
16 system code 327310;

17 (j) Petroleum refining, North American industry classification
18 system code 324110;

19 (k) Asphalt paving mixtures and block manufacturing from refined
20 petroleum, North American industry classification system code 324121;

21 (l) Asphalt single and coating manufacturing from refined
22 petroleum, North American industry classification system code 324122;
23 and

24 (m) All other petroleum and coal products manufacturing from
25 refined petroleum, North American industry classification system code
26 324199.

27 (2) By July 1, 2022, the department must adopt by rule objective
28 criteria for both emissions' intensity and trade exposure for the
29 purpose of identifying emissions-intensive, trade-exposed
30 manufacturing businesses during the second compliance period of the
31 program and subsequent compliance periods. A facility covered by
32 subsection (1)(a) through (m) of this section is considered an
33 emissions-intensive, trade-exposed facility and is eligible for
34 allocation of no cost allowances as described in this section. In
35 addition, any covered party that is a manufacturing business that can
36 demonstrate to the department that it meets the objective criteria
37 adopted by rule is also eligible for treatment as emissions-
38 intensive, trade-exposed and is eligible for allocation of no cost
39 allowances as described in this section.

1 (3)(a) For all compliance periods prior to December 31, 2034, the
2 annual allocation of allowances for direct distribution to a facility
3 identified as emissions-intensive and trade-exposed must be equal to
4 the facility's proportional obligation of the program budget under
5 section 9 of this act, multiplied by 100 percent.

6 (b) The department shall by rule provide for owners or operators
7 of emissions-intensive and trade-exposed facilities to apply and
8 receive from the department an adjustment to the allocation for
9 direct distribution of allowances based on a facility-specific carbon
10 intensity benchmark as calculated in this subsection. If the
11 department determines that the net quantity of no cost allowances
12 awarded pursuant to (a) of this subsection is lower than when using
13 the facility-specific carbon intensity benchmark, the department
14 shall award additional no cost allowances up to the quantity of
15 allowances resulting from using the facility-specific carbon
16 intensity benchmark. The department shall adjust the no cost
17 allocation of allowances and credits to an emissions-intensive and
18 trade-exposed facility to avoid duplication with any no cost
19 allowances transferred pursuant to sections 14 and 15 of this act, if
20 applicable.

21 (i) For the purpose of this section, "carbon intensity" means the
22 amount of carbon dioxide equivalent emissions from a facility in
23 metric tons divided by the facility specific measure of production
24 including, but not limited to, units of product manufactured or sold,
25 over the same time interval.

26 (ii) If an emissions-intensive and trade-exposed facility is not
27 able to feasibly determine a carbon intensity benchmark based on its
28 unique circumstances, the entity may elect to use a mass-based
29 baseline that does not vary based on changes in production volumes.
30 For each year during the first four-year compliance period that
31 begins January 1, 2023, these facilities must be awarded no cost
32 allowances equal to 100 percent of the facility's mass-based
33 baseline. For each year during the second four-year compliance period
34 that begins January 1, 2027, these facilities must be awarded no cost
35 allowances equal to 97 percent of the facility's mass-based baseline.
36 For each year during the third compliance period that begins January
37 1, 2031, these facilities must be awarded no cost allowances equal to
38 94 percent of the facility's mass-based baseline. Except as provided
39 in (b)(iii) of this subsection, if a facility elects to use a mass-

1 based baseline, it may not later convert to a carbon intensity
2 benchmark during the first three compliance periods.

3 (iii) A facility with a North American industry classification
4 system code beginning with 3364 that is utilizing a mass-based
5 baseline in (b)(ii) of this subsection must receive an additional no
6 cost allowance allocation under this section in order to accommodate
7 an increase in production that increases its emissions above the
8 baseline on a basis equivalent in principle to those awarded to
9 entities utilizing a carbon intensity benchmark pursuant to this
10 subsection (3)(b). The department shall establish methods to award,
11 for any annual period, additional no cost allowance allocations under
12 this section and, if appropriate based on projected production, to
13 achieve a similar ongoing result through the adjustment of the
14 facility's mass-based baseline. An eligible facility under this
15 subsection that has elected to use a mass-based baseline may not
16 convert to a carbon intensity benchmark until the next compliance
17 period.

18 (c)(i) By April 1, 2022, the department must convene a work group
19 of the emissions-intensive, trade-exposed facilities defined in this
20 section, and their affiliated trade associations, and independent
21 experts in emissions regulation, industrial practices, or other
22 related fields.

23 (ii) By July 31, 2022, the work group shall recommend to the
24 department procedures for calculating carbon intensity benchmarks.
25 The carbon intensity benchmark must be based upon data from 2015
26 through 2019 for each emissions-intensive, trade-exposed facility,
27 unless an emissions-intensive, trade-exposed facility can demonstrate
28 to the department that there have been abnormal periods of operation
29 that materially impacted the facility and the baseline period should
30 be expanded to include years prior to 2015.

31 (iii) By September 15, 2022, each emissions-intensive, trade-
32 exposed facility shall submit its carbon intensity benchmark for the
33 first compliance period to the department. The calculation must be
34 consistent with procedures established by the work group and
35 recommended to the department.

36 (iv) By November 15, 2022, the department shall review and
37 approve each emissions-intensive, trade-exposed facility baseline
38 carbon intensity benchmark.

39 (d) For each year in the first four-year compliance period that
40 begins January 1, 2023, each emissions-intensive, trade-exposed

1 facility will calculate its facility-specific carbon intensity
2 benchmark by its actual production.

3 (e)(i) For the second four-year compliance period that begins
4 January 1, 2027, the second period benchmark for each emissions-
5 intensive, trade-exposed facility is three percent below the lower of
6 the first period benchmark or the 2015-2019 benchmark.

7 (ii) For the third four-year compliance period that begins
8 January 1, 2031, the third period benchmark for each emissions-
9 intensive, trade-exposed facility is three percent lower than the
10 second period benchmark.

11 (f)(i) Prior to the beginning of either the second or third
12 compliance periods, an emissions-intensive, trade-exposed facility
13 may make an upward adjustment in the next compliance period's
14 benchmark based on a demonstration to the department that additional
15 reductions in carbon intensity or mass emissions are not technically
16 or economically feasible. An emissions-intensive, trade-exposed
17 facility may base its upward adjustment in the next compliance period
18 on the facility's best available technology analysis. The department
19 shall by rule provide for emissions-intensive, trade-exposed
20 facilities to apply to the department for an adjustment to the
21 allocation for direct distribution of no cost allowances based on its
22 facility-specific carbon intensity benchmark or mass emissions
23 baseline. The department shall make adjustments based on:

24 (A) A significant change in the emissions use or emissions
25 attributable to the manufacture of an individual good or goods in
26 this state by an emissions-intensive, trade-exposed facility based on
27 a finding by the department that an adjustment is necessary to
28 accommodate for changes in the manufacturing process that have a
29 material impact on emissions;

30 (B) Significant changes to an emissions-intensive, trade-exposed
31 facility's external competitive environment that result in a
32 significant increase in leakage risk; or

33 (C) Abnormal operating periods when an emissions-intensive,
34 trade-exposed facility's carbon intensity has been materially
35 affected so that these abnormal operating periods are either excluded
36 or otherwise considered in the establishment of the compliance period
37 carbon intensity benchmarks.

38 (ii) For the purpose of this section, "best available technology"
39 means a greenhouse gas emissions limitation determined by the
40 department on a case-by-case basis taking into account the fuels,

1 processes, equipment, and technology used by facilities to produce
2 goods of comparable type, quantity, and quality, that will most
3 effectively reduce those greenhouse gas emissions for which the
4 source has a compliance obligation. Best available technology must be
5 technically feasible, commercially available, economically viable,
6 not create excessive environmental impacts, and be compliant with all
7 applicable laws while not changing the characteristics of the good
8 being manufactured.

9 (4)(a) Beginning January 1, 2035, and each year thereafter, the
10 annual allocation of no cost allowances for direct distribution to
11 facilities identified as emissions-intensive and trade-exposed must
12 be reduced by an equal amount each year between 2035 and 2050 such
13 that in 2050 the facility's proportionate share of the allowance
14 budget is equal to the proportionate share in 2035. The annual
15 allocation beginning in 2035 must decline from the average of the
16 facility's annual allocation of no cost allowances from 2031 through
17 2034. If the emissions-intensive, trade-exposed facility can
18 demonstrate that there have been abnormal periods of operation that
19 materially impacted the facility, then the baseline period must be
20 expanded to include years prior to 2031. The department shall provide
21 a recommendation to the legislature for the adoption of an annual
22 allocation for a covered facility for its process emissions, separate
23 from emissions associated with energy or heat production, based on a
24 best available technology limitation.

25 (b) By December 1, 2030, the department shall provide a report to
26 the appropriate committees of the senate and house of representatives
27 that describes alternative methods for determining the amount and a
28 schedule of allowances to be provided to facilities owned or operated
29 by each covered entity designated as an emissions-intensive, trade-
30 exposed facility. The report must include a review of global best
31 practices in ensuring against emissions leakage and economic harm to
32 businesses in carbon pricing programs and describe alternative
33 methods of emissions performance benchmarking and mass-based
34 allocation of no cost allowances. In developing the report, the
35 department shall form an advisory group that includes representatives
36 of the manufacturers listed in subsection (1) of this section.

37 (5) If the actual emissions of an emissions-intensive, trade-
38 exposed facility exceed the facility's no cost allowances assigned
39 for that compliance period, it must acquire additional compliance
40 instruments such that the total compliance instruments transferred to

1 its compliance account consistent with section 21 of this act equals
2 emissions during the compliance period. The department shall limit
3 the use of offset credits for compliance by an emissions-intensive,
4 trade-exposed facility, such that the quantity of no cost allowances
5 plus the provision of offset credits does not exceed 100 percent of
6 the facility's total compliance obligation over a compliance period.

7 (6) The department must withhold or withdraw the relevant share
8 of allowances allocated to a covered entity under this section in the
9 event that the covered entity ceases production in the state and
10 becomes a closed facility. In the event an entity curtails all
11 production and becomes a curtailed facility, the allowances are
12 retained but cannot be traded, sold, or transferred and are still
13 subject to the emission reduction requirements specified in this
14 section. An owner or operator of a curtailed facility may transfer
15 the allowances to a new operator of the facility that will be
16 operated under the same North American industry classification system
17 codes. If the curtailed facility becomes a closed facility, then all
18 unused allowances will be transferred to the emissions containment
19 reserve. A curtailed facility is not eligible to receive free
20 allowances during a period of curtailment. Any allowances withheld or
21 withdrawn under this subsection must be transferred to the emissions
22 containment reserve.

23 NEW SECTION. **Sec. 14.** ALLOCATION OF ALLOWANCES TO ELECTRIC
24 UTILITIES. (1) The legislature intends by this section to allow all
25 consumer-owned electric utilities and investor-owned electric
26 utilities subject to the requirements of chapter 19.405 RCW, the
27 Washington clean energy transformation act, to be allocated
28 allowances at no cost as provided in this section in order to
29 mitigate the cost burden of the program on electric customers.

30 (2)(a) By October 1, 2022, the department shall adopt rules, in
31 consultation with the department of commerce and the utilities and
32 transportation commission, establishing the methods and procedures
33 for allocating allowances to consumer-owned and investor-owned
34 electric utilities. Rules adopted under this section must allow for a
35 consumer-owned or investor-owned electric utility to be provided
36 allowances at no cost to cover their emissions and decline
37 proportionally with the cap, consistent with section 9 of this act.
38 The rules must take into account the cost burden of the program on
39 electric customers. Allowances allocated at no cost to consumer-owned

1 and investor-owned electric utilities must be consigned to auction
2 for the benefit of ratepayers consistent with subsection (3) of this
3 section, deposited for compliance, or a combination of both. The
4 rules adopted by the department pursuant to this section must include
5 provisions directing revenues generated under this subsection to the
6 applicable utilities. Utilities may use allowances for compliance
7 equal to their covered emissions in any calendar year they were not
8 subject to potential penalty under RCW 19.405.090. Under no
9 circumstances may utilities receive any free allowances after 2045.

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

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

30 (d) By October 1, 2028, the department shall adopt by rule an
31 allocation schedule, in consultation with the department of commerce
32 and the utilities and transportation commission, for the provision of
33 allowances at no cost to consumer-owned and investor-owned electric
34 utilities for the compliance periods contained within calendar years
35 2031 through 2045. This allocation must be consistent with a
36 forecast, that is approved by the appropriate governing board or the
37 utilities and transportation commission, of each utility's supply and
38 demand, and the cost burden resulting from the inclusion of the
39 covered entities in the compliance periods.

1 (3)(a) During the first compliance period, 25 percent of the
2 allowances allocated at no cost to consumer-owned and investor-owned
3 electric utilities must be consigned to auction for the benefit of
4 ratepayers, including at a minimum eliminating any additional cost
5 burden to low-income customers from the implementation of this
6 chapter. Rules adopted under this subsection must increase the
7 percentage of allowances consigned to auction by 25 percent each
8 subsequent compliance period until a total of 100 percent is reached.

9 (b) Revenues from allowances sold at auction must be returned by
10 providing nonvolumetric credits on ratepayer utility bills,
11 prioritizing low-income customers, or used to minimize cost impacts
12 on low-income, residential, and small business customers through
13 actions that include, but are not limited to, weatherization,
14 conservation and efficiency services, and bill assistance. The
15 customer benefits provided from allowances consigned to auction under
16 this section must be in addition to existing requirements in statute,
17 rule, or other legal requirements.

18 (4) If an entity is identified by the department as an emissions-
19 intensive, trade-exposed industry under section 13 of this act,
20 unless allowances have been otherwise allocated for electricity-
21 related emissions to the entity under section 13 of this act or to a
22 consumer-owned utility under this section, the department shall
23 allocate allowances at no cost to the electric utility or power
24 marketing administration that is providing electricity to the entity
25 in an amount equal to the forecasted emissions for electricity
26 consumption for the entity for the compliance period.

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

30 (6) Rules establishing the allocation of allowances to consumer-
31 owned utilities and investor-owned utilities must consider the impact
32 of electrification of buildings, transportation, and industry on the
33 electricity sector.

34 (7) Nothing in this section affects the requirements of chapter
35 19.405 RCW.

36 NEW SECTION. **Sec. 15.** ALLOCATION OF ALLOWANCES TO NATURAL GAS
37 UTILITIES. (1) For the benefit of ratepayers, allowances must be
38 allocated at no cost to covered entities that are natural gas
39 utilities.

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

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

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

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

31 (b) Revenues from allowances sold at auction must be returned by
32 providing nonvolumetric credits on ratepayer utility bills,
33 prioritizing low-income customers, or used to minimize cost impacts
34 on low-income, residential, and small business customers through
35 actions that include, but are not limited to, weatherization,
36 decarbonization, conservation and efficiency services, and bill
37 assistance. The customer benefits provided from allowances consigned
38 to auction under this section must be in addition to existing
39 requirements in statute, rule, or other legal requirements.

1 (c) Except for low-income customers, the customer bill credits
2 under this subsection are reserved exclusively for customers at
3 locations connected to a natural gas utility's system on the
4 effective date of this section. Bill credits may not be provided to
5 customers of the gas utility at a location connected to the system
6 after the effective date of this section.

7 (3) In order to qualify for no cost allowances, covered entities
8 that are natural gas utilities must provide copies of their
9 greenhouse gas emissions reports filed with the United States
10 environmental protection agency under 40 C.F.R. Part 98 subpart NN -
11 suppliers of natural gas and natural gas liquids for calendar years
12 2015 through 2021 to the department on or before March 31, 2022. The
13 copies of the reports must be provided in electronic form to the
14 department, in a manner prescribed by the department. The reports
15 must be complete and contain all information required by 40 C.F.R.
16 Sec. 98.406 including, but not limited to, information on large end-
17 users served by the natural gas utility. For any year where a natural
18 gas utility was not required to file this report with the United
19 States environmental protection agency, a report may be submitted in
20 a manner prescribed by the department containing all of the
21 information required in the subpart NN report.

22 (4) To continue receiving no cost allowances, a natural gas
23 utility must provide to the department the United States
24 environmental protection agency subpart NN greenhouse gas emissions
25 report for each reporting year in the manner and by the dates
26 provided by RCW 70A.15.2200(5) as part of the greenhouse gas
27 reporting requirements of this chapter.

28 NEW SECTION. **Sec. 16.** EMISSIONS CONTAINMENT RESERVE
29 WITHHOLDING. (1) To help ensure that the price of allowances remains
30 sufficient to incentivize reductions in greenhouse gas emissions, the
31 department must establish an emissions containment reserve and set an
32 emissions containment reserve trigger price by rule. The price must
33 be set at a reasonable amount above the auction floor price and equal
34 to the level established in jurisdictions with which the department
35 has entered into a linkage agreement. In the event that a
36 jurisdiction with which the department has entered into a linkage
37 agreement has no emissions containment trigger price, the department
38 shall suspend the trigger price under this subsection. The purpose of

1 withholding allowances in the emissions containment reserve is to
2 secure additional emissions reductions.

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

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

13 (4) The department shall transfer allowances to the emissions
14 containment reserve in the following situations:

15 (a) No less than two percent of the total number of allowances
16 available from the allowance budgets for calendar years 2023 through
17 2026;

18 (b) When allowances are unsold in auctions under section 12 of
19 this act;

20 (c) When facilities curtail or close consistent with section
21 13(6) of this act; or

22 (d) When facilities fall below the emissions threshold. The
23 amount of allowances withdrawn from the program budget must be
24 proportionate to the amount of emissions such a facility was
25 previously using.

26 (5)(a) Allowances must be distributed from the emissions
27 containment reserve by auction when new covered and opt-in entities
28 enter the program.

29 (b) Allowances equal to the greenhouse gas emissions resulting
30 from a new or expanded emissions-intensive, trade-exposed facility
31 with emissions in excess of 25,000 metric tons per year during the
32 first applicable compliance period will be provided to the facility
33 from the reserve created in this section and must be retired by the
34 facility. In subsequent compliance periods, the facility will be
35 subject to the regulatory cap and related requirements under this
36 chapter.

37 NEW SECTION. **Sec. 17.** ALLOWANCE PRICE CONTAINMENT. (1) To help
38 minimize allowance price volatility in the auction, the department
39 shall adopt by rule an auction floor price and a schedule for the

1 floor price to increase by a predetermined amount every year. The
2 department may not sell allowances at bids lower than the auction
3 floor price. The department's rules must specify holding limits that
4 determine the maximum number of allowances that may be held for use
5 or trade by a registered entity at any one time. The department shall
6 also establish an auction ceiling price to limit extraordinary prices
7 and to determine when to offer allowances through the allowance price
8 containment reserve auctions authorized under this section.

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

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

21 (b) Allowances must also be distributed from the allowance price
22 containment reserve by auction when new covered and opt-in entities
23 enter the program and allowances in the emissions containment reserve
24 under section 16 of this act are exhausted.

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

27 (5) The process for reserve auctions is the same as the process
28 provided in section 12 of this act and the proceeds from reserve
29 auctions must be treated the same.

30 (6) The department shall by rule:

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

34 (b) Establish the requirements and schedule for the allowance
35 price containment reserve auctions; and

36 (c) Establish the amount of allowances to be placed in the
37 allowance price containment reserve after the first compliance period
38 ending in 2026.

1 NEW SECTION. **Sec. 18.** PRICE CONTAINMENT. (1) The department
2 shall establish a price ceiling to provide cost protection for
3 facilities obligated to comply with this chapter. The ceiling must be
4 set at a level sufficient to facilitate investments to achieve
5 further emission reductions beyond those enabled by the price
6 ceiling, with the intent that investments accelerate the state's
7 achievement of greenhouse gas limits established under RCW
8 70A.45.020. The price ceiling must increase annually in proportion to
9 the price floor.

10 (2) In the event that no allowances remain in the allowance price
11 containment reserve, the department must issue the number of price
12 ceiling units for sale sufficient to provide cost protection for
13 facilities as established under subsection (1) of this section.
14 Purchases must be limited to entities that do not have sufficient
15 eligible compliance instruments in their holding and compliance
16 accounts for the next compliance period and these entities may only
17 purchase what they need to meet their compliance obligation for the
18 current compliance period. Price ceiling units may not be sold or
19 transferred and must be retired for compliance in the current
20 compliance period. A price ceiling unit is not a property right.

21 (3) Funds raised in connection with the sale of price ceiling
22 units must be expended to achieve emissions reductions on at least a
23 metric ton for metric ton basis that are real, permanent,
24 quantifiable, verifiable, enforceable by the state, and in addition
25 to any greenhouse gas emission reduction otherwise required by law or
26 regulation and any other greenhouse gas emission reduction that
27 otherwise would occur.

28 NEW SECTION. **Sec. 19.** OFFSETS. (1) The department shall adopt
29 by rule the protocols for establishing offset projects and securing
30 offset credits that may be used to meet a portion of a covered or
31 opt-in entity's compliance obligation under section 21 of this act.
32 The protocols adopted by the department under this section must align
33 with the policies of the state established under RCW 70A.45.090 and
34 70A.45.100.

35 (2) Offset projects must:

36 (a) Provide direct environmental benefits to the state or be
37 located in a jurisdiction with which Washington has entered into a
38 linkage agreement;

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

1 (i) Are real, permanent, quantifiable, verifiable, and
2 enforceable; and

3 (ii) Are in addition to greenhouse gas emission reductions or
4 removals otherwise required by law and other greenhouse gas emission
5 reductions or removals that would otherwise occur; and

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

9 (3)(a) A total of no more than five percent of a covered or opt-
10 in entity's compliance obligation during the first compliance period
11 may be met by transferring offset credits. During these years, at
12 least 50 percent of a covered or opt-in entity's compliance
13 obligation satisfied by offset credits must be sourced from offset
14 projects that provide direct environmental benefits in the state.

15 (b) A total of no more than four percent of a covered or opt-in
16 entity's compliance obligation during the second compliance period
17 may be met by transferring offset credits. During these years, at
18 least 75 percent of a covered or opt-in entity's compliance
19 obligation satisfied by offset credits must be sourced from offset
20 projects that provide direct environmental benefits in the state. The
21 department may reduce the 75 percent requirement if it determines
22 there is not sufficient offset supply in the state to meet offset
23 demand during the second compliance period.

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

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

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

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

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

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

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

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

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

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

(d) Make use of aggregation or other mechanisms, including cost-effective inventory and monitoring provisions, to increase the development of offset and carbon removal projects by landowners across the broadest possible variety of types and sizes of lands, including lands owned by small forestland owners.

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

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

(7) Beginning in 2031, the limits established in subsection (3) of this section apply unless modified by rule as adopted by the department after a public consultation process.

1 NEW SECTION. **Sec. 20.** ASSISTANCE PROGRAM FOR OFFSETS ON TRIBAL
2 LANDS. (1) In order to ensure that a sufficient number of high
3 quality offset projects are available under the limits set in section
4 19 of this act, the department must establish an assistance program
5 for offset projects on federally recognized tribal lands in
6 Washington. The assistance may include, but is not limited to,
7 funding or consultation for federally recognized tribal governments
8 to assess a project's technical feasibility, investment requirements,
9 development and operational costs, expected returns, administrative
10 and legal hurdles, and project risks and pitfalls. The department may
11 provide funding or assistance upon request by a federally recognized
12 tribe.

13 (2) It is the intent of the legislature that not less than
14 \$5,000,000 be provided in the biennial omnibus operating
15 appropriations act for the purposes of this section.

16 NEW SECTION. **Sec. 21.** COMPLIANCE OBLIGATIONS. (1) A covered or
17 opt-in entity has a compliance obligation for its emissions during
18 each four-year compliance period, with the first compliance period
19 commencing January 1, 2023, except when the first compliance period
20 commences at a later date as provided in subsection (7) of this
21 section. A covered or opt-in entity shall transfer a number of
22 compliance instruments equal to the entity's covered emissions by
23 November 1st of each calendar year in which a covered or opt-in
24 entity has a compliance obligation. The department shall set by rule
25 a percentage of compliance instruments that must be transferred in
26 each year of the compliance period such that covered or opt-in
27 entities are allowed to smooth their compliance obligation within the
28 compliance period but must fully satisfy their compliance obligation
29 over the course of the compliance period, in a manner similar to
30 external greenhouse gas emissions trading programs in other
31 jurisdictions.

32 (2) Submission of allowances occurs through the transfer of
33 compliance instruments, on or before the transfer date, from the
34 holding account to the compliance account of the covered or opt-in
35 entity as described in section 10 of this act.

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

(4) Allowances must be transferred in the order in which they were purchased or acquired.

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

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

(7)(a) This section does not take effect until a separate additive transportation funding is received by the state, at which time the department of licensing must provide written notice to the chief clerk of the house of representatives, the secretary of the senate, and the office of the code reviser.

(b) For the purposes of this subsection, "additive transportation funding" means receipt of funding by the state in which the combined total of new revenues deposited into the motor vehicle fund and multimodal transportation account exceed \$500,000,000 in any biennium attributable solely to separate additive transportation funding.

NEW SECTION. **Sec. 22.** ENFORCEMENT. (1) All covered and opt-in entities are required to submit compliance instruments in a timely manner to meet the entities' compliance obligations and shall comply with all requirements for monitoring, reporting, holding, and transferring emission allowances and other provisions of this chapter.

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

(3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (2) of this section, the department must issue an order or issue a penalty of up to \$10,000 per day per violation, or both, for failure to submit penalty

allowances as required by subsection (2) of the section. The order may include a plan and schedule for coming into compliance.

(4) The department may issue a penalty of up to \$50,000 per day per violation for violations of section 12(8) (a) through (e) of this act.

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

(6) Orders and penalties issued under this chapter are appealable to the pollution control hearings board under chapter 43.21B RCW.

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

(8)(a) No city, town, county, township, or other subdivision or municipal corporation of the state may implement a charge or tax based exclusively upon the quantity of greenhouse gas emissions.

(b) No state agency may adopt or enforce a program that regulates greenhouse gas emissions from a stationary source except as provided in this chapter.

NEW SECTION. **Sec. 23.** LINKAGE WITH OTHER JURISDICTIONS. (1) Subject to making the findings and conducting the public comment process described in subsection (3) of this section, the department shall seek to enter into linkage agreements with other jurisdictions with external greenhouse gas emissions trading programs in order to:

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

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

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

(d) Enhance market security;

(e) Reduce program administration costs; and

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

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

6 (a) Provisions relating to regular, periodic auctions, including
7 requirements for eligibility for auction participation, the use of a
8 single auction provider to facilitate joint auctions, publication of
9 auction-related information, processes for auction participation,
10 purchase limits by auction participant type, bidding processes, dates
11 of auctions, and financial requirements;

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

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

18 (d) Common program registry, electronic auction platform,
19 tracking systems for compliance instruments, and monitoring of
20 compliance instruments;

21 (e) Provisions to ensure coordinated administrative and technical
22 support;

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

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

26 (3) Before entering into a linkage agreement under this section,
27 the department must establish a finding that the linking jurisdiction
28 and the linkage agreement meet certain criteria identified under this
29 subsection and conduct a public comment process to obtain input and a
30 review of the linkage agreement by relevant stakeholders and other
31 interested parties. The department must consider input received from
32 the public comment process before finalizing a linkage agreement. In
33 the event that the department determines that a full linkage
34 agreement is unlikely to meet the criteria, it may enter into a
35 linkage agreement with limitations, including limits on the share of
36 compliance that may be met with allowances originating from linked
37 jurisdictions and other limitations deemed necessary by the
38 department. A linkage agreement approved by the department must:

39 (a) Achieve the purposes identified in subsection (1) of this
40 section;

1 (b) Ensure that the linking jurisdiction has provisions to ensure
2 the distribution of benefits from the program to vulnerable
3 populations and overburdened communities;

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

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

10 (4) The state retains all legal and policymaking authority over
11 its program design and enforcement.

12 NEW SECTION. **Sec. 24.** RULES. The department shall adopt rules
13 to implement the provisions of the program established in sections 8
14 through 23 of this act. The department may adopt emergency rules
15 pursuant to RCW 34.05.350 for initial implementation of the program,
16 to implement the state omnibus appropriations act for the 2021-2023
17 fiscal biennium, and to ensure that reporting and other program
18 requirements are determined early for the purpose of program design
19 and early notice to registered entities with a compliance obligation
20 under the program.

21 NEW SECTION. **Sec. 25.** EXPENDITURE TARGETS. (1) It is the intent
22 of the legislature that each year the total investments made through
23 the carbon emissions reduction account created in section 26 of this
24 act, the climate commitment account created in section 28 of this
25 act, and the natural climate solutions account created in section 29
26 of this act achieve the following:

27 (a) A minimum of not less than 35 percent and a goal of 40
28 percent of total investments that provide direct and meaningful
29 benefits to vulnerable populations within the boundaries of
30 overburdened communities identified under chapter . . . , Laws of 2021
31 (Engrossed Second Substitute Senate Bill No. 5141); and

32 (b) At least 10 percent of the total investments authorized under
33 this chapter must be used for programs, activities, or projects
34 formally supported by a resolution of an Indian tribe, with priority
35 given to otherwise qualifying projects directly administered or
36 proposed by an Indian tribe. An investment that meets the
37 requirements of both this subsection (1)(b) and (a) of this

subsection may count toward the requisite minimum percentage for both subsections.

(2) The expenditure of moneys under this chapter must be consistent with applicable federal, state, and local laws, and treaty rights including, but not limited to, prohibitions on uses of funds imposed by the state Constitution.

(3) For the purposes of this section, "benefits" means investments or activities that:

(a) Reduce vulnerable population characteristics, environmental burdens, or associated risks that contribute significantly to the cumulative impact designation of highly impacted communities;

(b) Meaningfully protect an overburdened community from, or support community response to, the impacts of air pollution or climate change; or

(c) Meet a community need identified by vulnerable members of the community that is consistent with the intent of this chapter.

NEW SECTION. **Sec. 26.** CARBON EMISSIONS REDUCTION ACCOUNT. The carbon emissions reduction account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account are intended to affect reductions in transportation sector carbon emissions through a variety of carbon reducing investments. They can include, but are not limited to: Transportation alternatives to single occupancy passenger vehicles; reductions in single occupancy passenger vehicle miles traveled; reductions in per mile emissions in vehicles, including through the funding of alternative fuel infrastructure and incentive programs; and emission reduction programs for freight transportation, including motor vehicles and rail, as well as for ferries and other maritime and port activities. Expenditures from the account may only be made for transportation carbon emission reducing purposes and may not be made for highway purposes authorized under the 18th Amendment of the Washington state Constitution. It is the legislature's intent that expenditures from the account used to reduce carbon emissions be made with the goal of achieving equity for communities that historically have been omitted or adversely impacted by past transportation policies and practices.

NEW SECTION. **Sec. 27.** CLIMATE INVESTMENT ACCOUNT. (1)(a) The climate investment account is created in the state treasury. Except

1 as otherwise provided in this act, all receipts from the auction of
2 allowances authorized in this chapter must be deposited into the
3 account. Moneys in the account may be spent only after appropriation.

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

18 (2) Moneys in the account may be used only for projects and
19 programs that achieve the purposes of the greenhouse gas emissions
20 cap and invest program established under this chapter. Moneys in the
21 account as described in this subsection must first be appropriated
22 for the administration of the requirements of this chapter, in an
23 amount not to exceed five percent of the total receipt of funds
24 deposited in the account per biennium. Beginning July 1, 2024, and
25 annually thereafter, the state treasurer shall distribute funds in
26 the account as follows:

27 (a) Seventy-five percent of the moneys to the climate commitment
28 account created in section 28 of this act; and

29 (b) Twenty-five percent of the moneys to the natural climate
30 solutions account created in section 29 of this act.

31 (3) The allocations specified in subsection (2)(a) and (b) of
32 this section must be reviewed by the legislature on a biennial basis
33 based on the changing needs of the state in meeting its clean economy
34 and greenhouse gas reduction goals in a timely, economically
35 advantageous, and equitable manner.

36 NEW SECTION. **Sec. 28.** CLIMATE COMMITMENT ACCOUNT. (1) The
37 climate commitment account is created in the state treasury. The
38 account must receive moneys distributed to the account from the
39 climate investment account created in section 27 of this act. Moneys

1 in the account may be spent only after appropriation. Projects,
2 activities, and programs eligible for funding from the account must
3 be physically located in Washington state and include, but are not
4 limited to, the following:

5 (a) Implementing the working families tax rebate in RCW
6 82.08.0206;

7 (b) Supplementing the growth management planning and
8 environmental review fund established in RCW 36.70A.490 for the
9 purpose of making grants or loans to local governments for the
10 purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and
11 36.70A.600, for costs associated with RCW 36.70A.610, and to cover
12 costs associated with the adoption of optional elements of
13 comprehensive plans consistent with RCW 43.21C.420;

14 (c) Programs, activities, or projects that reduce and mitigate
15 impacts from greenhouse gases and copollutants in overburdened
16 communities, including strengthening the air quality monitoring
17 network to measure, track, and better understand air pollution levels
18 and trends and to inform the analysis, monitoring, and pollution
19 reduction measures required in section 3 of this act;

20 (d) Programs, activities, or projects that deploy renewable
21 energy resources, such as solar and wind power, and projects to
22 deploy distributed generation, energy storage, demand-side
23 technologies and strategies, and other grid modernization projects;

24 (e) Programs, activities, or projects that increase the energy
25 efficiency or reduce greenhouse gas emissions of industrial
26 facilities including, but not limited to, proposals to implement
27 combined heat and power, district energy, or on-site renewables, such
28 as solar and wind power, to upgrade the energy efficiency of existing
29 equipment, to reduce process emissions, and to switch to less
30 emissions intensive fuel sources;

31 (f) Programs, activities, or projects that achieve energy
32 efficiency or emissions reductions in the agricultural sector
33 including fertilizer management, soil management, bioenergy, and
34 biofuels;

35 (g) Programs, activities, or projects that increase energy
36 efficiency in new and existing buildings, or that promote low-carbon
37 architecture, including use of newly emerging alternative building
38 materials that result in a lower carbon footprint in the built
39 environment over the life cycle of the building and component
40 building materials;

1 (h) Programs, activities, or projects that promote the
2 electrification and decarbonization of new and existing buildings,
3 including residential, commercial, and industrial buildings;

4 (i) Programs, activities, or projects that improve energy
5 efficiency, including district energy, and investments in market
6 transformation of high efficiency electric appliances and equipment
7 for space and water heating;

8 (j) Clean energy transition and assistance programs, activities,
9 or projects that assist affected workers or people with lower incomes
10 during the transition to a clean energy economy, or grow and expand
11 clean manufacturing capacity in communities across Washington state
12 including, but not limited to:

13 (i) Programs, activities, or projects that directly improve
14 energy affordability and reduce the energy burden of people with
15 lower incomes, as well as the higher transportation fuel burden of
16 rural residents, such as bill assistance, energy efficiency, and
17 weatherization programs;

18 (ii) Community renewable energy projects that allow qualifying
19 participants to own or receive the benefits of those projects at
20 reduced or no cost;

21 (iii) Programs, activities, or other worker-support projects for
22 bargaining unit and nonsupervisory fossil fuel workers who are
23 affected by the transition away from fossil fuels to a clean energy
24 economy. Worker support may include, but is not limited to: (A) Full
25 wage replacement, health benefits, and pension contributions for
26 every worker within five years of retirement; (B) full wage
27 replacement, health benefits, and pension contributions for every
28 worker with at least one year of service for each year of service up
29 to five years of service; (C) wage insurance for up to five years for
30 workers reemployed who have more than five years of service; (D) up
31 to two years of retraining costs, including tuition and related
32 costs, based on in-state community and technical college costs; (E)
33 peer counseling services during transition; (F) employment placement
34 services, prioritizing employment in the clean energy sector; and (G)
35 relocation expenses;

36 (iv) Direct investment in workforce development, via technical
37 education, community college, apprenticeships, and other programs;

38 (v) Transportation, municipal service delivery, and technology
39 investments that increase a community's capacity for clean
40 manufacturing, with an emphasis on communities in greatest need of

1 job creation and economic development and potential for commute
2 reduction;

3 (k) Programs, activities, or projects that reduce emissions from
4 landfills and waste-to-energy facilities through diversion of organic
5 materials, methane capture or conversion strategies, or other means;

6 (l) Carbon dioxide removal projects, programs, and activities;
7 and

8 (m) Activities to support efforts to mitigate and adapt to the
9 effects of climate change affecting Indian tribes, including capital
10 investments in support of the relocation of Indian tribes located in
11 areas at heightened risk due to anticipated sea level rise, flooding,
12 or other disturbances caused by climate change. The legislature
13 intends to dedicate at least \$50,000,000 per biennium from the
14 account for purposes of this subsection.

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

21 NEW SECTION. **Sec. 29.** NATURAL CLIMATE SOLUTIONS ACCOUNT. (1)
22 The natural climate solutions account is created in the state
23 treasury. All moneys directed to the account from the climate
24 investment account created in section 27 of this act must be
25 deposited in the account. Moneys in the account may be spent only
26 after appropriation. Moneys in the account are intended to increase
27 the resilience of the state's waters, forests, and other vital
28 ecosystems to the impacts of climate change, conserve working
29 forestlands at risk of conversion, and increase their carbon
30 pollution reduction capacity through sequestration, storage, and
31 overall system integrity. Moneys in the account must be spent in a
32 manner that is consistent with existing and future assessments of
33 climate risks and resilience from the scientific community and
34 expressed concerns of and impacts to overburdened communities.

35 (2) Moneys in the account may be allocated for the following
36 purposes:

37 (a) Clean water investments that improve resilience from climate
38 impacts. Funding under this subsection (2)(a) must be used to:

1 (i) Restore and protect estuaries, fisheries, and marine
2 shoreline habitats and prepare for sea level rise including, but not
3 limited to, making fish passage correction investments such as those
4 identified in the cost-share barrier removal program for small
5 forestland owners created in RCW 76.13.150 and those that are
6 considered by the fish passage barrier removal board created in RCW
7 77.95.160;

8 (ii) Increase carbon storage in the ocean or aquatic and coastal
9 ecosystems;

10 (iii) Increase the ability to remediate and adapt to the impacts
11 of ocean acidification;

12 (iv) Reduce flood risk and restore natural floodplain ecological
13 function;

14 (v) Increase the sustainable supply of water and improve aquatic
15 habitat, including groundwater mapping and modeling;

16 (vi) Improve infrastructure treating stormwater from previously
17 developed areas within an urban growth boundary designated under
18 chapter 36.70A RCW, with a preference given to projects that use
19 green stormwater infrastructure;

20 (vii) Either preserve or increase, or both, carbon sequestration
21 and storage benefits in forests, forested wetlands, agricultural
22 soils, tidally influenced agricultural or grazing lands, or
23 freshwater, saltwater, or brackish aquatic lands; or

24 (viii) Either preserve or establish, or both, carbon
25 sequestration by protecting or planting trees in marine shorelines
26 and freshwater riparian areas sufficient to promote climate
27 resilience, protect cold water fisheries, and achieve water quality
28 standards;

29 (b) Healthy forest investments to improve resilience from climate
30 impacts. Funding under this subsection (2)(b) must be used for
31 projects and activities that will:

32 (i) Increase forest and community resilience to wildfire in the
33 face of increased seasonal temperatures and drought;

34 (ii) Improve forest health and reduce vulnerability to changes in
35 hydrology, insect infestation, and other impacts of climate change;
36 or

37 (iii) Prevent emissions by preserving natural and working lands
38 from the threat of conversion to development or loss of critical
39 habitat, through actions that include, but are not limited to, the
40 creation of new conservation lands, community forests, or increased

1 support to small forestland owners through assistance programs
2 including, but not limited to, the forest riparian easement program
3 and the family forest fish passage program.

4 (3) Moneys in the account may not be used for projects that would
5 violate tribal treaty rights or result in significant long-term
6 damage to critical habitat or ecological functions. Investments from
7 this account must result in long-term environmental benefits and
8 increased resilience to the impacts of climate change.

9 **Sec. 30.** RCW 70A.15.2200 and 2020 c 20 s 1090 are each amended
10 to read as follows:

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

22 (2) Except as provided in subsection (3) of this section, any
23 person operating or responsible for the operation of air contaminant
24 sources of any class for which the ordinances, resolutions, rules or
25 regulations of the department or board of the authority, require
26 registration or reporting shall register therewith and make reports
27 containing information as may be required by such department or board
28 concerning location, size and height of contaminant outlets,
29 processes employed, nature of the contaminant emission and such other
30 information as is relevant to air pollution and available or
31 reasonably capable of being assembled. In the case of emissions of
32 greenhouse gases as defined in RCW 70A.45.010 the department shall
33 adopt rules requiring reporting of those emissions. The department or
34 board may require that such registration or reporting be accompanied
35 by a fee, and may determine the amount of such fee for such class or
36 classes: PROVIDED, That the amount of the fee shall only be to
37 compensate for the costs of administering such registration or
38 reporting program which shall be defined as initial registration and
39 annual or other periodic reports from the source owner providing

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

18 All registration program and reporting fees collected by the
19 department shall be deposited in the air pollution control account.
20 All registration program fees collected by the local air authorities
21 shall be deposited in their respective treasuries.

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

35 This subsection does not apply to a grain warehouse or grain
36 elevator if the warehouse or elevator handles more than ten million
37 bushels of grain annually.

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

39 (a) A "grain warehouse" or "grain elevator" is an establishment
40 classified in standard industrial classification (SIC) code 5153 for

1 wholesale trade for which a license is required and includes, but is
2 not limited to, such a licensed facility that also conducts cleaning
3 operations for grain;

4 (b) A "license" is a license issued by the department of
5 agriculture licensing a facility as a grain warehouse or grain
6 elevator under chapter 22.09 RCW or a license issued by the federal
7 government licensing a facility as a grain warehouse or grain
8 elevator for purposes similar to those of licensure for the facility
9 under chapter 22.09 RCW; and

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

11 (5)(a) The department shall adopt rules requiring persons to
12 report emissions of greenhouse gases as defined in RCW 70A.45.010
13 where those emissions from a single facility, ~~((source, or site,))~~ or
14 from electricity or fossil fuels sold in Washington by a single
15 supplier or local distribution company, meet or exceed ten thousand
16 metric tons of carbon dioxide equivalent annually. The ~~((department~~
17 ~~may phase in the requirement to report greenhouse gas emissions until~~
18 ~~the reporting threshold in this subsection is met, which must occur~~
19 ~~by January 1, 2012))~~ rules adopted by the department must support
20 implementation of the program created in section 8 of this act. In
21 addition, the rules must require that:

22 (i) Emissions of greenhouse gases resulting from the combustion
23 of fossil fuels be reported separately from emissions of greenhouse
24 gases resulting from the combustion of biomass; and

25 (ii) ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each
26 annual report must include emissions data for the preceding calendar
27 year and must be submitted to the department by ~~((October))~~ March
28 31st of the year in which the report is due. ~~((However, starting in~~
29 ~~2011, a person who is required to report greenhouse gas emissions to~~
30 ~~the United States environmental protection agency under 40 C.F.R.~~
31 ~~Part 98, as adopted on September 22, 2009, must submit the report~~
32 ~~required under this section to the department concurrent with the~~
33 ~~submission to the United States environmental protection agency.~~
34 ~~Except as otherwise provided in this section, the data for emissions~~
35 ~~in Washington and any corrections thereto that are reported to the~~
36 ~~United States environmental protection agency must be the emissions~~
37 ~~data reported to the department; and~~

38 ~~((iii) Emissions of carbon dioxide associated with the complete~~
39 ~~combustion or oxidation of liquid motor vehicle fuel, special fuel,~~
40 ~~or aircraft fuel that is sold in Washington where the annual~~

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

20 (b) (i) ((Except as otherwise provided in this subsection, the
21 rules adopted by the department under (a) of this subsection must be
22 consistent with the regulations adopted by the United States
23 environmental protection agency in 40 C.F.R. Part 98 on September 22,
24 2009.

25 ~~((ii))~~) The department may by rule include additional gases to the
26 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has
27 been designated as a greenhouse gas by the United States congress
28 ~~((or))~~, by the United States environmental protection agency, or
29 included in external greenhouse gas emission trading programs with
30 which Washington has pursuant to section 23 of this act. Prior to
31 including additional gases to the definition of "greenhouse gas" in
32 RCW 70A.45.010, the department shall notify the appropriate
33 committees of the legislature. ~~((Decisions to amend the rule to~~
34 ~~include additional gases must be made prior to December 1st of any~~
35 ~~year and the amended rule may not take effect before the end of the~~
36 ~~regular legislative session in the next year.~~

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

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

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

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

9 (B) Needed to ensure consistency with emissions reporting
10 requirements for jurisdictions with which Washington has entered a
11 linkage agreement. ~~((However, the))~~

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

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

17 (e) The fee provisions in subsection (2) of this section apply to
18 reporting of emissions of greenhouse gases. Persons required to
19 report under (a) of this subsection who fail to report or pay the fee
20 required in subsection (2) of this section are subject to enforcement
21 penalties under this chapter. The department shall enforce the
22 reporting rule requirements ~~((unless it approves a local air~~
23 ~~authority's request to enforce the requirements for persons operating~~
24 ~~within the authority's jurisdiction. However, neither the department~~
25 ~~nor a local air authority approved under this section are authorized~~
26 ~~to assess enforcement penalties on persons required to report under~~
27 ~~(a) of this subsection until six months after the department adopts~~
28 ~~its reporting rule in 2010))~~. When a person that holds a compliance
29 obligation under section 10 of this act fails to submit an emissions
30 data report or fails to obtain a positive emissions data verification
31 statement in accordance with (g)(ii) of this subsection, the
32 department may assign an emissions level for that person.

33 (f) The energy facility site evaluation council shall,
34 simultaneously with the department, adopt rules that impose
35 greenhouse gas reporting requirements in site certifications on
36 owners or operators of a facility permitted by the energy facility
37 site evaluation council. The greenhouse gas reporting requirements
38 imposed by the energy facility site evaluation council must be the
39 same as the greenhouse gas reporting requirements imposed by the
40 department. The department shall share any information reported to it

1 from facilities permitted by the energy facility site evaluation
2 council with the council, including notice of a facility that has
3 failed to report as required. The energy facility site evaluation
4 council shall contract with the department to monitor the reporting
5 requirements adopted under this section.

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

15 (ii) Verification requirements apply at a minimum to persons
16 required to report under (a) of this subsection with emissions that
17 equal or exceed 25,000 metric tons of carbon dioxide equivalent
18 emissions, including carbon dioxide from biomass-derived fuels, or to
19 persons who have a compliance obligation under section 10 of this act
20 in any year of the current compliance period. The department may
21 adopt rules to accept verification reports from another jurisdiction
22 with a linkage agreement pursuant to section 20 of this act in cases
23 where the department deems that the methods or procedures are
24 substantively similar.

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

27 (ii) For the purpose of this subsection (5), the term "supplier"
28 includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel~~
29 ~~importer, as those terms are defined in RCW 82.36.010; (B) a special~~
30 ~~fuel supplier or a special fuel importer, as those terms are defined~~
31 ~~in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those~~
32 ~~terms are defined in RCW 82.42.010)) Suppliers that produce, import,~~
33 or deliver, or any combination of producing, importing, or
34 delivering, a quantity of fuel products in Washington that, if
35 completely combusted, oxidized, or used in other processes, would
36 result in the release of greenhouse gases equivalent to or higher
37 than the threshold established under (a) of this subsection; and (B)
38 suppliers of carbon dioxide that produce, import, or deliver a
39 quantity of carbon dioxide in Washington that, if released, would

1 result in emissions equivalent to or higher than the threshold
2 established under (a) of this subsection.

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

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

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

24 NEW SECTION. Sec. 31. This act may be known and cited as the
25 Washington climate commitment act.

26 NEW SECTION. Sec. 32. Sections 1 through 29 and 31 of this act
27 constitute a new chapter in Title 70A RCW.

28 NEW SECTION. Sec. 33. (1) Sections 8 through 23 of this act,
29 and any rules adopted by the department of ecology to implement the
30 program established under those sections, are suspended on December
31 31, 2055, in the event that the department of ecology determines by
32 December 1, 2055, that the 2050 emissions limits of RCW 70A.45.020
33 have been met for two or more consecutive years.

34 (2) Upon the occurrence of the events identified in subsection
35 (1) of this section, the department of ecology must provide written
36 notice of the suspension date of sections 8 through 23 of this act to
37 affected parties, the chief clerk of the house of representatives,

1 the secretary of the senate, the office of the code reviser, and
2 others as deemed appropriate by the department.

3 **Sec. 34.** RCW 43.376.020 and 2012 c 122 s 2 are each amended to
4 read as follows:

5 In establishing a government-to-government relationship with
6 Indian tribes, state agencies must:

7 (1) Make reasonable efforts to collaborate with Indian tribes in
8 the development of policies, agreements, and program implementation
9 that directly affect Indian tribes and develop a consultation process
10 that is used by the agency for issues involving specific Indian
11 tribes. State agencies described in section 6 of this act must offer
12 consultation with Indian tribes on the actions specified in section 6
13 of this act;

14 (2) Designate a tribal liaison who reports directly to the head
15 of the state agency;

16 (3) Ensure that tribal liaisons who interact with Indian tribes
17 and the executive directors of state agencies receive training as
18 described in RCW 43.376.040; and

19 (4) Submit an annual report to the governor on activities of the
20 state agency involving Indian tribes and on implementation of this
21 chapter.

22 **Sec. 35.** RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035
23 are each reenacted and amended to read as follows:

24 (1) The hearings board shall only have jurisdiction to hear and
25 decide appeals from the following decisions of the department, the
26 director, local conservation districts, the air pollution control
27 boards or authorities as established pursuant to chapter 70A.15 RCW,
28 local health departments, the department of natural resources, the
29 department of fish and wildlife, the parks and recreation commission,
30 and authorized public entities described in chapter 79.100 RCW:

31 (a) Civil penalties imposed pursuant to RCW 18.104.155,
32 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
33 70A.515.060, section 22 of this act, 76.09.170, 77.55.440, 78.44.250,
34 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
35 90.64.102.

36 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
37 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,

1 section 22 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
2 90.48.120, and 90.56.330.

3 (c) Except as provided in RCW 90.03.210(2), the issuance,
4 modification, or termination of any permit, certificate, or license
5 by the department or any air authority in the exercise of its
6 jurisdiction, including the issuance or termination of a waste
7 disposal permit, the denial of an application for a waste disposal
8 permit, the modification of the conditions or the terms of a waste
9 disposal permit, or a decision to approve or deny an application for
10 a solid waste permit exemption under RCW 70A.205.260.

11 (d) Decisions of local health departments regarding the grant or
12 denial of solid waste permits pursuant to chapter 70A.205 RCW.

13 (e) Decisions of local health departments regarding the issuance
14 and enforcement of permits to use or dispose of biosolids under RCW
15 70A.226.090.

16 (f) Decisions of the department regarding waste-derived
17 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
18 decisions of the department regarding waste-derived soil amendments
19 under RCW 70A.205.145.

20 (g) Decisions of local conservation districts related to the
21 denial of approval or denial of certification of a dairy nutrient
22 management plan; conditions contained in a plan; application of any
23 dairy nutrient management practices, standards, methods, and
24 technologies to a particular dairy farm; and failure to adhere to the
25 plan review and approval timelines in RCW 90.64.026.

26 (h) Any other decision by the department or an air authority
27 which pursuant to law must be decided as an adjudicative proceeding
28 under chapter 34.05 RCW.

29 (i) Decisions of the department of natural resources, the
30 department of fish and wildlife, and the department that are
31 reviewable under chapter 76.09 RCW, and the department of natural
32 resources' appeals of county, city, or town objections under RCW
33 76.09.050(7).

34 (j) Forest health hazard orders issued by the commissioner of
35 public lands under RCW 76.06.180.

36 (k) Decisions of the department of fish and wildlife to issue,
37 deny, condition, or modify a hydraulic project approval permit under
38 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
39 comply, to issue a civil penalty, or to issue a notice of intent to
40 disapprove applications.

1 (1) Decisions of the department of natural resources that are
2 reviewable under RCW 78.44.270.

3 (m) Decisions of an authorized public entity under RCW 79.100.010
4 to take temporary possession or custody of a vessel or to contest the
5 amount of reimbursement owed that are reviewable by the hearings
6 board under RCW 79.100.120.

7 (2) The following hearings shall not be conducted by the hearings
8 board:

9 (a) Hearings required by law to be conducted by the shorelines
10 hearings board pursuant to chapter 90.58 RCW.

11 (b) Hearings conducted by the department pursuant to RCW
12 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
13 70A.15.3110, and 90.44.180.

14 (c) Appeals of decisions by the department under RCW 90.03.110
15 and 90.44.220.

16 (d) Hearings conducted by the department to adopt, modify, or
17 repeal rules.

18 (3) Review of rules and regulations adopted by the hearings board
19 shall be subject to review in accordance with the provisions of the
20 administrative procedure act, chapter 34.05 RCW.

21 **Sec. 36.** RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to
22 read as follows:

23 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
24 70A.205.280, 70A.300.090, 70A.20.050, section 22 of this act,
25 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
26 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in
27 writing, either by certified mail with return receipt requested or by
28 personal service, to the person incurring the penalty from the
29 department or the local air authority, describing the violation with
30 reasonable particularity. For penalties issued by local air
31 authorities, within thirty days after the notice is received, the
32 person incurring the penalty may apply in writing to the authority
33 for the remission or mitigation of the penalty. Upon receipt of the
34 application, the authority may remit or mitigate the penalty upon
35 whatever terms the authority in its discretion deems proper. The
36 authority may ascertain the facts regarding all such applications in
37 such reasonable manner and under such rules as it may deem proper and
38 shall remit or mitigate the penalty only upon a demonstration of

1 extraordinary circumstances such as the presence of information or
2 factors not considered in setting the original penalty.

3 (2) Any penalty imposed under this section may be appealed to the
4 pollution control hearings board in accordance with this chapter if
5 the appeal is filed with the hearings board and served on the
6 department or authority thirty days after the date of receipt by the
7 person penalized of the notice imposing the penalty or thirty days
8 after the date of receipt of the notice of disposition by a local air
9 authority of the application for relief from penalty.

10 (3) A penalty shall become due and payable on the later of:

11 (a) Thirty days after receipt of the notice imposing the penalty;

12 (b) Thirty days after receipt of the notice of disposition by a
13 local air authority on application for relief from penalty, if such
14 an application is made; or

15 (c) Thirty days after receipt of the notice of decision of the
16 hearings board if the penalty is appealed.

17 (4) If the amount of any penalty is not paid to the department
18 within thirty days after it becomes due and payable, the attorney
19 general, upon request of the department, shall bring an action in the
20 name of the state of Washington in the superior court of Thurston
21 county, or of any county in which the violator does business, to
22 recover the penalty. If the amount of the penalty is not paid to the
23 authority within thirty days after it becomes due and payable, the
24 authority may bring an action to recover the penalty in the superior
25 court of the county of the authority's main office or of any county
26 in which the violator does business. In these actions, the procedures
27 and rules of evidence shall be the same as in an ordinary civil
28 action.

29 (5) All penalties recovered shall be paid into the state treasury
30 and credited to the general fund except those penalties imposed
31 pursuant to RCW 18.104.155, which shall be credited to the
32 reclamation account as provided in RCW 18.104.155(7), RCW
33 70A.15.3160, the disposition of which shall be governed by that
34 provision, RCW 70A.300.090, which shall be credited to the model
35 toxics control operating account created in RCW 70A.305.180, section
36 22 of this act, which shall be credited to the climate investment
37 account created in section 27 of this act, RCW 90.56.330, which shall
38 be credited to the coastal protection fund created by RCW 90.48.390,
39 and RCW 70A.355.070, which shall be credited to the underground
40 storage tank account created by RCW 70A.355.090.

1 NEW SECTION. **Sec. 37.** 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."

5 Correct the title.

EFFECT: The striking amendment does the following:

Makes technical changes, including conforming amendments.

Adds imported electricity to the list of covered emissions sources under the first compliance period of the Cap and Invest Program.

Aligns environmental justice provisions with those of the Washington HEAL Act.

Replaces references to the Forward Flexible Account for transportation expenditures with the new Carbon Emissions Reduction Account.

Creates two subaccounts within the Climate Investment Account: the Climate Commitment Account and the Natural Climate Solutions Account.

Directs 75 percent of the funds deposited into the Climate Investment Account into the Climate Commitment Account and 25 percent into the Natural Climate Solutions Account.

Identifies the individual retail electric cooperatives served by a multijurisdictional consumer-owned utility as the covered entity under the Cap and Trade Program.

Adds a voluntary renewable reserve account maintained by the Department of Ecology from which allowances may be retired for voluntary renewable electricity generation.

Requires that a project or activity funded in whole or in part from the Climate Investment Account be paused or ceased in the event that an affected federally recognized Indian tribe or the Department of Archaeology and Historic Preservation provides timely notice of a determination to the Department of Ecology that the project will adversely impact cultural resources, archaeological sites, or sacred sites.

Adds a new section requiring the Governor to establish a governance structure to implement the state's climate commitment to provide accountability for achieving the state's greenhouse gas emissions reduction limits, establish a coordinated and strategic statewide approach to climate resilience, build an equitable and inclusive clean energy economy, and ensure that the government provides clear policy and requirements, financial tools, and other mechanisms to support achieving those limits.

Requires consumer-owned and investor-owned electric utilities receiving allowances at no cost from the Department of Ecology to consign a portion of those allowances to auction for the benefit of ratepayers each compliance period.

Requires that allowances consigned to auction for the benefit of ratepayers by electric utilities eliminate any additional cost burden to low-income customers from the implementation of the Cap and Invest Program.

Requires that revenues from allowances sold at auction be returned by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers

through actions such as weatherization, conservation and efficiency services, and bill assistance.

Requires the Department of Ecology to, in adopting offset protocols, make use of aggregation or other mechanisms to increase the development of offset and carbon removal projects by landowners, including small forest landowners.

Adds environmental justice expenditure targets for the total investments made through the Carbon Emissions Reduction Account, the Climate Commitment Account, and the Natural Climate Solutions Account.

Removes the section requiring the Climate Investment Account to be included in the legislature's four-year balanced budget requirements.

--- END ---