
SENATE BILL 5981

State of Washington

66th Legislature

2019 Regular Session

By Senators Carlyle and Palumbo

1 AN ACT Relating to implementing a greenhouse gas emissions cap
2 and trade program; amending RCW 70.235.020 and 70.94.151; adding a
3 new chapter to Title 70 RCW; creating a new section; prescribing
4 penalties; and providing a contingent expiration date.

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

6 NEW SECTION. **Sec. 1.** INTENT AND FINDINGS. (1) The legislature
7 finds that climate change is harming the state and that without
8 substantial reductions in greenhouse gas emissions, the harm to the
9 state will be greatly increased. While Washington's emissions are
10 only a small part of the global emissions of greenhouse gases, the
11 state must act to reduce its own emissions while providing leadership
12 and a model for action by other jurisdictions to address their own
13 emissions. The 2008 legislature established statewide emissions
14 limits that are to be achieved by 2020, 2035, and 2050, but did not
15 enact a comprehensive program to ensure that the emissions reductions
16 would be accomplished. Further, more recent scientific data indicates
17 that these emissions limits are insufficient for the state to
18 contribute its fair share of reductions necessary to avoid the most
19 extreme impacts of global warming. The legislature by this act
20 revises the state's emissions limits to be consistent with this
21 scientific consensus, and to provide a comprehensive pathway to

1 achieve these reductions in a manner that is fair among all major
2 emissions sources. This program will meet Washington state's
3 commitment to its present and future generations to fully address the
4 climate change challenge.

5 (2) The centerpiece of this program is the creation of a cost-
6 effective carbon pollution market for reducing greenhouse gas
7 emissions that is capable of being integrated with emissions
8 reduction programs in other jurisdictions. The Washington program
9 will allow the state to achieve the necessary statewide emissions
10 reductions in the most cost-effective manner through market trading
11 of emission allowances. By implementing this program, the state will
12 not only contribute its fair share of necessary global emissions
13 reductions, but will also grow the state's clean energy economy and
14 provide greater certainty to Washington businesses.

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

18 (1) "Aggregation" means an approach for qualifying and
19 quantifying offset projects that allows for the grouping together of
20 two or more geographically or temporally separate activities that
21 result in reductions or removals of greenhouse gases in a similar
22 manner.

23 (2) "Allowance" means a tradable authorization to emit up to one
24 metric ton of carbon dioxide equivalent.

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

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

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

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

38 (7) "Auction purchase limit" means the limit on the number of
39 allowances one registered entity or a group of affiliated registered

1 entities may purchase from the share of allowances sold at an
2 auction.

3 (8) "Carbon dioxide equivalent" means a measure used to compare
4 the emissions from various greenhouse gases based on their global
5 warming potential.

6 (9) "Compliance instrument" means an allowance or offset credit
7 issued by the department or by an external greenhouse gas emissions
8 trading program to which Washington has linked its carbon pollution
9 program. A covered or opt-in entity may use one compliance instrument
10 to fulfill each compliance obligation equivalent to one metric ton of
11 carbon dioxide equivalent.

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

16 (11) "Covered emissions" means the emissions for which a covered
17 entity has a compliance obligation under section 14 of this act.

18 (12) "Covered entity" means a person that is designated by the
19 department as subject to sections 4 through 18 of this act.

20 (13) "Department" means the department of ecology.

21 (14) "Direct environmental benefits in the state" means:

22 (a) A reduction in or avoidance of emissions of any air
23 contaminant in this state other than a greenhouse gas;

24 (b) A reduction in or avoidance of pollution of any of the waters
25 of the state; or

26 (c) An improvement in the health of natural and working lands in
27 this state.

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

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

34 (17) "Facility" includes any physical property, plant, building
35 structure, source, or stationary equipment located on one or more
36 contiguous or adjacent properties in actual physical contact or
37 separated solely by a public roadway or other public right-of-way and
38 under common ownership or control, that emits or may emit greenhouse
39 gas. "Facility" includes a refinery facility.

1 (18) "First jurisdictional deliverer" means the first person over
2 which the state of Washington has jurisdiction that generates or
3 procures electricity for use within the state and delivers the
4 electricity to the first point of delivery into the state.

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

9 (20) "Greenhouse gas" includes carbon dioxide, methane, nitrogen
10 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,
11 perfluorocarbons, and other fluorinated greenhouse gases.

12 (21) "Highly impacted communities" means those communities
13 identified pursuant to section 25 of this act.

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

16 (23) "Imported electricity" means electricity generated outside
17 the state of Washington and delivered for use within the state, but
18 which did not originate from any jurisdiction with which Washington
19 has a linkage agreement.

20 (24) "Limits" means the greenhouse gas emissions reductions
21 required by RCW 70.235.020.

22 (25) "Linkage agreement" means a formal agreement that connects
23 two or more carbon market programs to reciprocally recognize each
24 jurisdiction's compliance instruments.

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

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

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

33 (29) "Person" includes an individual, firm, partnership,
34 franchise holder, association, organization, corporation, business
35 trust, company, limited liability company, or government entity.

36 (30) "Point of delivery" means a point on the electricity
37 transmission or distribution system physically located in Washington
38 where a power supplier delivers electricity for use in the state.
39 This point may be an interconnection with another system or a
40 substation where the transmission provider's transmission and

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

4 (31) "Program" means the emissions cap and trade program
5 implemented in this chapter.

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

10 (33) "Refinery facility" means a facility in Washington that is
11 operated by a person who also produces, refines, imports, or
12 delivers, or any combination of producing, refining, importing, or
13 delivering, a quantity of fuel that, if completely combusted,
14 oxidized, or used in other processes, would result in the release of
15 greenhouse gas equivalent to or higher than the reporting threshold
16 established in RCW 70.94.151(5)(a).

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

20 (35) "Retire" means to permanently remove an allowance or offset
21 credit such that the allowance or offset credit may never be sold,
22 traded, or otherwise used again.

23 (36) "Supplier" means a supplier of fuel in Washington state as
24 defined in RCW 70.94.151(5)(h)(ii). "Supplier" also means a supplier
25 of carbon dioxide in Washington that, if released, would result in
26 greenhouse gas emissions equivalent to or higher than that threshold.

27 (37) "Surrender" means to transfer an allowance or offset credit
28 to the department, either to meet a compliance obligation or on a
29 voluntary basis.

30 NEW SECTION. **Sec. 3.** GREENHOUSE GAS EMISSIONS CAP AND TRADE
31 PROGRAM. (1) In order for the state's emissions reduction limits
32 established in RCW 70.235.020 to be achieved, the department shall
33 implement a greenhouse gas emissions cap and trade program for
34 emissions from covered entities by creating and distributing
35 allowances that are tradable among registered entities in the program
36 and that are tradable beyond the program when linked to another
37 program or programs.

38 (2) The program consists of:

1 (a) Annual allowance budgets that limit emissions from covered
2 entities, as provided in section 4 of this act;

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

6 (c) Distribution of emission allowances by auction, as provided
7 in section 10 of this act, and through the allowance price
8 containment provisions under section 11 of this act;

9 (d) Providing for offset credits as a method for meeting a
10 compliance obligation, pursuant to section 13 of this act;

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

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

15 (g) Creating a carbon pollution reduction account for the deposit
16 of receipts from the distribution of emission allowances, as provided
17 in section 21 of this act;

18 (h) Providing for the transfer of allowances and recognition of
19 compliance instruments issued by jurisdictions that enter into
20 linkage agreements with the state, as provided in section 16 of this
21 act.

22 (3) The department shall implement the program in a manner that
23 allows linking the state's program with other jurisdictions having
24 similar programs, where such linkage will provide for a more cost-
25 effective means for Washington covered entities to meet their
26 compliance obligations while recognizing the special characteristics
27 of the state's economy and industries, and ensure that the standards
28 of section 16 of this act are met.

29 (4) The department shall, to the maximum extent practicable,
30 implement the program in a manner that is integrated with other
31 complementary policies and programs that reduce greenhouse gas
32 emissions. The department must consider the entire life cycle of
33 emissions associated with the consumption of fossil fuels and
34 electricity in the state, and design the program to avoid fuel
35 shuffling or other shifts in fuels or electricity sources that
36 increases the net emissions when considering the combined impacts of
37 this program and other complementary emissions reduction programs.

38 NEW SECTION. **Sec. 4.** SETTING ANNUAL ALLOWANCE BUDGETS. (1) The
39 department shall commence the program by determining the

1 proportionate share that the total greenhouse gas emissions of
2 covered entities for the years 2013 through 2017 bears to the total
3 anthropogenic greenhouse gas emissions in the state during those
4 years. By October 1, 2020, the department shall adopt a program
5 budget for each calendar year of allowances for all covered entities
6 to be distributed from January 1, 2021, through December 31, 2035.
7 The project budget must be set to achieve the share of reductions by
8 covered entities necessary to achieve the 2035 statewide emission
9 limits established in RCW 70.235.020. The department must adopt
10 annual allowance budgets for the program on a calendar year basis
11 that provide for substantially equivalent reductions year to year
12 over this period.

13 (2) The department must complete an evaluation by December 31,
14 2026, of the performance of the program, and make adjustments in the
15 annual budgets to ensure achievement of 2035 emission reduction
16 limits identified in RCW 70.235.020. By October 1, 2034, the
17 department shall adopt by rule the annual program budgets for the
18 years 2036 through 2050. The department must complete an evaluation
19 by December 31, 2042, of the performance of the program, and make
20 adjustments in the annual budgets to ensure achievement of 2050
21 emission reduction limits identified in RCW 70.235.020. Nothing in
22 this subsection precludes the department from making additional
23 adjustments as necessary to ensure successful achievement of emission
24 reduction limits.

25 NEW SECTION. **Sec. 5.** ENTITIES REQUIRED TO BE COVERED IN THE
26 PROGRAM. (1) A person is a covered entity as of the beginning of the
27 first compliance period and all subsequent compliance periods if the
28 person reported emissions under RCW 70.94.151 in any calendar year
29 from 2016 through 2018 that equals or exceeds any of the following
30 thresholds:

31 (a) Where the person operates a facility and the facility's
32 emissions equal or exceed twenty-five thousand metric tons of carbon
33 dioxide equivalent;

34 (b) Where the person is a first jurisdictional deliverer bringing
35 electricity into the state and the cumulative total of emissions
36 associated with imported electricity into the state from specified or
37 unspecified sources equals or exceeds twenty-five thousand metric
38 tons of carbon dioxide equivalent. For a specified source, the person
39 must have either full or partial ownership in the facility, or a

1 written power contract to procure electricity at the facility, at the
2 time of entry of the transaction to procure electricity;

3 (c) Where the person generates electricity in the state whose
4 emissions associated with such generation equals or exceeds twenty-
5 five thousand metric tons of carbon dioxide equivalent;

6 (d) Where the person supplies natural gas in amounts whose
7 emissions associated with such supplies exceeds twenty-five thousand
8 metric tons, excluding the amounts supplied to covered entities under
9 (a), (b), (c) or (e) of this subsection;

10 (e) Where the person is a fuel supplier other than natural gas
11 and has reported twenty-five thousand metric tons or more of carbon
12 dioxide equivalent emissions that would result from the full
13 combustion or oxidation of the supplied fuels and has a compliance
14 obligation for the emissions from the full combustion or oxidation of
15 those supplied fuels consistent with subsection (6) of this section;
16 and

17 (f) Where the person operates a facility and is a direct
18 purchaser of electricity from a federal power market agency or from a
19 joint operating entity and the associated emissions from both the
20 facility and purchased electricity equals or exceeds twenty-five
21 thousand metric tons of carbon dioxide equivalent.

22 (2) When a covered entity reports, during a compliance period,
23 emissions from a facility under RCW 70.94.151 that are below the
24 thresholds specified in subsection (1) of this section, the covered
25 entity continues to have a compliance obligation through the current
26 compliance period. When a covered entity reports emissions below the
27 threshold during an entire compliance period, or has ceased all
28 processes at the facility requiring reporting under RCW 70.94.151,
29 the entity is no longer a covered entity unless the department
30 provides notice at least twelve months before the end of the
31 compliance period that the facility's emissions were within ten
32 percent of the threshold and that the person will continue to be
33 designated as a covered entity in order to ensure equity among all
34 covered entities.

35 (3) For types of emissions sources described in subsection (1) of
36 this section that begin or modify operation after January 1, 2021,
37 coverage under the program starts in the calendar year where
38 emissions from the source exceed the applicable thresholds in
39 subsection (1) of this section. Sources meeting these conditions are
40 required to surrender their first allowances on the first surrender

1 deadline of the year following the year in which their emissions were
2 equal to or exceeded the emissions threshold.

3 (4) For emissions sources described in subsection (1) of this
4 section that are in operation or otherwise active between 2014 and
5 2018 but were not required to report emissions for those years,
6 coverage under the program starts in the calendar year following the
7 year where emissions from the source exceed the applicable thresholds
8 in subsection (1) of this section as reported pursuant to RCW
9 70.94.151, or upon formal notice from the department that the source
10 is expected to exceed the applicable emissions threshold for the
11 first year that source is required to report emissions, whichever
12 happens first. Sources meeting these conditions are required to
13 surrender their first allowances on the first surrender deadline of
14 the year following the year in which their emissions, as reported
15 under RCW 70.94.151, were equal to or exceeded the emissions
16 threshold.

17 (5) Emissions that are not required to be reported under RCW
18 70.94.151 are not covered by the program. In addition, the following
19 emissions are not covered by the program and must not be included in
20 determining the applicability of the emission thresholds in
21 subsection (1) of this section:

22 (a) Emissions from the combustion of biomass in the form of fuel
23 wood, wood waste, wood by-products, and wood residuals, as long as
24 the source biomass is harvested pursuant to an approved timber
25 management plan prepared in accordance with the forest practices act
26 under chapter 76.09 RCW, a habitat conservation plan, or other state
27 or federally approved management plan, or harvested under an approved
28 forest fire fuel reduction or forest stand improvement plan;

29 (b) Emissions from combustion of biofuels or the biofuel
30 component of blended fuels. For the purposes of this section,
31 "biofuel" means a liquid or gaseous fuel produced directly from
32 biological feedstocks;

33 (c) Emissions from the combustion of aviation fuels;

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

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

1 (f) Vented or fugitive emissions that are unintentional and could
2 not reasonably pass through a stack, chimney, vent, or other
3 functionally equivalent opening; and

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

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

14 NEW SECTION. **Sec. 6.** REGISTRATION REQUIREMENTS FOR PROGRAM
15 PARTICIPATION. (1) All covered entities must register to participate
16 in the program, following procedures adopted by the department by
17 rule.

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

21 (3) A person responsible for greenhouse gas emissions that is not
22 a covered entity may voluntarily participate in the program by
23 registering as an opt-in entity. An opt-in entity must satisfy the
24 same registration requirements as covered entities. Once registered,
25 an opt-in entity is allowed to participate as a covered entity in
26 auctions and must assume the same compliance obligation to surrender
27 compliance instruments equal to their emissions at the appointed
28 surrender dates. An opt-in entity may opt out of the program at the
29 end of any compliance period by providing written notice to the
30 department at least six months prior to the end of the compliance
31 period. The opt-in entity continues to have a compliance obligation
32 through the current compliance period.

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

37 NEW SECTION. **Sec. 7.** EMISSIONS INTENSIVE, TRADE-EXPOSED
38 ENTITIES. (1) (a) In order to mitigate leakage, by January 1, 2020,

1 the department shall adopt rules for allocating allowances that must
2 be surrendered by those covered entities listed in (b) of this
3 subsection and additional entities that the department determines are
4 engaged in emissions intensive, trade-exposed processes as described
5 in subsection (2) of this section. The rules must establish a
6 schedule for 2021 through 2035 that provides for a declining portion
7 of the allocation to such covered entities that must be provided at
8 no cost. The department shall contract with third-party experts that
9 are not financially affiliated with industries under consideration to
10 assist the department in gathering data and conducting analysis as
11 necessary to implement the provisions of this subsection. The
12 department shall also consider approaches used by other jurisdictions
13 with existing carbon reduction or carbon pricing programs.

14 (b) A covered or opt-in entity must receive an allocation under
15 this subsection if the entity is classified as being engaged in one
16 or more of the processes described by the following industry
17 descriptions and codes in the North American industry classification
18 system:

19 (i) Primary metal manufacturing, including iron and steel
20 milling, ferroalloy and primary metal manufacturing North American
21 industry classification system codes beginning with 331;

22 (ii) Secondary metals manufacturing, including smelting,
23 refining, and alloying of nonferrous metal, North American industry
24 classification code 331492;

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

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

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

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

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

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

1 (ix) Food manufacturing, North American industry classification
2 system codes beginning with 311;
3 (x) Petroleum refining, North American industry classification
4 system codes beginning with 324; and
5 (xi) Cement manufacturing, North American industry classification
6 system code 327310.

7 (2) By January 1, 2021, the department must adopt a rule
8 establishing objective numerical criteria for both emissions
9 intensity and trade exposure for the purpose of identifying
10 emissions-intensive trade-exposed manufacturing businesses not listed
11 in subsection (1)(b) of this section. The criteria must incorporate,
12 to the extent possible, approaches used by other jurisdictions with
13 existing carbon reduction or carbon pricing programs, particularly
14 those with which linkage agreements are anticipated. A manufacturing
15 business that can demonstrate to the department that it meets this
16 criteria is eligible for the same treatment as entities listed in
17 subsection (1)(b) of this section.

18 (3) Rules adopted under this section must utilize a combined
19 output-based and emissions intensity-based assessment benchmarking
20 methodology for determining the allocation of allowances to energy
21 intensive, trade-exposed industries. The rules must apply, for each
22 energy intensive, trade-exposed process, an emissions intensity
23 benchmark that is consistent with that provided in similar emissions
24 reduction programs in other jurisdictions for covered entities in the
25 same industry. A covered entity with a lower emissions intensity
26 benchmark must receive a larger allocation than other covered
27 entities engaged in the same industry with higher emissions
28 intensities.

29 (4) The rules must provide a means for attributing a covered
30 entity's emissions to the manufacture of individual goods and
31 requirements for providing pertinent records to verify the output
32 data used to calculate the emissions intensity benchmark.

33 (5) The annual allocation of allowances for direct distribution
34 to an entity described under subsection (1) of this section must be
35 equal to the sum of the annual goods-specific emissions calculation
36 for the goods manufactured by the covered entity, multiplied by:

37 (a) During calendar year 2024, one hundred percent;

38 (b) Beginning in 2025 and for each year thereafter through 2050,
39 a percentage that is adjusted annually, as set forth in a schedule
40 adopted by the department by rule. The schedule must result in an

1 amount of annual allowances that a covered entity may receive under
2 this section and from the allowance price containment reserve that
3 declines annually by a constant amount proportionate to the decline
4 in the amount of allowances available in annual allowance budgets
5 pursuant to section 4 of this act.

6 (6) By 2025, and once every two years thereafter, the department
7 shall conduct a review of the rules adopted under this section and
8 any updated data and analysis to determine whether updates to the
9 rules are necessary to:

10 (a) Mitigate leakage by covered entities engaged in energy
11 intensive, trade-exposed processes;

12 (b) Prevent allocation to covered entities of allowances under
13 this section that are in excess of the allocation necessary to
14 mitigate leakage;

15 (c) Update the applicable emissions intensity benchmarks for any
16 energy-intensive, trade-exposed processes; and

17 (d) Revise the scope of industries designated by rule as energy-
18 intensive, trade-exposed under this section.

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

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

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

31 NEW SECTION. **Sec. 8.** ELECTRICITY SUPPLIERS. (1)(a) The
32 legislature intends by this section to align the program created in
33 section 3 of this act with the requirements of chapter . . ., (Second
34 Substitute Senate Bill No. 5116 or Substitute House Bill No. 1211),
35 Laws of 2019, which will require declining emissions in the supply of
36 electricity in the state to achieve a 2030 carbon neutral standard
37 and no greenhouse gas emissions by 2045. If Second Substitute Senate
38 Bill No. 5116 or Substitute House Bill No. 1211 is not enacted by
39 June 30, 2019, this section is void and has no force or effect.

1 (b) In order to mitigate the impact on rates or charges on
2 citizens of the state for electricity services, by January 1, 2020,
3 the department, in consultation and collaboration with both the
4 department of commerce and the utilities and transportation
5 commission, shall adopt rules for allocating allowances that must be
6 surrendered by those covered entities listed in section 5(1) (b) and
7 (c) of this act. The rules must establish a schedule for 2021 through
8 2035 that provides for the allocation to such covered entities that
9 must be provided at no cost. The department shall contract with
10 third-party experts not financially affiliated with industries under
11 consideration to assist the department in gathering data and
12 conducting analysis as necessary to implement the provisions of this
13 subsection.

14 (2) The rules must provide a means for attributing a covered
15 entity's emissions to the delivery of electricity and requirements
16 for providing pertinent records to verify the output data used to
17 calculate the emissions intensity benchmark.

18 (3) By December 31, 2020, the department, the department of
19 commerce, and the utilities and transportation commission shall
20 provide a report to the appropriate committees of the legislature
21 that analyzes the implications of the emerging energy imbalance
22 market and a fully regionalized grid for allowance allocation to
23 covered entities that are electricity providers.

24 NEW SECTION. **Sec. 9. NATURAL GAS SUPPLIERS.** (1) The department
25 shall adopt rules for allocating allowances for direct distribution
26 at no cost to covered entities that are natural gas utilities. Rules
27 adopted under this subsection must allow for a natural gas utility to
28 be directly distributed allowances at no cost in an amount equal to
29 the covered emissions attributable to the provision of natural gas
30 service to the natural gas utility's low-income residential
31 customers. By January 1st of the first year of each compliance
32 period, the department shall determine, after consultation with the
33 utilities and transportation commission, the quantity of allowances
34 to allocate directly at no cost to a natural gas utility over the
35 course of the compliance period. The rules must require the
36 allowances be used exclusively to minimize the impacts of sections 2
37 through 19 of this act on low-income residential customers through
38 actions that include, but are not limited to, weatherization,
39 conservation and efficiency services, and bill pay assistance. The

1 rules must also ensure public input on the use of the allowances,
2 including the recommendations of the environmental and economic
3 justice panel created in section 28 of this act.

4 (2) By December 31, 2023, the department in collaboration with
5 the department of commerce and the utilities and transportation
6 commission must provide a report to the appropriate committees of the
7 legislature on the allocation of allowances to natural gas companies.
8 The report must address the:

9 (a) Procedures and standards for using the allowances provided at
10 no cost for the benefit of low-income customers, obtaining emission
11 reductions, and achieving system and end-use energy efficiency; and

12 (b) Merits of increasing the allocation of allowances to natural
13 gas utilities to minimize the impacts of the program upon additional
14 residential uses as well as small businesses.

15 NEW SECTION. **Sec. 10.** ALLOWANCE DISTRIBUTION THROUGH AUCTIONS.

16 (1) Except as provided in sections 7 and 8 of this act, the
17 department shall distribute allowances through auctions as provided
18 in this section and section 11 of this act, and in rules adopted by
19 the department to implement these sections. An allowance is not a
20 property right.

21 (2) The department shall hold a maximum of four auctions
22 annually. An auction may include allowances from the annual allowance
23 budget of the current year and allowances from the annual allowance
24 budgets from prior years that remain to be distributed. The
25 department must make future vintage allowances available through
26 separate auctions at least twice annually in addition to the auctions
27 through which current vintage allowances are exclusively offered.

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

33 (4) To help minimize allowance price volatility in the auction
34 and any secondary markets, the department shall adopt by rule an
35 auction floor price and a schedule for the floor price to increase by
36 a predetermined amount every year through 2030. The department shall
37 not sell allowances at bids lower than the auction floor price. The
38 department's rules must specify holding limits that determine the
39 maximum number of allowances that may be held for use or trade by a

1 registered entity at any one time. The department shall also
2 establish an auction ceiling price to limit extraordinary prices and
3 to determine when to offer allowances through the allowance price
4 containment reserve auctions authorized under section 11 of this act.

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

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

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

22 (6) To protect the integrity of the auctions, a registered entity
23 or group of registered entities with a direct corporate association
24 are subject to the following auction purchase limits:

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

28 (b) A general market participant may not buy more than four
29 percent of the allowances offered during a single auction;

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

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

34 (7) Upon completion of the auction results, the financial
35 services administrator shall notify winning bidders and transfer the
36 auction proceeds to the state treasurer for deposit in the carbon
37 pollution reduction account created in section 21 of this act.

38 (8) The department shall adopt by rule provisions to guard
39 against bidder collusion and minimize the potential for market
40 manipulation. A registered entity may not release or disclose any

1 bidding information including: Intent to participate or refrain from
2 participation; auction approval status; intent to bid; bidding
3 strategy; bid price or bid quantity; or information on the bid
4 guarantee provided to the financial services administrator. The
5 department may cancel or restrict a previously approved auction
6 participation application or reject a new application if the
7 department determines that a registered entity has:

8 (a) Provided false or misleading facts;

9 (b) Withheld material information that could influence a decision
10 by the department;

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

12 (d) Violated registration requirements; or

13 (e) Violated any of the rules regarding the conduct of the
14 auction.

15 (9) Any cancellation or restriction approved by the department
16 may be permanent or for a specified number of auctions and the
17 cancellation or restriction imposed is in addition to any other
18 penalties, fines, and additional remedies available under the law.

19 (10) The department shall design allowance auctions so as to
20 allow, to the maximum extent practicable, linking with external
21 greenhouse gas emissions trading programs in other jurisdictions and
22 to facilitate the transfer of allowances when the state's program is
23 linked with other external greenhouse gas emissions trading programs.
24 The department may conduct auctions jointly with other jurisdictions
25 with which it has a linkage agreement under section 16 of this act.
26 For joint auctions, the financial services administrator, the market
27 monitor, and the auction administrator must be the same as the one
28 employed by those jurisdictions.

29 NEW SECTION. **Sec. 11.** ALLOWANCE PRICE CONTAINMENT RESERVE. (1)

30 During years 2021 through 2023, the department shall place not less
31 than four percent of the total number of allowances available from
32 the allowance budgets for those years in an allowance price
33 containment reserve. The reserve must be designated as a mechanism to
34 assist in containing compliance costs for covered and opt-in entities
35 in the event of unanticipated high costs for compliance instruments.

36 (2) 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
39 price. The auction must be separate from auctions of other

1 allowances. Allowances unsold through the reserve auction must be
2 made available again at future reserve auctions.

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

5 (4) The process for reserve auctions is the same as the process
6 provided in section 10 of this act and the proceeds from reserve
7 auctions must be treated the same.

8 (5) The department shall by rule:

9 (a) Set the reserve auction floor price in advance of the reserve
10 auction. The department shall set the reserve auction floor price
11 high enough to incentivize direct emissions reductions. The
12 department may choose to establish multiple price tiers for the
13 allowances from the reserve;

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

16 (c) Establish the amount of allowances to be placed in the
17 allowance price containment reserve after the compliance period
18 ending in 2023.

19 NEW SECTION. **Sec. 12.** EMISSIONS CONTAINMENT RESERVE. The
20 department shall establish an emissions containment reserve for the
21 purpose of reserving allowances otherwise scheduled for distribution
22 under the annual budget when auction prices in two or more recent
23 auctions demonstrate that achievement of the annual caps and emission
24 limits of RCW 70.235.020 may be in jeopardy. The department shall by
25 rule adopt criteria for placing emission allowances in such a
26 reserve, including the auction price levels at which the allowances
27 may be placed in the reserve, the amount of allowances to be placed
28 in the reserve, and the criteria for retiring the allowances
29 permanently or distributing the allowances in future auctions.

30 NEW SECTION. **Sec. 13.** OFFSET CREDITS. (1) The department shall
31 adopt by rule the protocols for establishing offset projects and
32 securing offset credits that may be used to meet a portion of a
33 covered or opt-in entity's compliance obligation under section 14 of
34 this act.

35 (2) Offset projects:

36 (a) Must be located in the United States or in a jurisdiction
37 with which the department has entered into a linkage agreement
38 pursuant to section 16 of this act;

1 (b) Must result in greenhouse gas reductions or removals that:

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

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

7 (c) Must have been certified by a recognized registry within two
8 years prior to the effective date of this section.

9 (3) (a) A total of no more than eight percent of a covered or opt-
10 in entity's compliance obligation during the years 2021 through 2023
11 may be met by surrendering offset credits. During these years, at
12 least seventy-five percent of a covered entity's compliance
13 obligation satisfied by offset credits must be sourced from offset
14 projects that provide direct environmental benefits in the state.

15 (b) A total of no more than six percent of a covered or opt-in
16 entity's compliance obligation during the years 2024 through 2034 may
17 be met by surrendering offset credits. During these years, at least
18 fifty percent of a covered entity's compliance obligation satisfied
19 by offset credits must be sourced from offset projects that provide
20 direct environmental benefits in the state.

21 (c) The limits in (a) and (b) of this subsection may be modified
22 by rules adopted by the department when appropriate to ensure
23 achievement of the statewide emissions limits established in RCW
24 70.235.020 and to provide for alignment with other jurisdictions to
25 which the state has entered or proposes to enter a linkage agreement.

26 (d) Any offset project on tribal land do not count against the
27 offset credit limits described in (a) and (b) of this subsection. No
28 more than five percent of a covered or opt-in entity's compliance
29 obligation may be met by surrendering offset credits from projects on
30 tribal land.

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

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

37 (b) Encourage opportunities for the development of offset
38 projects in this state by adopting offset protocols that may include,
39 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;

3 (c) Consult with and consider the recommendations of the advisory
4 committee required by subsection (6) of this section, and the
5 departments of agriculture, commerce, and natural resources, and
6 other relevant agencies;

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

16 (5) The offset credit must be registered and tracked as a
17 compliance instrument under section 18 of this act.

18 (6) The director shall appoint a compliance offsets protocol
19 advisory committee to advise the department in adopting and updating
20 rules governing offset projects and covered and opt-in entities' use
21 of offset credits. The advisory committee shall provide guidance in
22 developing protocols for the purposes of increasing offset projects
23 with direct environmental benefits in this state while prioritizing
24 projects that benefit highly impacted communities, Indian tribes, and
25 natural and working lands. The director shall appoint at least one
26 member to the advisory committee from each of the following groups:

- 27 (a) Scientists;
- 28 (b) Public health experts;
- 29 (c) Carbon market experts;
- 30 (d) Representatives of Indian tribes;
- 31 (e) A member of the environmental and economic justice panel
32 created in section 28 of this act;
- 33 (f) Labor and workforce representatives;
- 34 (g) Forestry experts;
- 35 (h) Agriculture experts;
- 36 (i) Environmental advocates;
- 37 (j) Conservation advocates;
- 38 (k) Dairy experts; and
- 39 (l) Covered entities.

1 NEW SECTION. **Sec. 14.** COMPLIANCE REQUIREMENTS. (1) A covered or
2 opt-in entity has a compliance obligation for its emissions during
3 each three-year compliance period, with the first compliance period
4 commencing January 1, 2021, except that the covered entities
5 designated in or pursuant to section 7 of this act have a compliance
6 obligation beginning with the compliance period commencing January 1,
7 2024. A covered or opt-in entity shall surrender a number of
8 compliance instruments equal to their allocated allowances under
9 section 4 of this act as follows:

10 (a) By November 1, 2022, and every three years thereafter by
11 November 1st, thirty percent of a covered or opt-in entities'
12 compliance obligation for the previous year's covered emissions must
13 be submitted.

14 (b) By November 1, 2023, and every three years thereafter by
15 November 1st, thirty percent of a covered or opt-in entities'
16 compliance obligation for the previous year's covered emissions must
17 be submitted.

18 (c) By November 1, 2024, and every three years thereafter by
19 November 1st, compliance instruments covering the remainder of their
20 emissions for the preceding three-year compliance period must be
21 submitted.

22 (d) Submission of allowances occurs through the transfer of
23 compliance instruments, on or before the surrender date, from the
24 holding account to the compliance account of the covered or opt-in
25 entity as described in section 18 of this act.

26 (2) A covered or opt-in entity submitting insufficient compliance
27 instruments to meet its compliance obligation is subject to a penalty
28 as provided in section 15 of this act.

29 (3) Surrendered allowances must be from an allowance budget year
30 that is from the current year or any previous compliance years.

31 (4) An emission allowance may be surrendered in the same
32 compliance period in which it is created or in any future compliance
33 year.

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

37 (6) A covered or opt-in entity may bank allowances for use to
38 meet future compliance obligations consistent with subsections (3)
39 and (4) of this section.

1 (7) A compliance instrument representing an offset credit
2 provided by an entity pursuant to section 13 of this act may be
3 submitted to meet a compliance obligation.

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

8 NEW SECTION. **Sec. 15.** ENFORCEMENT. (1) If a covered or opt-in
9 entity does not submit sufficient allowances to meet its compliance
10 obligation by the specified surrender dates, a penalty of two hundred
11 dollars must be imposed for every one allowance that is missing.
12 Beginning with compliance year 2025, the penalty amount must be
13 adjusted on an annual basis according to the rate of change of the
14 inflation indicator, gross domestic price deflator, as published by
15 the bureau of economic analysis of the United States department of
16 commerce or its successor.

17 (2) The department may issue an order or issue a penalty of up to
18 ten thousand dollars per day per violation, or both, for a violation
19 of this chapter or the rules adopted under this chapter, including
20 failure to remit the penalty imposed under subsection (1) of this
21 section within six months of issuance of the notice of the penalty.

22 (3) Appeals of orders and penalties issued under this chapter
23 must be to the pollution control hearings board under chapter 43.21B
24 RCW.

25 (4) For the first compliance period, the department may reduce
26 the amount of the penalty by adjusting the monetary amount or the
27 number of penalty allowances described in subsections (1) and (2) of
28 this section.

29 NEW SECTION. **Sec. 16.** LINKING TO PROGRAMS IN OTHER
30 JURISDICTIONS. (1) The department shall seek to link with other
31 jurisdictions with established market-based carbon emissions
32 reduction programs in order to:

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

35 (b) Broaden the carbon market to provide Washington businesses
36 with greater flexibility and opportunities for reduced costs to meet
37 their compliance obligations;

1 (c) Enable allowance auctions to be held jointly and provide for
2 the use of a unified tracking system for compliance instruments;
3 (d) Enhance market security;
4 (e) Reduce program administration costs; and
5 (f) Provide consistent requirements for covered entities whose
6 operations span jurisdictional boundaries.

7 (2) The department is authorized to execute linkage agreements
8 with other jurisdictions with established market-based carbon
9 emissions reduction programs consistent with the requirements in this
10 chapter and rules adopted by the department. The department must
11 adopt a rule prior to executing a linkage agreement. The rule must be
12 supported by peer-reviewed economic analysis of the impacts of the
13 linkage agreement. A linkage agreement must cover the following:

14 (a) Provisions relating to quarterly auctions, including
15 requirements for eligibility for auction participation, the use of a
16 single auction provider to facilitate joint auctions, publication of
17 auction-related information, processes for auction participation,
18 purchase limits by auction participant type, bidding processes, dates
19 of auctions, and financial requirements;

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

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

26 (d) Common program registry, electronic auction platform,
27 tracking systems for compliance instruments, and monitoring of
28 compliance instruments;

29 (e) Provisions to ensure coordinated administrative and technical
30 support;

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

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

34 (3) The state must retain legal and policymaking authority over
35 its program design and enforcement.

36 NEW SECTION. **Sec. 17.** ALLOWANCE MARKET MONITORING AND
37 OVERSIGHT. (1) The department shall contract with an independent
38 organization to provide the following services relating to the
39 functioning of the compliance instrument market:

1 (a) Creating a market monitoring and security plan;
2 (b) Reviewing auction and reserve sale procedures and protocols
3 to ensure fair and competitive auctions;
4 (c) Auditing and monitoring the auctions to assess the adherence
5 of participants and the auction operator to the adopted procedures
6 and protocols;
7 (d) Monitoring compliance instrument holding, transfer activity,
8 and secondary market behavior;
9 (e) Preparing reports on auction results, market activities, and
10 trends; and
11 (f) Reviewing program guidance documents, program rules, and
12 other policies to mitigate market risk and improve the efficiency of
13 the auctions and market activities.

14 (2) The department shall coordinate with existing state and
15 federal market regulatory agencies, including the United States
16 commodity futures trading commission, to ensure that all regulatory
17 requirements for conducting trading in allowances are met. The
18 department may consult with other jurisdictions administering
19 emissions trading programs to observe and track market participant
20 behavior across multiple emission trading venues.

21 (3) The department shall create a carbon markets advisory
22 committee to provide advice and guidance to the department in the
23 design and implementation of the emissions allowance auctions and
24 compliance elements of the program authorized in this chapter. The
25 committee must be composed of experts in emissions trading design
26 with academic, nonprofit, governmental, private sector, or other
27 relevant backgrounds. Committee members must not have a financial
28 conflict with covered or opt-in entities or general market
29 participants under the program authorized in this chapter. By July 1,
30 2022, and by July 1st every two years thereafter, the committee shall
31 provide an independent assessment of the market monitoring functions
32 and performance of the program.

33 NEW SECTION. **Sec. 18.** ALLOWANCE TRADING AND TRACKING COMPLIANCE
34 INSTRUMENTS. (1) The department shall use a secure, online electronic
35 tracking system to: Register entities in the state program; issue
36 compliance instruments; track ownership of compliance instruments;
37 enable and record compliance instrument transfers; facilitate program
38 compliance; and support market oversight. The department may use an

1 existing market tracking system in use by jurisdictions to which it
2 seeks to link programs.

3 (2) Covered and opt-in entities are each allowed two accounts:

4 (a) A compliance account where the allowances are transferred to
5 the department for retirement. Allowances in compliance accounts may
6 not be sold, traded, or transferred to another account or person.

7 (b) A holding account that is used when a registered entity is
8 interested in trading allowances. Allowances in holding accounts may
9 be bought, sold, or traded. The amount of allowances a registered
10 entity may have in its holding account is constrained by the holding
11 limit.

12 (3) Registered general market participants are each allowed an
13 account, to hold, trade, sell, or surrender allowances.

14 (4) The department shall maintain an account for the purpose of
15 retiring allowances surrendered by registered entities.

16 (5) The department may establish or use other existing tracking
17 systems as needed for a functioning carbon market.

18 NEW SECTION. **Sec. 19.** PUBLIC RECORDS. In the administration of
19 the program required by this chapter, the department shall ensure the
20 protection from public disclosure of financial, commercial, and
21 proprietary information whose release would place the registered
22 entity submitting the information at a competitive disadvantage. The
23 department shall require any of its contractors working on the
24 program to comply with the disclosure requirements of RCW 42.56.070
25 and 42.56.270. Nothing in this chapter affects the department's
26 ability to release air quality data or emissions data pursuant to RCW
27 70.94.205.

28 **Sec. 20.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to
29 read as follows:

30 (1)(a) The state shall limit emissions of greenhouse gases to
31 achieve the following emission reductions for Washington state:

32 (i) By 2020, reduce overall emissions of greenhouse gases in the
33 state to 1990 levels;

34 (ii) By 2035, reduce overall emissions of greenhouse gases in the
35 state to (~~twenty-five~~) forty percent below 1990 levels;

36 (iii) By 2050, the state will do its part to reach global climate
37 stabilization levels by reducing overall emissions to (~~fifty~~)

1 eighty percent below 1990 levels (~~(, or seventy percent below the~~
2 ~~state's expected emissions that year)~~).

3 (b) By December 1, 2008, the department shall submit a greenhouse
4 gas reduction plan for review and approval to the legislature,
5 describing those actions necessary to achieve the emission reductions
6 in (a) of this subsection by using existing statutory authority and
7 any additional authority granted by the legislature. Actions taken
8 using existing statutory authority may proceed prior to approval of
9 the greenhouse gas reduction plan.

10 (c) Except where explicitly stated otherwise, nothing in chapter
11 14, Laws of 2008 limits any state agency authorities as they existed
12 prior to June 12, 2008.

13 (d) Consistent with this directive, the department shall take the
14 following actions:

15 (i) Develop and implement a system for monitoring and reporting
16 emissions of greenhouse gases as required under RCW 70.94.151; and

17 (ii) Track progress toward meeting the emission reductions
18 established in this subsection, including the results from policies
19 currently in effect that have been previously adopted by the state
20 and policies adopted in the future, and report on that progress.

21 (2) By December 31st of each even-numbered year beginning in
22 2010, the department and the department of (~~community, trade, and~~
23 ~~economic development~~) commerce shall report to the governor and the
24 appropriate committees of the senate and house of representatives the
25 total emissions of greenhouse gases for the preceding two years, and
26 totals in each major source sector. The department shall ensure the
27 reporting rules adopted under RCW 70.94.151 allow it to develop a
28 comprehensive inventory of emissions of greenhouse gases from all
29 significant sectors of the Washington economy.

30 (3) Except for purposes of reporting, emissions of carbon dioxide
31 from industrial combustion of biomass in the form of fuel wood, wood
32 waste, wood by-products, and wood residuals shall not be considered a
33 greenhouse gas as long as the region's silvicultural sequestration
34 capacity is maintained or increased.

35 NEW SECTION. **Sec. 21.** CARBON POLLUTION REDUCTION ACCOUNT
36 CREATED. (1) The carbon pollution reduction account is created in the
37 state treasury. All receipts by the state from the distribution of
38 allowances under sections 1 through 19 of this act must be deposited
39 in the account. Moneys in the account may be spent only after

1 appropriation. Moneys in the account must first be appropriated for
2 the administration of chapter . . . , Laws of 2019 (this act).

3 (2) Beginning July 1, 2021, and annually thereafter, the state
4 treasurer shall distribute funds in the account as follows:

5 (a) Forty percent of the moneys to the energy transformation
6 account created in section 22 of this act;

7 (b) Thirty-five percent of the moneys to the energy transition
8 assistance account created in section 23 of this act; and

9 (c) Twenty-five percent of the moneys to the climate impacts
10 resilience account created in section 27 of this act.

11 NEW SECTION. **Sec. 22.** ENERGY TRANSFORMATION ACCOUNT. (1) The
12 energy transformation account is created in the state treasury. The
13 account must receive moneys distributed to the account from the
14 carbon pollution reduction account created in section 21 of this act,
15 any penalty moneys received under section 13 of this act, as well as
16 other moneys directed to the account by the legislature. Moneys in
17 the account may only be spent after appropriation. Moneys in the
18 account must be used by the department of commerce for projects and
19 incentive programs that yield verifiable reductions in carbon
20 pollution in excess of current practices.

21 (2) Projects and programs eligible for funding from the account
22 must be physically located in Washington state and include but are
23 not limited to the following:

24 (a) Programs, activities, or projects that deploy renewable
25 energy resources, such as solar and wind power, and projects to
26 deploy distributed generation, energy storage, demand side
27 technologies and strategies, and other grid modernization projects;

28 (b) Programs, activities, or projects that increase the energy
29 efficiency or reduce carbon emissions of industrial facilities
30 including, but not limited to, proposals to implement combined heat
31 and power, district energy, or on-site renewables, such as solar and
32 wind power, to upgrade the energy efficiency of existing equipment,
33 to reduce process emissions, and to switch to less carbon intensive
34 fuel sources;

35 (c) Programs, activities, or projects that achieve energy
36 efficiency or emissions reductions in the agricultural sector
37 including fertilizer management, soil management, bioenergy, and
38 biofuels;

1 (d) Programs, activities, or projects that increase energy
2 efficiency in new and existing buildings, or that promote low-carbon
3 architecture, including use of newly emerging alternative building
4 materials that result in a lower carbon footprint in the built
5 environment over the life cycle of the building and component
6 building materials;

7 (e) Programs, activities, or projects that reduce carbon
8 emissions in the transportation sector, including projects and
9 programs that:

10 (i) Accelerate the deployment of zero emission fleets and
11 vehicles, create zero emission vehicle refueling infrastructure,
12 implement biomethane or other gaseous or liquid biofuels for
13 transportation, or deploy grid infrastructure to integrate electric
14 vehicles and charging equipment;

15 (ii) Reduce vehicle miles traveled or increase public
16 transportation, including investing in public transit, transportation
17 demand management, nonmotorized transportation, affordable transit-
18 oriented housing, and high-speed rural broadband facilities to enable
19 telecommuting options; and

20 (iii) Increase fuel efficiency in vehicles and vessels where
21 options to convert to zero emission, low-carbon fuels, or public
22 transportation are cost-prohibitive;

23 (f) Programs, activities, or projects that improve energy
24 efficiency, including district energy, and investments in market
25 transformation of energy efficiency products; and

26 (g) Programs, activities, or projects that result in
27 sequestration of carbon in forests, agricultural soils, and other
28 terrestrial and aquatic areas.

29 (3) Public entities including, but not limited to, state
30 agencies, municipal corporations, and federally recognized Indian
31 tribes, as well as private entities, both not-for-profit and for-
32 profit, subject to constitutional limitations, are eligible to
33 receive energy transformation account funds authorized by this
34 section.

35 (4) Projects, activities, and programs must meet all of the
36 following criteria to be eligible for funding. Emissions reductions
37 from the funding must be:

38 (a) Real, specific, identifiable, and quantifiable;

39 (b) Permanent: The department must survey other jurisdictions and
40 make a reasonable determination on length of time recognizing the

1 advantages of near-term reductions and the potential for future
2 technology to mitigate the long-term release of greenhouse gas
3 emissions into the atmosphere; and

4 (c) Verifiable.

5 (5) Projects or activities funded under this section must meet
6 high labor standards, including family level wages, providing
7 benefits including health care and pensions, and maximize access to
8 economic benefits from such projects for local workers and diverse
9 businesses.

10 (6) Funding may be provided for incremental carbon reductions
11 from projects that have already secured funding, but can furnish more
12 carbon reductions with additional resources.

13 (7) Recipients of funding for projects must submit to the
14 department a progress report at a date or dates to be determined by
15 the department. The progress report must include the following, in
16 addition to any other information the department may require:

17 (a) A summary of the investments made and technology or other
18 changes installed and deployed; and

19 (b) Verification of the avoided greenhouse gas emissions since
20 the date of the signed contract or the last report from a qualified
21 third party, as identified by the department of commerce. The
22 qualified third party must report on:

23 (i) Whether the project was built or implemented according to the
24 proposed design and any protocols or methodologies that were
25 referenced in the proposal, as approved in the funding contract;

26 (ii) A verification plan that details the methods used to
27 evaluate the project;

28 (iii) Their review of the recipient's accounting of current and
29 projected emissions reductions;

30 (iv) The site visits conducted by verifiers; and

31 (v) Any additional data the department identifies by rule to
32 sufficiently evaluate the project and to provide the highest level of
33 integrity and verification for the emissions reductions.

34 (8) The department must design project funding contracts, monitor
35 project implementation, and track contract performance, to actively
36 assist the project proponent in securing the expected project
37 outcomes. The department may suspend or terminate funding when
38 projects do not achieve projected reductions as provided in the
39 funding agreement and, in cases of gross misuse of funds, may require
40 a return of grant funding.

1 (9) A minimum of ten percent of the total investment of funds
2 from the energy transformation account must fund programs,
3 activities, or projects that are located within the boundaries of
4 highly impacted areas identified pursuant to section 25 of this act.

5 (10) The department must develop an electronic database available
6 to the public to track projects and incentive programs receiving
7 funding under this section. Projects must be ranked and sortable
8 based on quantitative performance metrics, including the avoided cost
9 of a ton of carbon dioxide.

10 (11) The department must develop an implementation plan for
11 providing funding under this section. The implementation plan,
12 together with recommendations for appropriations and recommended
13 legislative action, must be provided to the climate oversight board
14 created in section 30 of this act and to the governor and appropriate
15 committees of the senate and house of representatives by December 31,
16 2020.

17 NEW SECTION. **Sec. 23.** ENERGY TRANSITION ASSISTANCE ACCOUNT. The
18 energy transition assistance account is created in the state
19 treasury. The account must receive moneys distributed to the account
20 from the carbon pollution reduction account created in section 21 of
21 this act as well as other moneys directed to the account by the
22 legislature. Moneys in the account may only be spent after
23 appropriation. Moneys in the account may only be used for the
24 purposes described in sections 24 and 26 of this act.

25 NEW SECTION. **Sec. 24.** ENERGY TRANSITION ASSISTANCE TO LOW-
26 INCOME HOUSEHOLDS. (1) Using funds appropriated from the account
27 created in section 23 of this act, the department of commerce must
28 provide for an equitable transition to a clean energy economy by
29 providing funding to assist low-income households during that
30 transition with increased energy prices that have a disproportionate
31 impact upon such households and to provide access to clean energy and
32 low-carbon housing, transportation options, and technologies to those
33 with greater barriers and where pollution is concentrated. Funding
34 must also be provided to displaced fossil fuel-related industry
35 workers.

36 (2) Funding must be prioritized to mitigate for the additional
37 energy and transportation costs borne by low-income persons as a
38 result of this chapter and other policies and programs that reduce

1 fossil fuels in the state's energy fuel mix. Funding must also be
2 prioritized to provide assistance to displaced fossil fuel-related
3 industries' workers as provided under section 26 of this act.
4 Remaining funds must be used to reduce carbon pollution and reduce
5 vulnerable population characteristics or environmental burdens in
6 highly impacted communities designated by the department of health
7 under section 25 of this act.

8 (3) Transition assistance may include direct financial assistance
9 in the form of a grant, subsidy, rebate, or other similar financial
10 benefit or product including:

11 (a) Expansion of or increases to existing programs and
12 authorizations administered by the department of social and health
13 services;

14 (b) Expansion of or increases to existing regional community
15 health programs administered by the health care authority;

16 (c) New programs that efficiently enable direct financial
17 assistance; or

18 (d) Energy bill pay subsidies, energy efficiency and
19 weatherization assistance and services, public health programs and
20 services, affordable transportation services and options, affordable
21 housing, and improved community services.

22 (4) The department must develop an implementation plan for
23 providing assistance under this section. The implementation plan,
24 together with recommendations for appropriations and recommended
25 legislative action, must be provided to the climate oversight board
26 created in section 30 of this act and to the governor and appropriate
27 committees of the senate and house of representatives by December 31,
28 2020.

29 (5) The department must consult with and accord substantial
30 weight to the recommendations of the environmental and economic
31 justice panel created in section 28 of this act, both in the
32 development of the implementation plan and in developing biennial
33 spending plans for assistance to be provided from funds from the
34 account.

35 (6) As used in the section, "low-income households" means those
36 Washington residents with an annual income, adjusted for household
37 size, that are at or below the greater of:

38 (a) Eighty percent of the area median income as reported by the
39 federal department of housing and urban development; or

1 (b) Two hundred percent of the federal poverty line; and all
2 members of an Indian tribe who meet the income-based criteria for
3 other means-tested benefits through formal resolution by the
4 governing council of an Indian tribe.

5 NEW SECTION. **Sec. 25.** IDENTIFICATION OF HIGHLY IMPACTED
6 COMMUNITIES. (1) By December 1, 2020, the department of health must
7 designate highly impacted communities at the census tract level after
8 completing a statewide analysis of environmental disparities and
9 their cumulative impacts on communities. The analysis must be
10 conducted in consultation with vulnerable communities in Washington,
11 including Indian tribes, and must build upon the environmental health
12 disparities analysis and mapping prepared by the University of
13 Washington department of environmental and occupational health
14 sciences.

15 (2) The environmental disparities analysis must map, rank, and
16 designate a percentile of census tracts as highly impacted
17 communities based on an index of criteria, including:

18 (a) Vulnerable population characteristics;

19 (b) Environmental hazard characteristics including, but not
20 limited to, exposures to degraded air and water and toxic compounds,
21 proximity to toxic and hazardous waste sites, and impacts from
22 climate change; and

23 (c) Census tracts that are wholly or partly "Indian country," as
24 that term is defined in 25 U.S.C. Sec. 1151, in effect on the
25 effective date of this section.

26 (3) By March 1, 2024, and every two years thereafter, the
27 department of health, under advisement from the environmental and
28 economic justice panel created in section 28 of this act, must update
29 communities designated as highly impacted communities pursuant to
30 this section. By March 1, 2025, and every four years thereafter, the
31 department of health must review and consider revisions to reflect
32 best practices, to the methodology used to analyze environmental
33 disparities for designating highly impacted communities.

34 NEW SECTION. **Sec. 26.** FOSSIL FUEL INDUSTRY WORKER ASSISTANCE.
35 (1) From funds appropriated from the energy transition assistance
36 account created in section 23 of this act, the department of commerce
37 must develop a worker support program for bargaining unit and
38 nonsupervisory fossil fuel industry workers who are affected by the

1 transition away from fossil fuels to a clean energy economy. The
2 department, in consultation with the environmental and economic
3 justice panel created in section 28 of this act, may allocate
4 additional funding, if necessary to meet the needs of eligible
5 workers in the event of unforeseen or extraordinary amounts of
6 dislocation.

7 (2) The department must develop an implementation plan for
8 investments to be made to assist displaced fossil fuel industry
9 workers. The department must consult with and accord substantial
10 weight to the recommendations of the environmental and economic
11 justice panel created in section 28 of this act, both in the
12 development of the implementation plan and in developing biennial
13 spending plans for assistance to be provided with funds from the
14 account. The investment plan must be completed by December 31, 2020,
15 and provided to the climate oversight board created in section 30 of
16 this act, and to the governor and appropriate committees of the
17 senate and house of representatives.

18 NEW SECTION. **Sec. 27.** CLIMATE IMPACTS RESILIENCE ACCOUNT. (1)

19 The climate impacts resilience account is created in the state
20 treasury. The account must receive moneys distributed to the account
21 from the carbon pollution reduction account created in section 21 of
22 this act as well as other moneys directed to the account by the
23 legislature. Moneys in the account may only be spent after
24 appropriation.

25 (2) On a biennial basis, at least half of the funds from the
26 account must be used for the following purposes:

27 (a) Enhancing community preparedness and awareness before,
28 during, and after wildfires;

29 (b) Developing and implementing resources to support fire
30 suppression, prevention, and recovery for tribal communities impacted
31 or at risk from wildfires;

32 (c) Relocating communities on tribal lands that are impacted by
33 flooding and sea level rise; and

34 (d) Developing and implementing education programs to expand
35 awareness of and increase preparedness for the environmental, social,
36 and economic impacts of climate change and strategies to reduce
37 pollution.

1 (3) The remainder of the funds appropriated from the account must
2 be used for natural resources resilience and related purposes
3 including, but not limited to:

4 (a) Improving forest and natural lands health and resilience to
5 climate change impacts, including thinning and prescribed fire
6 project and wildland fire prevention;

7 (b) Project-specific planning, design, and construction projects
8 that reduce stormwater impacts from existing infrastructure and
9 development;

10 (c) Reducing the risk of flooding by restoring natural floodplain
11 ecological functions, protecting against damage caused by floods, and
12 protecting or restoring naturally functioning areas where floods
13 occur;

14 (d) Improving the availability and reliability of water supplies
15 for instream and out-of-stream uses;

16 (e) Construction of fish barrier correction projects on state
17 highways and local roads, with first priority given to projects
18 required by the injunction entered in *United States v. Washington*
19 (*Civ No CV9213RSM*);

20 (f) Projects to prepare for sea level rise and to restore and
21 protect estuaries, fisheries, marine shoreline, and inland habitats,
22 including small forestland owner fish passage barrier projects; and

23 (g) Increasing the ability to adapt to and remediate the impacts
24 of ocean acidification.

25 (4) The departments of ecology and natural resources through an
26 interagency agreement must jointly develop an implementation plan for
27 investments to be made from the climate impacts resilience account.
28 The departments must consult with and accord substantial weight to
29 the recommendations of the environmental and economic justice panel
30 created in section 28 of this act, both in the development of the
31 implementation plan and in developing biennial spending plans for
32 assistance to be provided with funds from the account. The investment
33 plan must be completed by December 31, 2020, and provided to the
34 climate oversight board created in section 30 of this act, and to the
35 governor and appropriate committees of the senate and house of
36 representatives.

37 (5) The departments must utilize the cumulative impact analysis
38 in section 25 of this act when developing the implementation plan and
39 prioritize funding and investments to benefit highly impacted
40 communities.

1 (6) The departments must require annual progress reports by all
2 recipients of funding under this section, and provide summaries of
3 those reports and assessment of achievement of the performance-based
4 criteria and objectives to the climate oversight board created in
5 section 30 of this act at such intervals as the climate oversight
6 board requests.

7 NEW SECTION. **Sec. 28.** ENVIRONMENTAL AND ECONOMIC JUSTICE PANEL.

8 (1) An environmental and economic justice panel is established to
9 provide recommendations in the development and implementation of the
10 programs on energy transformation, transition assistance, and climate
11 impacts resilience authorized under sections 22 through 27 of this
12 act.

13 (2) The governor must appoint the members of the environmental
14 and economic justice panel, which must be cochaired by one tribal
15 leader and one person that is a representative of the interests of
16 highly impacted communities identified in section 25 of this act. The
17 membership of the panel must consist of at least nine persons, based
18 on the nomination of statewide organizations that represent the
19 following interests:

20 (a) Five members, including at least one tribal leader and at
21 least two nontribal leaders representing the interests of vulnerable
22 populations residing in highly impacted communities in different
23 geographic areas of the state;

24 (b) Two members representing union labor with expertise in
25 economic dislocation, clean energy economy, or energy intensive,
26 trade-exposed facilities; and

27 (c) Two members representing tribal governments.

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

29 (a) Provide recommendations in the development of investment
30 plans and funding proposals for energy transformation, energy
31 transition assistance, and climate impacts resilience under sections
32 22 through 27 of this act;

33 (b) Provide a forum to analyze policies adopted under this
34 chapter to determine if the policies lead to improvements within
35 highly impacted communities;

36 (c) Make recommendations on the environmental disparities
37 analysis and highly impacted communities designation required by
38 section 25 of this act;

1 (d) Recommend procedures and criteria for evaluating programs,
2 activities, or projects for review;

3 (e) Evaluate the level of funding provided to assist vulnerable
4 populations, low-income individuals, and displaced workers and the
5 funding of projects and activities located within or benefiting
6 highly impacted communities designated under section 25 of this act;

7 (f) Provide recommendations to implementation agencies for
8 meaningful consultation with vulnerable populations; and

9 (g) At the request of the climate oversight board created in
10 section 30 of this act, conduct an evaluation of the economic impacts
11 on and outcomes for low and middle-income households and vulnerable
12 populations, including communities of color and Indian tribal
13 communities of the emissions reduction policies required in this
14 chapter and the financial assistance provided under this chapter.

15 NEW SECTION. **Sec. 29.** INDIAN TRIBE CONSULTATION. (1) In order
16 to achieve the goals set forth in this chapter, any state agency
17 receiving funding from the accounts created in this chapter must
18 consult with Indian tribes on all decisions that may affect Indian
19 tribes' rights and interests in their tribal lands. The consultation
20 must occur pursuant to chapter 43.376 RCW and must be independent of
21 any public participation process required by state law, or by a state
22 agency, and regardless of whether the agency receives a request for
23 consultation from an Indian tribe. A consultation framework must be
24 developed in coordination with tribal governments that includes best
25 practices, protocols for communication, and collaboration with Indian
26 tribes.

27 (2) No project that impacts tribal lands may be funded prior to
28 meaningful consultation with affected Indian tribes. For projects
29 that directly impact tribal lands, the goal of the consultation
30 process is to obtain free, prior, and informed consent for the
31 project, and at the end of such consultation, the Indian tribe's
32 government will provide the climate oversight board created in
33 section 30 of this act with a written resolution providing consent or
34 withholding consent. If any project that impacts tribal lands is
35 funded under this chapter without consultation with Indian tribes, an
36 affected Indian tribe may request that all further action on the
37 project cease until consultation with any directly impacted Indian
38 tribe is completed.

1 NEW SECTION. **Sec. 30.** CLIMATE OVERSIGHT BOARD. (1) The climate

2 oversight board is created. The climate oversight board consists of:

3 (a) The governor or the governor's designee;

4 (b) The commissioner of public lands or the commissioner's
5 designee;

6 (c) The state auditor or the auditor's designee;

7 (d) Two members of the senate, appointed by the president of the
8 senate, one from each major political party;

9 (e) Two members of the house of representatives, appointed by the
10 speaker of the house of representatives, one from each major
11 political party;

12 (f) Two members representing federally recognized Indian tribes
13 must be invited to participate on the board;

14 (g) Representatives of stationary emissions sources, the
15 transportation fuels sector, the electricity and gas distribution
16 sectors, renewable energy production, climate action organizations,
17 and a member of the environmental and economic justice panel created
18 in section 28 of this act; and

19 (h) Persons with economic, environmental, and energy expertise
20 and experience in greenhouse gas emissions reductions policies and
21 programs.

22 (2) The climate oversight board must select a chair from among
23 its members. All state agencies must provide information and
24 assistance as requested by the board in order to perform its
25 responsibilities.

26 (3) The climate oversight board is responsible for ongoing review
27 of the implementation of the emissions reduction program and funding
28 from the revenues of the auctions of allowances to ensure the
29 fairest, most efficient, and timely achievement of the objectives in
30 this chapter regarding greenhouse gas emissions reductions,
31 transition assistance, jobs development, and climate resilience. The
32 board's responsibilities include but are not limited to:

33 (a) Reviewing the plans for implementing the funding programs
34 authorized in sections 22 through 27 of this act;

35 (b) Reviewing the criteria for funding allocations and project
36 award decisions;

37 (c) Reviewing project and activity funding decisions as well as
38 summary reports and information regarding implementing projects;

39 (d) Reviewing implementation progress reports by agencies;

40 (e) Reviewing compliance with consultation requirements; and

1 (f) Providing recommendations for standards by which to measure
2 emissions reductions outcomes from investments of funds under
3 sections 22 through 27 of this act.

4 (4) The climate oversight board may contract for independent
5 evaluative expertise in its review of the performance of the program
6 in meeting this chapter's objectives regarding greenhouse gas
7 emissions reductions, energy transformation, energy transition
8 assistance, and climate resilience.

9 (5) Beginning July 1, 2020, the climate oversight board must meet
10 at least quarterly.

11 (6) The climate oversight board has no appropriation authority.

12 NEW SECTION. **Sec. 31.** STATEWIDE OR LOCAL GREENHOUSE GAS
13 EMISSIONS CAPS. (1) Except where explicitly stated otherwise, nothing
14 in this chapter limits any state agency authority as it existed prior
15 to the effective date of this section. This chapter supersedes the
16 provisions of RCW 70.235.005 to the extent that section is
17 inconsistent with the provisions of this chapter.

18 (2) This act preempts the provisions of chapter 173-442 WAC.

19 (3) No regional air quality agency, city, county, or other
20 subdivision of the state may directly regulate greenhouse gas
21 emissions through a cap, charge, low-carbon fuel standard or clean
22 fuels standard, or charge upon the sale or use, except as provided
23 for in this act.

24 NEW SECTION. **Sec. 32.** By December 31, 2020, the department of
25 ecology shall adopt rules providing guidance to state agencies and
26 local governments that are reviewing a project owned or sponsored by
27 a covered entity that is in compliance with the program created in
28 section 3 of this act. The rules must provide that such compliance
29 satisfies the identification and analysis of the greenhouse gas
30 emissions associated with the project otherwise required under RCW
31 43.21C.031 and the guidelines adopted under chapter 43.21C RCW.

32 **Sec. 33.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to
33 read as follows:

34 (1) The board of any activated authority or the department, may
35 classify air contaminant sources, by ordinance, resolution, rule or
36 regulation, which in its judgment may cause or contribute to air
37 pollution, according to levels and types of emissions and other

1 characteristics which cause or contribute to air pollution, and may
2 require registration or reporting or both for any such class or
3 classes. Classifications made pursuant to this section may be for
4 application to the area of jurisdiction of such authority, or the
5 state as a whole or to any designated area within the jurisdiction,
6 and shall be made with special reference to effects on health,
7 economic and social factors, and physical effects on property.

8 (2) Except as provided in subsection (3) of this section, any
9 person operating or responsible for the operation of air contaminant
10 sources of any class for which the ordinances, resolutions, rules or
11 regulations of the department or board of the authority, require
12 registration or reporting shall register therewith and make reports
13 containing information as may be required by such department or board
14 concerning location, size and height of contaminant outlets,
15 processes employed, nature of the contaminant emission and such other
16 information as is relevant to air pollution and available or
17 reasonably capable of being assembled. In the case of emissions of
18 greenhouse gases as defined in RCW 70.235.010 the department shall
19 adopt rules requiring reporting of those emissions. The department or
20 board may require that such registration or reporting be accompanied
21 by a fee, and may determine the amount of such fee for such class or
22 classes: PROVIDED, That the amount of the fee shall only be to
23 compensate for the costs of administering such registration or
24 reporting program which shall be defined as initial registration and
25 annual or other periodic reports from the source owner providing
26 information directly related to air pollution registration, on-site
27 inspections necessary to verify compliance with registration
28 requirements, data storage and retrieval systems necessary for
29 support of the registration program, emission inventory reports and
30 emission reduction credits computed from information provided by
31 sources pursuant to registration program requirements, staff review,
32 including engineering or other reliable analysis for accuracy and
33 currentness, of information provided by sources pursuant to
34 registration program requirements, clerical and other office support
35 provided in direct furtherance of the registration program, and
36 administrative support provided in directly carrying out the
37 registration program: PROVIDED FURTHER, That any such registration
38 made with either the board or the department shall preclude a further
39 registration and reporting with any other board or the department,
40 except that emissions of greenhouse gases as defined in RCW

1 70.235.010 must be reported as required under subsection (5) of this
2 section.

3 All registration program and reporting fees collected by the
4 department shall be deposited in the air pollution control account.
5 All registration program fees collected by the local air authorities
6 shall be deposited in their respective treasuries.

7 (3) If a registration or report has been filed for a grain
8 warehouse or grain elevator as required under this section,
9 registration, reporting, or a registration program fee shall not,
10 after January 1, 1997, again be required under this section for the
11 warehouse or elevator unless the capacity of the warehouse or
12 elevator as listed as part of the license issued for the facility has
13 been increased since the date the registration or reporting was last
14 made. If the capacity of the warehouse or elevator listed as part of
15 the license is increased, any registration or reporting required for
16 the warehouse or elevator under this section must be made by the date
17 the warehouse or elevator receives grain from the first harvest
18 season that occurs after the increase in its capacity is listed in
19 the license.

20 This subsection does not apply to a grain warehouse or grain
21 elevator if the warehouse or elevator handles more than ten million
22 bushels of grain annually.

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

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

29 (b) A "license" is a license issued by the department of
30 agriculture licensing a facility as a grain warehouse or grain
31 elevator under chapter 22.09 RCW or a license issued by the federal
32 government licensing a facility as a grain warehouse or grain
33 elevator for purposes similar to those of licensure for the facility
34 under chapter 22.09 RCW; and

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

36 (5)(a) The department shall adopt rules requiring persons to
37 report emissions of greenhouse gases as defined in RCW 70.235.010,
38 and supporting data, where those emissions from a single facility(~~(7~~
39 ~~source, or site,))~~ or from electricity, fossil fuels (~~(sold)~~), or
40 fuels supplied in Washington by a single supplier, meet or exceed ten

1 thousand metric tons of carbon dioxide equivalent emissions annually.
2 The ~~((department may phase in the requirement to report greenhouse~~
3 ~~gas emissions until the reporting threshold in this subsection is~~
4 ~~met, which must occur by January 1, 2012)) rules adopted by the~~
5 ~~department must support implementation of the program created in~~
6 ~~section 3 of this act, including reporting of natural gas delivered~~
7 ~~to covered entities that are customers of the supplier.~~ In addition,
8 the rules must require that:

9 (i) Emissions of greenhouse gases resulting from the combustion
10 of fossil fuels be reported separately from emissions of greenhouse
11 gases resulting from the combustion of biomass; and

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

25 ~~(iii) Emissions of carbon dioxide associated with the complete~~
26 ~~combustion or oxidation of liquid motor vehicle fuel, special fuel,~~
27 ~~or aircraft fuel that is sold in Washington where the annual~~
28 ~~emissions associated with that combustion or oxidation equal or~~
29 ~~exceed ten thousand metric tons be reported to the department. Each~~
30 ~~person who is required to file periodic tax reports of motor vehicle~~
31 ~~fuel sales under RCW 82.36.031 or special fuel sales under RCW~~
32 ~~82.38.150, or each distributor of aircraft fuel required to file~~
33 ~~periodic tax reports under RCW 82.42.040 must report to the~~
34 ~~department the annual emissions of carbon dioxide from the complete~~
35 ~~combustion or oxidation of the fuels listed in those reports as sold~~
36 ~~in the state of Washington. The department shall not require~~
37 ~~suppliers to use additional data to calculate greenhouse gas~~
38 ~~emissions other than the data the suppliers report to the department~~
39 ~~of licensing. The rules may allow this information to be aggregated~~
40 ~~when reported to the department. The department and the department of~~

1 ~~licensing shall enter into an interagency agreement to ensure~~
2 ~~proprietary and confidential information is protected if the~~
3 ~~departments share reported information. Any proprietary or~~
4 ~~confidential information exempt from disclosure when reported to the~~
5 ~~department of licensing is exempt from disclosure when shared by the~~
6 ~~department of licensing with the department under this provision)).~~
7 Electric power entities and persons filing an abbreviated report must
8 submit their annual report for the preceding year by June 1st.

9 (b) (i) ~~((Except as otherwise provided in this subsection, the~~
10 ~~rules adopted by the department under (a) of this subsection must be~~
11 ~~consistent with the regulations adopted by the United States~~
12 ~~environmental protection agency in 40 C.F.R. Part 98 on September 22,~~
13 ~~2009))~~ The department may allow facility operators without a
14 compliance obligation under section 14 of this act to submit an
15 abbreviated report. Abbreviated reports must be consistent with full
16 reports, but may use less stringent monitoring, calculation, and
17 verification methods.

18 (ii) The department may by rule include additional gases to the
19 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has
20 been designated as a greenhouse gas by the United States congress
21 ~~((or)),~~ by the United States environmental protection agency, or
22 included in external greenhouse gas emissions trading programs where
23 Washington has a linkage agreement in effect pursuant to section 16
24 of this act. Prior to including additional gases to the definition of
25 "greenhouse gas" in RCW 70.235.010, the department shall notify the
26 appropriate committees of the legislature. ~~((Decisions to amend the~~
27 ~~rule to include additional gases must be made prior to December 1st~~
28 ~~of any year and the amended rule may not take effect before the end~~
29 ~~of the regular legislative session in the next year.))~~

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

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

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

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 16 of this act. ((However,))

7 (ii) The department shall not amend its rules in a manner that
8 conflicts with ((a) of this subsection) this 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 14 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)(iii) of this subsection, the
27 department must attempt to provide assistance to the person. If the
28 person refuses assistance from the department, the department may
29 develop an assigned emissions level for that person.

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

1 council shall contract with the department to monitor the reporting
2 requirements adopted under this section.

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

12 (i) Verification requirements apply to persons required to report
13 under (a) of this subsection with emissions that equal or exceed
14 twenty-five thousand metric tons of carbon dioxide equivalent
15 emissions, or if a fuels supplier, emissions that equal or exceed ten
16 thousand metric tons of carbon dioxide emissions, including carbon
17 dioxide from biomass-derived fuels, or to persons who have a
18 compliance obligation under section 14 of this act in any year of the
19 current compliance period.

20 (ii) Persons subject to verification must obtain third-party
21 verification services for that report from a verification body
22 accredited by the department. The verification body must not have a
23 conflict of interest when verifying the reporting person's report.

24 (iii) Persons are responsible for ensuring that verification
25 services are completed and verification statements must be submitted
26 by the verification body to the department by September 1st each year
27 for emissions data for the preceding calendar year.

28 (h) (i) The definitions in RCW 70.235.010 apply throughout this
29 subsection (5) unless the context clearly requires otherwise.

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

1 and (B) suppliers of carbon dioxide that produce, import, or deliver
2 a quantity of carbon dioxide in Washington that, if released, would
3 result in emissions equivalent to or higher than the threshold
4 established under (a) of this subsection. A refinery facility, as
5 defined in section 2 of this act, is considered a supplier for the
6 purposes of this section.

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

13 (iv) For the purpose of this subsection (5), the term "facility"
14 includes facilities that directly emit greenhouse gases in Washington
15 equivalent to the threshold established under (a) of this subsection
16 with at least one source category listed in the United States
17 environmental protection agency's mandatory greenhouse gas reporting
18 regulation, 40 C.F.R. Part 98 Subparts C through II and RR through
19 UU, as adopted on April 25, 2011, except for the following source
20 categories: (A) Municipal solid waste landfills; (B) industrial waste
21 landfills; (C) industrial wastewater treatment; and (D) manure
22 management.

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

33 NEW SECTION. Sec. 34. This act may be known and cited as the
34 carbon pollution reduction act.

35 NEW SECTION. Sec. 35. (1) Sections 1 through 19 and 21 through
36 31 of this act expire December 31, 2055, in the event that the
37 department of ecology determines that the 2050 emissions limits of
38 RCW 70.235.020 have been met for two or more consecutive years.

1 (2) Upon the occurrence of the events identified in subsection
2 (1) of this section, the department of ecology must provide written
3 notice of the expiration date of sections 1 through 19 and 21 through
4 31 of this act to affected parties, the chief clerk of the house of
5 representatives, the secretary of the senate, the office of the code
6 reviser, and others as deemed appropriate by the department.

7 NEW SECTION. **Sec. 36.** Sections 1 through 19, 21 through 31, 34,
8 and 35 of this act constitute a new chapter in Title 70 RCW.

9 NEW SECTION. **Sec. 37.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

--- END ---