
SUBSTITUTE SENATE BILL 5126

State of Washington

67th Legislature

2021 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Carlyle, Saldaña, Conway, Das, Frockt, Hunt, Lias, Nguyen, Pedersen, Salomon, Stanford, and Wilson, C.; by request of Office of the Governor)

READ FIRST TIME 02/26/21.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (11) "Carbon dioxide removal" means deliberate human activities
16 removing carbon dioxide from the atmosphere and durably storing it in
17 geological, terrestrial, or ocean reservoirs, or in products. "Carbon
18 dioxide removal" includes existing and potential anthropogenic
19 enhancement of biological or geochemical sinks and including, but not
20 limited to, direct air capture and storage and carbon mineralization,
21 but excludes natural carbon dioxide uptake not directly caused by
22 human activities.

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

27 (13) "Climate resilience" is the ongoing process of anticipating,
28 preparing, and adapting to changes in climate and minimizing negative
29 impacts to our natural systems, infrastructure, and communities. For
30 natural systems, increasing resiliency involves restoring and
31 increasing the health, function, and integrity of our ecosystems and
32 improving their ability to absorb and recover from climate-driven
33 disturbances. For communities, increasing resiliency means enhancing
34 their ability to understand, prevent, adapt, and recover from climate
35 impacts to people and infrastructure.

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

1 (15) "Compliance obligation" means the requirement to turn into
2 the department the number of compliance instruments equivalent to a
3 covered or opt-in entity's covered emissions during the compliance
4 period.

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

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

13 (18) "Cost burden" means the impact on rates or charges to
14 customers of electric utilities in Washington state for the
15 incremental cost of electricity service to serve load due to the
16 compliance cost for greenhouse gas emissions caused by the program.

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

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

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

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

25 (23) "Electricity importer" means:

26 (a) For electricity that is scheduled with a NERC e-tag to a
27 final point of delivery inside the state of Washington, the
28 electricity importer is identified on the NERC e-tag as the
29 purchasing-selling entity on the last segment of the tag's physical
30 path with the point of receipt located outside the state of
31 Washington and the point of delivery located inside the state of
32 Washington;

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

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

1 (d) For electricity from facilities allocated to serve retail
2 electricity customers of a multijurisdictional electric company, the
3 electricity importer is the multijurisdictional electric company;

4 (e) If the importer identified under (a) of this subsection is a
5 federal power marketing administration over which the state of
6 Washington does not have jurisdiction, and the federal power
7 marketing administration has not voluntarily elected to comply with
8 the program, then the electricity importer is the next purchasing-
9 selling entity in the physical path on the NERC e-tag, or if no
10 additional purchasing-selling entity over which the state of
11 Washington has jurisdiction, then the electricity importer is the
12 electric utility that operates the Washington transmission or
13 distribution system, or the generation balancing authority; or

14 (f) If the importer identified under (b) of this subsection is a
15 federal power marketing administration over which the state of
16 Washington does not have jurisdiction, and the federal power
17 marketing administration has not voluntarily elected to comply with
18 the program, then the electricity importer is the electric utility
19 that operates the Washington transmission or distribution system, or
20 the generation balancing authority.

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

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

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

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

33 (a) Prevent or reduce existing environmental harms or associated
34 risks that contribute significantly to cumulative environmental
35 health impacts;

36 (b) Prevent or mitigate impacts to overburdened communities and
37 vulnerable populations from, or support community response to, the
38 impacts of environmental harm; or

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

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

7 (a) Exposure to pollution, conventional or toxic pollutants,
8 environmental hazards, or other contamination in the air, water, and
9 land;

10 (b) Adverse environmental effects, including exposure to
11 contamination, hazardous substances, or pollution that increase the
12 risk of adverse environmental health outcomes or create
13 vulnerabilities to climate impacts; and

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

15 (29) "Environmental impacts" means environmental benefits or
16 environmental harms, or the combination of environmental benefits and
17 harms, resulting from a proposed action.

18 (30) "Environmental justice" means the fair treatment and
19 meaningful involvement of all people regardless of race, color,
20 national origin, or income with respect to the development,
21 implementation, and enforcement of environmental laws, regulations,
22 and policies. This includes addressing disproportionate environmental
23 and health impacts in all laws, rules, and policies with
24 environmental impacts by prioritizing vulnerable populations and
25 overburdened communities, equitably distributing resources and
26 benefits, and eliminating harm.

27 (31) "Environmental justice assessment" means using an
28 intersectional lens to address disproportionate environmental and
29 health impacts in all laws, rules, and policies with environmental
30 impacts by prioritizing vulnerable populations in overburdened
31 communities, equitably distributing resources and benefits, and
32 eliminating harm.

33 (32) "External greenhouse gas emissions trading program" means a
34 government program, other than Washington's program created in this
35 chapter, that restricts greenhouse gas emissions from sources outside
36 of Washington through emissions trading.

37 (33) "Facility" means any physical property, plant, building,
38 structure, source, or stationary equipment located on one or more
39 contiguous or adjacent properties in actual physical contact or
40 separated solely by a public roadway or other public right-of-way and

1 under common ownership or common control, that emits or may emit any
2 greenhouse gas.

3 (34) "First jurisdictional deliverer" means the owner or operator
4 of an electric generating facility in Washington or an electricity
5 importer.

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

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

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

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

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

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

22 (c) "Imported electricity" does not include electricity imports
23 of unspecified electricity that are netted by exports of unspecified
24 electricity to any jurisdiction not covered by a linked program by
25 the same entity within the same hour.

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

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

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

37 (41) "Linkage" means a bilateral or multilateral decision between
38 greenhouse gas market programs to accept compliance instruments
39 issued by a participating jurisdiction to meet the obligations of

1 regulated entities in a partner jurisdiction and to otherwise
2 coordinate activities to facilitate operation of a joint market.

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

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

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

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

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

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

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

27 (49) "Person" has the same meaning as defined in RCW
28 70A.15.2200(5)(h)(iii).

29 (50) "Point of delivery" means a point on the electricity
30 transmission or distribution system physically located in Washington
31 where a power supplier delivers electricity. This point may be an
32 interconnection with another system or a substation where the
33 transmission provider's transmission and distribution systems are
34 connected to another system, or a distribution substation where
35 electricity is imported into the state over a multijurisdictional
36 retail provider's distribution system.

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

39 (52) "Program registry" means the data system in which covered
40 parties, opt-in entities, and general market participants are

1 registered and in which compliance instruments are recorded and
2 tracked.

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

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

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

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

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

18 (58)(a) "Vulnerable populations" means population groups that may
19 be more likely to have adverse health outcomes in response to
20 environmental harms, due to: (i) Adverse socioeconomic factors, such
21 as unemployment, high housing and transportation costs relative to
22 income, limited access to nutritious food and adequate health care,
23 linguistic isolation, and other factors that negatively affect health
24 outcomes and increase vulnerability to the effects of environmental
25 harms; and (ii) sensitivity factors, such as low birth weight and
26 higher rates of hospitalization.

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

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

36 (a) Utilize the department of health's environmental health
37 disparities map and complementary data to identify a high priority
38 list of overburdened communities where the highest emissions or

1 concentrations of greenhouse gas emissions and criteria pollutants
2 are occurring; and

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

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

9 (3)(a) Beginning in 2025, and every two years thereafter, the
10 department must conduct a review to determine if greenhouse gases and
11 criteria pollutants are being reduced in the overburdened communities
12 identified under subsection (1) of this section.

13 (b) If this review finds that greenhouse gases and criteria
14 pollutants are not being reduced in any identified overburdened
15 community, then the department, in consultation with local air
16 pollution control authorities, must identify the covered entities
17 that are the sources of those emissions that are either increasing or
18 not decreasing and:

19 (i) Adopt, along with local air pollution control authorities,
20 stricter air quality standards, emission standards, or emissions
21 limitations; or

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

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

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

32 (i) Identifying high priority communities and emitters in those
33 communities; and

34 (ii) Tracking and evaluating greenhouse gases and criteria
35 pollutant emissions in those areas.

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

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

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

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

33 (a) Report annually to the environmental justice and equity
34 advisory panel in section 5 of this act and the office of equity
35 regarding progress toward meeting environmental justice and
36 environmental health goals; and

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

39 (c) (i) Create and adopt a community engagement plan to describe
40 how it will engage with overburdened communities and vulnerable

1 populations in allocating funds or administering grants or programs
2 from the climate investment account.

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

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

13 (2) The office of equity must convene the environmental justice
14 and equity advisory panel by January 1, 2023. The office of equity
15 may seek nominations or recommendations from organizations across the
16 state representing the interests specified in this section. Members
17 of the panel must be selected for geographic and organizational
18 diversity and must include the following:

19 (a) Individuals representing the interests of vulnerable
20 populations residing in overburdened communities in different
21 geographic areas of the state with expertise in environmental justice
22 and equity issues;

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

26 (c) At least two members representing federally recognized
27 tribes, with at least one from eastern Washington and one from
28 western Washington; and

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

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

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

33 (i) The program established in sections 7 through 21 of this act
34 including, but not limited to, linkage agreements with other
35 jurisdictions, protocols for establishing offset projects and
36 securing offset credits, and administration of allowances under the
37 program; and

38 (ii) Investment plans and funding proposals for the programs
39 funded from the climate investment account for the purpose of

1 providing environmental benefits and reducing environmental health
2 disparities within overburdened communities identified under section
3 3 of this act;

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

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

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

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

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

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

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

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

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

36 (6) The office of equity shall provide all administrative and
37 staff support for the environmental justice and equity advisory
38 panel.

39 (7) The environmental justice and equity advisory panel
40 constitutes a class one group under RCW 43.03.220. Expenses for this

1 group must be included in costs to support and administer the program
2 and are an allowable expense under section 23(2)(a) of this act.

3 (8) In consultation with the office of equity and the
4 environmental justice council, the governor may administratively
5 address how to effectively coordinate the work of the environmental
6 justice and equity advisory panel with the work of the environmental
7 justice council, to ensure efficient operations and policy alignment
8 across state environmental justice work, subject to enactment of
9 chapter . . . (Substitute Senate Bill No. 5141), Laws of 2021.

10 NEW SECTION. **Sec. 6.** TRIBAL CONSULTATION. (1) Before allocating
11 funding or administering grant programs appropriated from the climate
12 investment account, agencies must engage in consultation with
13 federally recognized tribes on all funding decisions and programs
14 that may impact, infringe upon, or impair the governmental efforts of
15 federally recognized tribes to adopt or enforce their own standards
16 governing or protecting the tribe's resources or other rights and
17 interests in their tribal lands and lands within which a tribe or
18 tribes possess rights reserved by treaty. The consultation shall
19 occur pursuant to chapter 43.376 RCW and is independent of any public
20 participation process required by state law, or by a state agency,
21 and regardless of whether the agency receives a request for
22 consultation from a federally recognized tribe. Agencies shall
23 develop a consultation framework in coordination with tribal
24 governments that includes best practices, protocols for
25 communication, and collaboration with federally recognized tribes.

26 (2) If any funding decision or program that impacts lands within
27 which a tribe or tribes possess rights reserved by federal treaty,
28 statute, or executive order is undertaken or funded under this act
29 without such consultation with a federally recognized tribe, an
30 affected tribe may request that all further action on the decision or
31 program cease until meaningful consultation with any directly
32 impacted federally recognized tribe is completed.

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

1 (2) The program must consist of:

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

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

8 (c) Distribution of emission allowances, as provided in section
9 11 of this act, and through the allowance price containment
10 provisions under sections 15 and 16 of this act;

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

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

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

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

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

23 (i) Providing monitoring and oversight of the sale and transfer
24 of allowances; and

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

30 (3) The department shall consider opportunities to implement the
31 program in a manner that allows linking the state's program with
32 other jurisdictions having similar programs, considering if such
33 linkage will provide for a more cost-effective means for Washington
34 covered entities to meet their compliance obligations while
35 recognizing the special characteristics of the state's economy,
36 communities, and industries. The department is authorized to enter
37 into a linkage agreement with another jurisdiction after formal
38 notice and opportunity for a public hearing, and when consistent with
39 the requirements of section 21 of this act.

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

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 incorporated
22 into the program budget of allowances for the first compliance period
23 of the program to be distributed from January 1, 2027, through
24 December 31, 2030.

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

28 (2) The program budgets must be set to achieve the share of
29 reductions by covered entities necessary to achieve the 2030, 2040,
30 and 2050 statewide emissions limits established in RCW 70A.45.020,
31 based on data reported to the department under chapter 70A.15 RCW or
32 provided as required by this chapter. The department must adopt
33 annual allowance budgets for the program on a calendar year basis
34 that provide for substantially equivalent reductions on an absolute
35 basis for each year. An allowance distributed under the program,
36 either directly by the department under sections 12 through 14 of
37 this act or through auctions under section 11 of this act, does not
38 expire and may be held or banked consistent with sections 11(6) and
39 16(1) of this act.

1 (3) The department must complete an evaluation by December 31,
2 2028, and by December 31, 2035, of the performance of the program,
3 including its performance in reducing greenhouse gases and criteria
4 pollutants in overburdened communities. If the evaluation shows that
5 adjustments to the annual budgets are necessary to ensure achievement
6 of 2030 and 2040 emission reduction limits identified in RCW
7 70A.45.020 and reduce greenhouse gases and criteria pollutants in
8 overburdened communities, the department shall adjust the annual
9 budgets accordingly. The department must complete additional
10 evaluations by December 31, 2040, and by December 31, 2045, of the
11 performance of the program, and make adjustments in the annual
12 budgets to ensure achievement of 2050 emission reduction limits
13 identified in RCW 70A.45.020. Nothing in this subsection precludes
14 the department from making additional adjustments as necessary to
15 ensure successful achievement of emission reduction limits. If any
16 evaluation finds that greenhouse gases and criteria pollutants are
17 not being reduced in overburdened communities, the department must
18 also prioritize the adoption of air quality standards, emission
19 standards, or emissions limitations on covered entities located in
20 those areas.

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

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

36 (a) Where the person operates a facility and the facility's
37 emissions equal or exceed 25,000 metric tons of carbon dioxide
38 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 supplier of fossil fuel other than
6 natural gas and from that fuel 25,000 metric tons or more of carbon
7 dioxide equivalent emissions would result from the full combustion or
8 oxidation; and

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

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

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

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

35 (a) Where the person is a first jurisdictional deliverer
36 importing electricity into the state and the cumulative annual total
37 of emissions associated with imported electricity into the state from
38 specified or unspecified sources equals or exceeds 25,000 metric tons
39 of carbon dioxide equivalent. For a specified source, the person must
40 have either full or partial ownership in the facility, or a written

1 power contract to procure electricity at the facility or from an
2 asset controlling supplier at the time of entry of the transaction to
3 procure electricity. In consultation with any jurisdiction that is
4 linked to the program created by this chapter, by October 1, 2026,
5 the department, in consultation with the department of commerce and
6 the utilities and transportation commission, shall adopt a
7 methodology for addressing imported electricity associated with a
8 centralized electricity market; and

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

13 (3) 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 during an entire compliance period, or has ceased
19 all processes at the facility requiring reporting under RCW
20 70A.15.2200, the entity is no longer a covered entity unless the
21 department provides notice at least 12 months before the end of the
22 compliance period that the facility's emissions were within 10
23 percent of the threshold and that the person will continue to be
24 designated as a covered entity in order to ensure equity among all
25 covered entities.

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

38 (5) For emission sources described in subsection (1) of this
39 section that are in operation or otherwise active between 2015 and
40 2019 but were not required to report emissions for those years under

1 RCW 70A.15.2200 as written for the reporting periods between 2015 and
2 2019, coverage under the program starts in the calendar year
3 following the year in which emissions from the source exceed the
4 applicable thresholds in subsection (1) of this section as reported
5 pursuant to RCW 70A.15.2200 or provided as required by this chapter,
6 or upon formal notice from the department that the source is expected
7 to exceed the applicable emissions threshold for the first year that
8 source is required to report emissions, whichever happens first.
9 Sources meeting these conditions are required to transfer their first
10 allowances on the first transfer deadline of the year following the
11 year in which their emissions, as reported under RCW 70A.15.2200 or
12 provided as required by this chapter, were equal to or exceeded the
13 emissions threshold.

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

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

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

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

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

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

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

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

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

4 (3) A person responsible for greenhouse gas emissions that is not
5 a covered entity may voluntarily participate in the program by
6 registering as an opt-in entity. An opt-in entity must satisfy the
7 same registration requirements as covered entities. Once registered,
8 an opt-in entity is allowed to participate as a covered entity in
9 auctions and must assume the same compliance obligation to transfer
10 compliance instruments equal to their emissions at the appointed
11 transfer dates. An opt-in entity may opt out of the program at the
12 end of any compliance period by providing written notice to the
13 department at least six months prior to the end of the compliance
14 period. The opt-in entity continues to have a compliance obligation
15 through the current compliance period. An opt-in entity is not
16 eligible to receive allowances directly distributed under section 12,
17 13, or 14 of this act.

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

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

25 (6) The department shall use a secure, online electronic tracking
26 system to: Register entities in the state program; issue compliance
27 instruments; track ownership of compliance instruments; enable and
28 record compliance instrument transfers; facilitate program
29 compliance; and support market oversight.

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

32 (a) A compliance account where the compliance instruments are
33 transferred to the department for retirement. Compliance instruments
34 in compliance accounts may not be sold, traded, or otherwise provided
35 to another account or person, except as provide for in section 11 of
36 this act.

37 (b) A holding account that is used when a registered entity is
38 interested in trading allowances. Allowances in holding accounts may
39 be bought, sold, transferred to another registered entity, or traded.
40 The amount of allowances a registered entity may have in its holding

1 account is constrained by the holding limit as determined by the
2 department by rule.

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

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

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

12 (2) The department shall hold a maximum of four auctions
13 annually, plus any necessary reserve auctions. An auction may include
14 allowances from the annual allowance budget of the current year and
15 allowances from the annual allowance budgets from prior years that
16 remain to be distributed. The department must make future vintage
17 allowances available through parallel auctions at least twice
18 annually in addition to the auctions through which current vintage
19 allowances are exclusively offered.

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

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

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

35 (b) Each registered entity that elects to participate in the
36 auction must have a different representative. Only a representative
37 with an approved auction account is authorized to access the auction
38 platform to submit an application or confirm the intent to bid for
39 the registered entity, submit bids on behalf of the registered entity

1 during the bidding window, or to download reports specific to the
2 auction.

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

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

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

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

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

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

22 (7)(a) For fiscal year 2023, upon completion and verification of
23 the auction results, the financial services administrator shall
24 notify winning bidders and transfer the auction proceeds to the state
25 treasurer for deposit as follows: (i) \$272,019,000 must first be
26 deposited into the forward flexible account created in (g) of this
27 subsection; and (ii) the remaining auction proceeds to the climate
28 investment account created in section 23 of this act.

29 (b) For fiscal year 2024, upon completion and verification of the
30 auction results, the financial services administrator shall notify
31 winning bidders and transfer the auction proceeds to the state
32 treasurer for deposit as follows: (i) \$551,238,000 must first be
33 deposited into the forward flexible account created in (g) of this
34 subsection; and (ii) the remaining auction proceeds to the climate
35 investment account created in section 23 of this act.

36 (c) For fiscal year 2025, upon completion and verification of the
37 auction results, the financial services administrator shall notify
38 winning bidders and transfer the auction proceeds to the state
39 treasurer for deposit as follows: (i) \$436,744,000 must first be
40 deposited into the forward flexible account created in (g) of this

1 subsection; and (ii) the remaining auction proceeds to the climate
2 investment account created in section 23 of this act.

3 (d) For fiscal years 2026 through 2037, upon completion and
4 verification of the auction results, the financial services
5 administrator shall notify winning bidders and transfer the auction
6 proceeds to the state treasurer for deposit as follows: (i)
7 \$325,000,000 per year must first be deposited into the forward
8 flexible account created in (g) of this subsection; and (ii) the
9 remaining auction proceeds to the climate investment account created
10 in section 23 of this act.

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

16 (f) For fiscal year 2038 and each year thereafter, upon
17 completion and verification of the auction results, the financial
18 services administrator shall notify winning bidders and transfer the
19 auction proceeds to the state treasurer for deposit as follows: (i)
20 50 percent of the auction proceeds to the forward flexible account
21 created in (g) of this subsection; and (ii) the remaining auction
22 proceeds to the climate investment account created in section 23 of
23 this act.

24 (g) The forward flexible account is created in the state
25 treasury. All receipts from proceeds directed to the account under
26 (a) through (f) of this subsection must be deposited in the account.
27 Moneys in the account may be spent only after appropriation.
28 Expenditures from the account may be used only for transportation
29 projects, programs, or activities identified as forward flexible
30 projects, programs, or activities in an omnibus transportation
31 appropriations act.

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

1 participation application or reject a new application if the
2 department determines that a registered entity has:

3 (a) Provided false or misleading facts;

4 (b) Withheld material information that could influence a decision
5 by the department;

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

7 (d) Violated registration requirements; or

8 (e) Violated any of the rules regarding the conduct of the
9 auction.

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

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

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

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

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

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

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

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

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

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

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

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

18 (j) Petroleum refining, North American industry classification
19 system codes beginning with 324.

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

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

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

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

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

30 (3)(a) By January 1, 2024, the department must adopt by rule
31 objective criteria for both emissions' intensity and trade exposure
32 for the purpose of identifying emissions-intensive, trade-exposed
33 manufacturing businesses during the second compliance period of the
34 program and subsequent compliance periods. A manufacturing business
35 that can demonstrate to the department that it meets this criteria,
36 whether or not it is listed in subsection (1)(a) through (i) of this
37 section, is eligible for treatment as an emissions-intensive, trade-
38 exposed industry and is eligible for free allocation of allowances as
39 described in this section, and by the department by rule.

1 (b) By July 1, 2024, the department must adopt rules for
2 allocating allowances that must be transferred by those covered
3 entities that the department determines are engaged in emissions-
4 intensive, trade-exposed processes during the second compliance
5 period of the program. The rules must establish a schedule for the
6 second compliance period of the program that provides for a declining
7 portion of the allocation to such covered entities that must be
8 provided at no cost. By December 31, 2029, the department must adopt
9 rules following the same process and requirements for 2031 through
10 2040. Both sets of rules may be amended to align with adjustments
11 made under section 8 of this act.

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

22 (5) The annual allocation of allowances for direct distribution
23 to an entity identified as emissions-intensive and trade-exposed in
24 the second compliance period of the program must be equal to the sum
25 of the annual goods-specific emissions calculation for the goods
26 manufactured by the covered entity, multiplied by a percentage that
27 is adjusted annually, as set forth in a schedule adopted by the
28 department by rule. The schedule must result in an amount of annual
29 allowances that a covered entity may receive under this section and
30 from the allowance price containment reserve that declines annually
31 by a constant amount proportionate to the decline in the amount of
32 allowances available in annual allowance budgets pursuant to section
33 8 of this act.

34 (6) The department shall by rule provide for covered entities to
35 apply to the department for an adjustment to the allocation for
36 direct distribution of allowances. The department may grant the
37 adjustment based on either:

38 (a) A significant change in the emissions attributable to the
39 manufacture of an individual good or goods in this state by a covered
40 entity based on a finding by the department that an adjustment is

1 necessary to accommodate for changes in the manufacturing process
2 that have a material impact on emissions; or

3 (b) Significant changes to a covered entity's external
4 competitive environment that result in a significant increase in
5 leakage risk.

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

11 NEW SECTION. **Sec. 13.** ALLOCATION OF ALLOWANCES TO ELECTRIC
12 UTILITIES. (1) The legislature intends by this section to allow all
13 consumer-owned electric utilities or investor-owned electric
14 utilities subject to the requirements of chapter 19.405 RCW, the
15 Washington clean energy transformation act, to be eligible for
16 allowance allocation as provided in this section in order to mitigate
17 the cost burden of the program on electricity customers.

18 (2)(a) By October 1, 2022, the department shall adopt rules, in
19 consultation with the department of commerce and the utilities and
20 transportation commission, establishing the methods and procedures
21 for allocating allowances for consumer-owned or investor-owned
22 electric utilities. The rules must take into account the cost burden
23 of the program on electricity customers.

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

33 (c) By October 1, 2026, the department shall adopt an allocation
34 schedule by rule, in consultation with the department of commerce and
35 the utilities and transportation commission, for the provision of
36 allowances for the second compliance period at no cost to consumer-
37 owned or investor-owned electric utilities. This allocation must be
38 consistent with a forecast, that is approved by the appropriate
39 governing board or the utilities and transportation commission, of

1 each utility's supply and demand, and the cost burden resulting from
2 the inclusion of covered entities in the second compliance period.
3 The allowances included in this schedule must reflect the increased
4 scope of coverage in the electricity sector relative to the program
5 budget of allowances established in 2022.

6 (d) By October 1, 2028, the department shall adopt an allocation
7 schedule by rule, in consultation with the department of commerce and
8 the utilities and transportation commission, for the provision of
9 allowances at no cost to consumer-owned or investor-owned electric
10 utilities for the compliance periods contained within calendar years
11 2031 through 2040. This allocation must be consistent with a
12 forecast, that is approved by the appropriate governing board or the
13 utilities and transportation commission, of each utility's supply and
14 demand, and the cost burden resulting from the inclusion of the
15 covered entities in the compliance periods.

16 (3) Allowances allocated at no cost to investor-owned electric
17 utilities must be consigned to auction for the benefit of ratepayers.
18 Allowances allocated at no cost to consumer-owned electric utilities
19 may be consigned to auction for the benefit of ratepayers, deposited
20 for compliance, or a combination of both. The rules adopted by the
21 department under subsection (2) of this section must include
22 provisions for directing revenues generated under this subsection to
23 the applicable utilities.

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

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

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

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

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

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

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

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

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

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

1 on low-income, residential, and small business customers through
2 actions that include, but are not limited to, weatherization,
3 decarbonization, conservation and efficiency services, and bill
4 assistance.

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

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

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

31 NEW SECTION. **Sec. 15.** EMISSIONS CONTAINMENT RESERVE
32 WITHHOLDING. (1) To help ensure that the price of allowances remains
33 sufficient to incentivize reductions in greenhouse gas emissions, the
34 department must establish an emissions containment reserve and set an
35 emissions containment reserve trigger price by rule. The price must
36 be set at a reasonable amount above the auction floor price. The
37 purpose of withholding allowances in the emissions containment
38 reserve is to secure additional emissions reductions consistent with
39 the greenhouse gas emissions limits in RCW 70A.45.020 in the event

1 auction prices fall below the emissions containment reserve trigger
2 price.

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

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

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

36 (3) The department shall adopt rules for holding auctions of
37 allowances from the price containment reserve when the settlement
38 prices in the preceding auction approach the adopted auction ceiling

1 price. The auction must be separate from auctions of other
2 allowances.

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

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

8 (6) The department shall by rule:

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

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

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

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

24 (2) Offset projects must:

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

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

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

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

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

37 (3) During the first two compliance periods, at least 50 percent
38 of a covered or opt-in entity's compliance obligation satisfied by

1 offset credits must be sourced from offset projects that provide
2 direct environmental benefits in the state.

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

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

9 (c) The limits in (a) and (b) of this subsection may be modified
10 by rule as adopted by the department when appropriate to ensure
11 achievement of the statewide emissions limits established in RCW
12 70A.45.020 and to provide for alignment with other jurisdictions to
13 which the state has entered or proposes to enter a linkage agreement.

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

17 (i) Contribute substantively to cumulative air pollution burden
18 in an overburdened community as determined by criteria established by
19 the department; or

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

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

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

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

38 (b) Encourage opportunities for the development of offset
39 projects in this state by adopting offset protocols that may include,
40 but need not be limited to, protocols that make use of aggregation or

1 other mechanisms to reduce transaction costs related to the
2 development of offset projects and that support the development of
3 carbon dioxide removal projects;

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

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

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

18 NEW SECTION. **Sec. 18.** ASSISTANCE PROGRAM FOR OFFSETS ON TRIBAL
19 LANDS. (1) In order to ensure that a sufficient number of high
20 quality offset projects are available under the limits set in section
21 17 of this act, the department must establish an assistance program
22 for offset projects on federally recognized tribal lands in
23 Washington. The assistance may include, but is not limited to,
24 funding or consultation for federally recognized tribal governments
25 to assess a project's technical feasibility, investment requirements,
26 development and operational costs, expected returns, administrative
27 and legal hurdles, and project risks and pitfalls. Funding or
28 assistance may be provided upon request by a federally recognized
29 tribe.

30 (2) It is the intent of the legislature that not less than
31 \$5,000,000 be provided in the biennial omnibus operating
32 appropriations act for the purposes of this section.

33 NEW SECTION. **Sec. 19.** COMPLIANCE OBLIGATIONS. (1) A covered or
34 opt-in entity has a compliance obligation for its emissions during
35 each four-year compliance period, with the first compliance period
36 commencing January 1, 2023. A covered or opt-in entity shall transfer
37 a number of compliance instruments equal to their covered emissions
38 by November 1st of each calendar year in which a covered or opt-in

1 entity has a compliance obligation. The department shall set by rule
2 a minimum of 25 percent of compliance instruments that must be
3 transferred in each year of the compliance period such that covered
4 or opt-in entities are allowed to smooth their compliance obligation
5 within the compliance period but must fully satisfy their compliance
6 obligation over the course of the compliance period, in a manner
7 similar to external greenhouse gas emissions trading programs in
8 other jurisdictions.

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

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

18 (4) Allowances must be transferred in the order in which they
19 were purchased.

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

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

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

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

1 the department shall issue an order requiring the entity to submit
2 the penalty allowances.

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

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

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

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

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

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

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

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

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

37 (d) Enhance market security;

38 (e) Reduce program administration costs; and

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

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

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

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

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

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

23 (e) Provisions to ensure coordinated administrative and technical
24 support;

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

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

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

- 1 (a) Achieve the purposes identified in subsection (1) of this
2 section;
- 3 (b) Ensure that the linking jurisdiction has provisions to ensure
4 the distribution of benefits from the program to vulnerable
5 populations and overburdened communities;
- 6 (c) Be determined by the department to not yield net adverse
7 impacts to either jurisdictions' highly impacted communities or
8 analogous communities in the aggregate, relative to the baseline
9 level of emissions; and
- 10 (d) Not adversely impact Washington's ability to achieve the
11 emission reduction limits established in RCW 70A.45.020.
- 12 (4) The state must retain legal and policymaking authority over
13 its program design and enforcement.

14 NEW SECTION. **Sec. 22.** RULES. The department shall adopt rules
15 to implement the provisions of the program established in sections 7
16 through 21 of this act. The department may adopt emergency rules
17 pursuant to RCW 34.05.350 for initial implementation of the program,
18 to implement the state omnibus appropriations act for the 2021-2023
19 fiscal biennium, and to ensure that reporting and other program
20 requirements are determined early for the purpose of program design
21 and early notice to registered entities with a compliance obligation
22 under the program.

23 NEW SECTION. **Sec. 23.** CLIMATE INVESTMENT ACCOUNT. (1) The
24 climate investment account is created in the state treasury. Except
25 as provided in section 11(7) of this act, all receipts from the
26 auction of allowances authorized in this chapter must be deposited
27 into the account. Projects or activities funded from the account must
28 meet high labor standards, including family sustaining wages,
29 providing benefits including health care and pensions, career
30 development opportunities, and maximize access to economic benefits
31 from such projects for local workers and diverse businesses. Each
32 contracting entity's proposal must be reviewed for equity and
33 opportunity improvement efforts, including: (a) Employer paid sick
34 leave programs; (b) pay practices in relation to living wage
35 indicators such as the federal poverty level; (c) efforts to evaluate
36 pay equity based on gender identity, race, and other protected status
37 under Washington law; (d) facilitating career development
38 opportunities, such as apprenticeship programs, internships, job-

1 shadowing, and on-the-job training; and (e) employment assistance and
2 employment barriers for justice affected individuals.

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

5 (a) To cover the department's and other agencies' costs to
6 support and administer the program, including coordination of
7 allowance auctions, tracking of emissions and allowances, rule
8 making, evaluation, monitoring, and verification, and stakeholder
9 communication and outreach such as capacity grants for participation
10 to engage communities in the decision making and guidance of these
11 funds, and developing the comprehensive program under section 25 of
12 this act, as appropriated pursuant to the biennial and supplemental
13 omnibus operating appropriations acts, as enacted;

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

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

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

24 (e) Natural climate resilience solutions that improve the
25 resilience of the state's waters, forests, and other vital ecosystems
26 to the impacts of climate change, and increase their carbon pollution
27 reduction capacity through sequestration, storage, and overall
28 ecosystem integrity. This includes programs, activities, or projects
29 that: (i) Restore and protect estuaries, fisheries, and marine and
30 freshwater shoreline and riparian habitats, and prepare for sea level
31 rise; (ii) increase the ability to remediate and adapt to the impacts
32 of ocean acidification; (iii) reduce flood risk and restore natural
33 floodplain ecological function; (iv) increase the sustainable supply
34 of water and improve aquatic habitat, including groundwater mapping
35 and modeling; (v) improve infrastructure treating stormwater from
36 previously developed areas within an urban growth boundary designated
37 under chapter 36.70A RCW, with a preference given to projects that
38 use green stormwater infrastructure; (vi) either preserve or
39 increase, or both, carbon sequestration and storage benefits in
40 forests and agricultural soils; (vii) either preserve or establish,

1 or both, carbon sequestration in marine and freshwater riparian areas
2 through forest management sufficient to promote climate resilience,
3 protect cold water fisheries, and achieve water quality standards;
4 (viii) increase forest and community resilience to wildfire in the
5 face of increased seasonal temperatures and drought; (ix) improve
6 forest health and reduce vulnerability to changes in hydrology,
7 insect infestation, and other impacts of climate change; or (x)
8 prevent emissions through preserving natural lands from the threat of
9 conversion to development;

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

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

20 (ii) Reductions in dependence on fossil fuels used for
21 transportation, including public and shared transportation for access
22 and mobility;

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

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

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

3 (vi) Transportation, municipal service delivery, and technology
4 investments that increase a community's capacity for clean
5 manufacturing, with an emphasis on communities in greatest need of
6 job creation and economic development and potential for commute-
7 reduction;

8 (g) Emissions reduction projects and programs that yield real,
9 verifiable reductions in greenhouse gas emissions in excess of
10 baseline estimates. Projects and programs eligible for funding from
11 the account must be physically located in Washington state and
12 include, but are not limited to, the following programs, activities,
13 or projects that: (i) Deploy renewable energy resources, such as
14 solar and wind power, and projects to deploy distributed generation,
15 energy storage, demand-side technologies and strategies, and other
16 grid modernization projects; (ii) increase the energy efficiency or
17 reduce greenhouse gas emissions of industrial facilities including,
18 but not limited to, proposals to implement combined heat and power,
19 district energy, or on-site renewables, such as solar and wind power,
20 to upgrade the energy efficiency of existing equipment, to reduce
21 process emissions, and to switch to less emission intensive fuel
22 sources; (iii) achieve energy efficiency or emission reductions in
23 the agricultural sector, including fertilizer management, soil
24 management, bioenergy, and biofuels; (iv) promote low-carbon
25 architecture, including use of newly emerging alternative building
26 materials that result in a lower carbon footprint in the built
27 environment over the life cycle of the building and component
28 building materials; (v) promote the decarbonization of new and
29 existing buildings, including residential, commercial, and industrial
30 buildings; (vi) improve energy efficiency, including district energy,
31 and investments in market transformation of high-efficiency electric
32 appliances and equipment for space and water heating; (vii) reduce
33 emissions from landfills through diversion of organic materials,
34 methane capture or conversion strategies, or other means; (viii)
35 retrofit vehicles and vessels for increased efficiency when
36 electrification options are unavailable; and (ix) develop carbon
37 dioxide removal projects and technologies.

38 (3) Moneys in the account may not be used for projects that would
39 violate tribal treaty rights or result in significant long-term
40 damage to critical habitat or ecological functions. Investments from

1 this account must result in long-term environmental benefits and
2 increased resiliency to the impacts of climate change.

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

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

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

1 including engineering or other reliable analysis for accuracy and
2 currentness, of information provided by sources pursuant to
3 registration program requirements, clerical and other office support
4 provided in direct furtherance of the registration program, and
5 administrative support provided in directly carrying out the
6 registration program: PROVIDED FURTHER, That any such registration
7 made with either the board or the department shall preclude a further
8 registration and reporting with any other board or the department,
9 except that emissions of greenhouse gases as defined in RCW
10 70A.45.010 must be reported as required under subsection (5) of this
11 section.

12 All registration program and reporting fees collected by the
13 department shall be deposited in the air pollution control account.
14 All registration program fees collected by the local air authorities
15 shall be deposited in their respective treasuries.

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

29 This subsection does not apply to a grain warehouse or grain
30 elevator if the warehouse or elevator handles more than ten million
31 bushels of grain annually.

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

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

38 (b) A "license" is a license issued by the department of
39 agriculture licensing a facility as a grain warehouse or grain
40 elevator under chapter 22.09 RCW or a license issued by the federal

1 government licensing a facility as a grain warehouse or grain
2 elevator for purposes similar to those of licensure for the facility
3 under chapter 22.09 RCW; and

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

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

16 (i) Emissions of greenhouse gases resulting from the combustion
17 of fossil fuels be reported separately from emissions of greenhouse
18 gases resulting from the combustion of biomass; and

19 ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each
20 annual report must include emissions data for the preceding calendar
21 year and must be submitted to the department by ~~((October))~~ March
22 31st of the year in which the report is due. ~~((However, starting in~~
23 ~~2011, a person who is required to report greenhouse gas emissions to~~
24 ~~the United States environmental protection agency under 40 C.F.R.~~
25 ~~Part 98, as adopted on September 22, 2009, must submit the report~~
26 ~~required under this section to the department concurrent with the~~
27 ~~submission to the United States environmental protection agency.~~
28 ~~Except as otherwise provided in this section, the data for emissions~~
29 ~~in Washington and any corrections thereto that are reported to the~~
30 ~~United States environmental protection agency must be the emissions~~
31 ~~data reported to the department; and~~

32 ~~(iii) Emissions of carbon dioxide associated with the complete~~
33 ~~combustion or oxidation of liquid motor vehicle fuel, special fuel,~~
34 ~~or aircraft fuel that is sold in Washington where the annual~~
35 ~~emissions associated with that combustion or oxidation equal or~~
36 ~~exceed ten thousand metric tons be reported to the department. Each~~
37 ~~person who is required to file periodic tax reports of motor vehicle~~
38 ~~fuel sales under RCW 82.36.031 or special fuel sales under RCW~~
39 ~~82.38.150, or each distributor of aircraft fuel required to file~~
40 ~~periodic tax reports under RCW 82.42.040 must report to the~~

1 ~~department the annual emissions of carbon dioxide from the complete~~
2 ~~combustion or oxidation of the fuels listed in those reports as sold~~
3 ~~in the state of Washington. The department shall not require~~
4 ~~suppliers to use additional data to calculate greenhouse gas~~
5 ~~emissions other than the data the suppliers report to the department~~
6 ~~of licensing. The rules may allow this information to be aggregated~~
7 ~~when reported to the department. The department and the department of~~
8 ~~licensing shall enter into an interagency agreement to ensure~~
9 ~~proprietary and confidential information is protected if the~~
10 ~~departments share reported information. Any proprietary or~~
11 ~~confidential information exempt from disclosure when reported to the~~
12 ~~department of licensing is exempt from disclosure when shared by the~~
13 ~~department of licensing with the department under this provision.))~~

14 (b) (i) ~~((Except as otherwise provided in this subsection, the~~
15 ~~rules adopted by the department under (a) of this subsection must be~~
16 ~~consistent with the regulations adopted by the United States~~
17 ~~environmental protection agency in 40 C.F.R. Part 98 on September 22,~~
18 ~~2009.~~

19 ~~(ii))~~ The department may by rule include additional gases to the
20 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has
21 been designated as a greenhouse gas by the United States congress
22 ~~((or)),~~ by the United States environmental protection agency, or
23 included in external greenhouse gas emission trading programs where
24 Washington has a linkage agreement in effect pursuant to section 21
25 of this act. Prior to including additional gases to the definition of
26 "greenhouse gas" in RCW 70A.45.010, the department shall notify the
27 appropriate committees of the legislature. ~~((Decisions to amend the~~
28 ~~rule to include additional gases must be made prior to December 1st~~
29 ~~of any year and the amended rule may not take effect before the end~~
30 ~~of the regular legislative session in the next year.~~

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

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

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

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

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

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

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

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

28 (f) The energy facility site evaluation council shall,
29 simultaneously with the department, adopt rules that impose
30 greenhouse gas reporting requirements in site certifications on
31 owners or operators of a facility permitted by the energy facility
32 site evaluation council. The greenhouse gas reporting requirements
33 imposed by the energy facility site evaluation council must be the
34 same as the greenhouse gas reporting requirements imposed by the
35 department. The department shall share any information reported to it
36 from facilities permitted by the energy facility site evaluation
37 council with the council, including notice of a facility that has
38 failed to report as required. The energy facility site evaluation
39 council shall contract with the department to monitor the reporting
40 requirements adopted under this section.

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

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

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

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

37 (iii) For the purpose of this subsection (5), the term "person"
38 includes: (A) An owner or operator(~~(, as those terms are defined by~~
39 ~~the United States environmental protection agency in its mandatory~~
40 ~~greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted~~

1 ~~on September 22, 2009; and (B) a supplier)) of a facility; (B) a~~
2 ~~supplier; or (C) an electric power entity.~~

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

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

18 NEW SECTION. Sec. 25. CLIMATE COMMITMENT. (1) The governor
19 shall establish a comprehensive program to implement the state's
20 climate commitment. The purpose of the comprehensive program is to
21 provide accountability and authority for achieving the state's
22 greenhouse gas limits in RCW 70A.45.020, to establish a coordinated
23 and strategic statewide approach to climate resilience, and to build
24 an equitable and inclusive clean energy economy.

25 (2) The comprehensive program for implementing the state's
26 climate 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 communities in rural Washington, with early and meaningful engagement
37 of overburdened communities and workers to ensure the program
38 achieves equitable and just outcomes. The program must prioritize
39 funding for overburdened communities and workers in meeting the

1 state's climate commitment, including climate resilience and clean
2 energy economy efforts.

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

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

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

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

14 (h) The program must achieve progress in meeting emissions limits
15 in the most effective and efficient manner possible and must include
16 periodic measurement and reporting of progress and changes to the
17 program as needed to meet the limits.

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

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

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

28 (c) A process for prioritizing and coordinating funding
29 consistent with strategic needs for greenhouse gas reductions, equity
30 and environmental justice, economic prosperity and job creation, and
31 climate resilience actions;

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

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

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

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

19 NEW SECTION. **Sec. 26.** CLIMATE COMMITMENT TASK FORCE. (1)(a) The
20 governor's office shall convene a climate commitment task force with
21 state agencies, other governments, and stakeholders by July 1, 2021.
22 In making these appointments the governor shall seek diverse
23 representation of stakeholders, including members of overburdened
24 communities. The governor or the governor's designee must chair the
25 climate commitment task force convened under this section and must
26 appoint task force members. The governor or the governor's designee
27 must convene the initial meeting of the task force. The task force is
28 a class one group under RCW 43.03.220.

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

34 (2)(a) The climate commitment task force must develop preliminary
35 recommendations by November 1, 2021. By December 1, 2021, the
36 governor's office must submit, in compliance with RCW 43.01.036, a
37 report to the legislature with findings and recommendations of the
38 climate commitment task force. The report must include
39 recommendations for the following:

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

5 (ii) Reporting requirements and frequency, and other
6 accountability measures, including mechanisms for legislative and
7 executive oversight and any changes to existing statutory reporting
8 requirements, such as RCW 70A.45.020;

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

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

16 (v) Suggested duties and roles related to resilience that
17 considers recommendations and 2020 reports on disaster resilience and
18 climate resilience from the office of the insurance commissioner and
19 office of financial management;

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

26 (b) It is the intent of the legislature that the appropriate
27 committees of the legislature review the report submitted under (a)
28 of this subsection and take appropriate action during the 2022
29 legislative session.

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

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

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

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

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

3 NEW SECTION. **Sec. 30.** (1) Sections 7 through 21 of this act,
4 and any rules adopted by the department of ecology to implement the
5 program established under those sections, are suspended on December
6 31, 2055, in the event that the department of ecology determines by
7 December 1, 2055, that the 2050 emissions limits of RCW 70A.45.020
8 have been met for two or more consecutive years.

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

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

19 NEW SECTION. **Sec. 32.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

--- END ---