
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2786.1/15

ATTY/TYPIST: ML:eab

BRIEF DESCRIPTION: Implementing a carbon pollution market program to reduce greenhouse gas emissions.

1 AN ACT Relating to implementing a carbon pollution market program
2 to reduce greenhouse gas emissions; amending RCW 43.21B.110,
3 43.21B.110, 70.235.010, 70.235.020, and 70.94.151; reenacting and
4 amending RCW 42.56.270; adding new sections to chapter 82.04 RCW;
5 adding new sections to chapter 76.09 RCW; adding a new section to
6 chapter 82.16 RCW; adding a new section to chapter 79A.25 RCW; adding
7 a new chapter to Title 70 RCW; creating new sections; prescribing
8 penalties; making appropriations; providing effective dates;
9 providing an expiration date; and declaring an emergency.

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

11 NEW SECTION. **Sec. 101.** INTENT AND FINDINGS. (1) The legislature
12 finds that climate change is harming the state and that without
13 substantial reductions in greenhouse gas emissions the harm to the
14 state will be greatly increased. While Washington's emissions are
15 only a small part of the global emissions of greenhouse gases, the
16 state must act to reduce its own emissions while providing leadership
17 and a model for action by other jurisdictions to address their own
18 emissions. The 2008 legislature established statewide emission limits
19 that are to be achieved by 2020, 2035, and 2050, but did not enact a
20 comprehensive program to ensure that the emission reductions would be
21 accomplished. The legislature intends to provide such a program by

1 this act to meet Washington state's commitment to its present and
2 future generations to fully address the climate change challenge.

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

13 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

16 (1) "Allowance" means a tradable authorization to emit up to one
17 metric ton of carbon dioxide equivalent.

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

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

26 (4) "Auction" means the process of selling greenhouse gas
27 allowances, along with allowances from external greenhouse gas
28 emissions trading programs with which Washington has linked its
29 carbon pollution market program, by offering them up for bid, taking
30 bids, and then distributing the allowances to winning bidders.

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

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

37 (7) "Carbon dioxide equivalent" means a measure used to compare
38 the emissions from various greenhouse gases based on their global
39 warming potential.

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

7 (9) "Compliance obligation" means the requirement to turn in to
8 the department the number of compliance instruments equal to a
9 covered or opt-in entity's covered emissions during the compliance
10 period.

11 (10) "Compliance period" means the three-year period for which
12 the compliance obligation is calculated for covered and opt-in
13 entities except for the first compliance period. The first compliance
14 period is from July 1, 2016, through December 31, 2017.

15 (11) "Covered entity" means a person with a compliance
16 obligation, and who has emitted or is otherwise responsible, as
17 specified in this chapter, for emissions that are more than the
18 applicable emission threshold.

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

20 (13) "Emission threshold" means the greenhouse gas emission level
21 at or above which a person has a compliance obligation.

22 (14) "External greenhouse gas emission trading program" means a
23 government program, other than Washington's carbon pollution market
24 program created in this chapter, that controls greenhouse gas
25 emissions from sources outside of Washington through an emissions
26 trading program.

27 (15) "Facility," unless otherwise specified in subparts C through
28 II of 40 C.F.R. Part 98 as adopted on April 25, 2011, or proposed by
29 December 1, 2010, means any physical property, plant, building,
30 structure, source, or stationary equipment located on one or more
31 contiguous or adjacent properties in actual physical contact or
32 separated solely by a public roadway or other public right-of-way and
33 under common ownership or common control, that emits or may emit any
34 greenhouse gas. "Facility" includes a refinery facility.

35 (16) "First jurisdictional deliverer" means the first person over
36 which the state of Washington has jurisdiction that generates or
37 procures electricity for use within the state and delivers that
38 electricity to the first point of delivery.

39 (17) "General market participant" means a registered entity that
40 is not identified as a covered entity or an opt-in entity who is

1 registered in the program registry and intends to purchase, hold,
2 sell, or voluntarily retire compliance instruments.

3 (18) "Greenhouse gas" means carbon dioxide (CO₂), methane (CH₄),
4 nitrogen trifluoride (NF₃), nitrous oxide (N₂O), sulfur hexafluoride
5 (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other
6 fluorinated greenhouse gases.

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

9 (20) "Imported electricity" means electricity generated outside
10 the state of Washington and delivered for use within the state, but
11 which did not originate from any jurisdiction with which Washington
12 has a linkage agreement.

13 (21) "Limits" means the greenhouse gas emission reductions
14 required for Washington state by 2020, 2035, and 2050, as specified
15 in RCW 70.235.020(1).

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

19 (23) "Offset credit" means a tradable compliance instrument that
20 represents an emission reduction or emission removal of one metric
21 ton of carbon dioxide equivalent.

22 (24) "Offset project" means a project that reduces or removes
23 greenhouse gases that derive from sources not covered by the program.

24 (25) "Offset protocols" means a set of procedures and
25 requirements to quantify greenhouse gas reductions or greenhouse gas
26 removals achieved by an offset project.

27 (26) "Opt-in entity" is a person responsible for the emission of
28 greenhouse gases not covered by the program and that voluntarily
29 chooses to participate in the program as if it were a covered entity.

30 (27) "Person" means an individual, firm, partnership, franchise
31 holder, association, organization, corporation, business trust,
32 company, limited liability company, or government entity.

33 (28) "Point of delivery" means a point on the electricity
34 transmission or distribution system physically located in Washington
35 where a power supplier delivers electricity for use in the state.
36 This point can be an interconnection with another system or a
37 substation where the transmission provider's transmission and
38 distribution systems are connected to another system, or a

1 distribution substation where electricity is imported into the state
2 over a multijurisdictional retail provider's distribution system.

3 (29) "Program" means the carbon pollution market program
4 implemented under this chapter.

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

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

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

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

22 (34) "Supplier" means a supplier of:

23 (a) Fuel that produces, refines, imports, or delivers, or any
24 combination of producing, refining, importing, or delivering, a
25 quantity of fuel in Washington that, if completely combusted,
26 oxidized, or used in other processes, would result in the release of
27 greenhouse gas equivalent to or higher than the threshold established
28 under RCW 70.94.151(5)(a); or

29 (b) Carbon dioxide that produces, imports, or delivers a quantity
30 of carbon dioxide in Washington that, if released, would result in
31 emissions equivalent to or higher than the threshold established
32 under RCW 70.94.151(5)(a).

33 (35) "Surrender" means to transfer an allowance or offset credit
34 to the department, either to meet a compliance obligation or on a
35 voluntary basis.

36 NEW SECTION. **Sec. 103.** CARBON POLLUTION MARKET PROGRAM CREATED.

37 (1) In order for the state's emission reduction limits established in
38 RCW 70.235.020 to be achieved, the department shall implement a
39 carbon pollution market program for emissions from covered entities

1 by creating and distributing allowances that are tradable regionally,
2 nationally, and internationally.

3 (2) The program shall consist of:

4 (a) Annual allowance budgets that limit emissions from covered
5 entities, as provided in section 104 of this act;

6 (b) Defining those entities covered by the program, and those
7 entities that may voluntarily opt into coverage under the program, as
8 provided in sections 105 and 106 of this act;

9 (c) Distribution of emission allowances by auction, as provided
10 in section 107 of this act, and allowance price containment
11 provisions under section 108 of this act;

12 (d) Providing for offset credits as a method for meeting a
13 compliance obligation, pursuant to section 109 of this act;

14 (e) Defining the compliance obligation for covered entities, as
15 provided in section 110 of this act;

16 (f) Establishing the authority of the department to enforce the
17 program requirements, as provided in section 111 of this act;

18 (g) Creating a carbon pollution reduction account for the deposit
19 of receipts from the distribution of emission allowances and
20 authorizing the use of program funds in the account to address state
21 budget priorities, mitigate disproportionate effects on at-risk
22 communities and business sectors, and further reduce emissions, as
23 described in section 112 of this act;

24 (h) Establishing programs to support businesses that may be
25 significantly affected by the program, as provided in sections 113
26 through 116 of this act;

27 (i) Providing for the transfer of allowances and recognition of
28 compliance instruments issued by jurisdictions that enter into
29 linkage agreements with the state, as provided in section 117 of this
30 act;

31 (j) Providing for allowance market monitoring and oversight, and
32 creating the financial advisory committee to provide advice to the
33 department in the implementation of the program, as provided in
34 section 118 of this act; and

35 (k) Creating, in section 119 of this act, an economic justice and
36 environmental equity advisory committee to monitor for and advise on
37 solutions to unwanted program impacts on jobs and vulnerable
38 communities.

1 (3) The department shall implement the program in a manner that
2 allows linking the state's program with other jurisdictions having
3 similar programs.

4 NEW SECTION. **Sec. 104.** SETTING ANNUAL ALLOWANCE BUDGETS. (1)

5 The department shall commence the program on July 1, 2016. The
6 department shall determine the total combined emissions expected from
7 all covered entities with a compliance obligation under the program.
8 Based on those combined emissions, the department shall establish an
9 annual allowance budget for each year of the program, consistent with
10 subsections (2) through (5) of this section. The department must set
11 annual allowance budgets to gradually reduce the total combined
12 emissions from the covered entities to meet their combined share of
13 the emission reductions required for the state to achieve the
14 emission limits established in RCW 70.235.020. The combined share of
15 covered entities emission reduction obligations is the proportion of
16 the greenhouse gas emissions by covered entities in 2016 relative to
17 the state's overall emissions that year.

18 (2) By January 1, 2016, the department shall establish by rule
19 the annual allowance budgets for July 1, 2016, to December 31, 2016,
20 and for January 1, 2017, to December 31, 2017, based on the best
21 estimate of the expected combined emissions for the sources covered
22 by the program. The department must submit a report to the
23 appropriate fiscal and policy committees of the legislature by
24 January 1, 2016, that describes the methodology it used to calculate
25 the annual allowance budgets established by this subsection. The
26 report must also include an analysis, in consultation with covered
27 entities, of the technologies available to achieve the emissions
28 reductions required by the allowance budgets without compromising
29 jobs and productivity.

30 (3) By January 1, 2017, the department shall adopt by rule the
31 annual allowance budgets for the combined emissions of the covered
32 entities for each year from January 1, 2018, to December 31, 2026.
33 The department must submit a report to the appropriate fiscal and
34 policy committees of the legislature by January 1, 2017, that
35 describes the methodology it used to calculate the annual allowance
36 budgets established by this subsection. The report must also include
37 an analysis, in consultation with covered entities, of the
38 technologies available to achieve the emissions reductions required
39 by the allowance budgets without compromising jobs and productivity.

1 (4) By January 1, 2026, annual allowance budgets for each year
2 from January 1, 2027, to December 31, 2036, must be set by rule after
3 conducting an evaluation of the performance of the program and
4 determining whether adjustments are needed. The evaluation must be
5 completed by December 31, 2024.

6 (5) The department shall adopt by rule the conditions under which
7 it may revise annual allowance budgets. However, the department may
8 not revise annual allowance budgets prior to the compliance period
9 beginning January 1, 2021.

10 NEW SECTION. **Sec. 105.** ENTITIES REQUIRED TO BE COVERED IN THE
11 PROGRAM. (1) Except as provided in subsections (2) and (5) of this
12 section and section 106(5) of this act, a person is a covered entity
13 as of the beginning of the first compliance period and all subsequent
14 compliance periods if the person reported emissions under RCW
15 70.94.151 in any calendar year from 2012 through 2014 that equals or
16 exceeds any of the following thresholds:

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

20 (b) Where the person is a first jurisdictional deliverer bringing
21 electricity into the state and the cumulative annual total of
22 emissions associated with imported electricity into the state equals
23 or exceeds twenty-five thousand metric tons of carbon dioxide
24 equivalent. The department must adopt rules regarding the
25 identification of a first jurisdictional deliverer for imported
26 electricity in a manner similar to and consistent with the
27 identification of first jurisdictional deliverers of electricity in
28 external carbon market programs in other jurisdictions. The rules
29 must also identify the first jurisdictional deliverer as the first
30 person responsible for bringing electricity into the state using
31 established tracking mechanisms for the electricity market including
32 the North American electric reliability corporation e-tag system or
33 similar or successor established tracking mechanisms. The person must
34 have either full or partial ownership in the facility providing the
35 imported electricity, or a written power contract to procure the
36 imported electricity at the facility, at the time of entry of the
37 transaction to procure electricity in order for the associated
38 emissions to be derived from the facility emissions. Otherwise, the
39 associated emissions are deemed to be unspecified and an appropriate

1 emissions factor must be adopted by the department of commerce by
2 rule based on the emissions associated with an average combined-cycle
3 thermal electric generation facility fueled by natural gas,
4 consistent with the emissions output identified in the rules adopted
5 by the department of commerce under RCW 80.80.050 as of January 1,
6 2015;

7 (c) Where the person is a fuel supplier and has reported twenty-
8 five thousand metric tons or more of carbon dioxide equivalent
9 emissions that would result from the full combustion or oxidation of
10 the supplied fuels and has a compliance obligation for the emissions
11 from the full combustion or oxidation of those supplied fuels
12 consistent with subsection (6)(b)(iii) of this section;

13 (d) Where the person operates a facility and is a direct
14 purchaser from a federal power market agency of electricity whose
15 associated emissions from both the facility and purchased electricity
16 equals or exceeds twenty-five thousand metric tons of carbon dioxide
17 equivalent.

18 (2) When a covered entity reports, during a compliance period,
19 emissions for a facility under RCW 70.94.151 that are below the
20 thresholds specified in subsection (1) of this section, the covered
21 entity continues to have a compliance obligation through the current
22 compliance period. When a covered entity demonstrates emissions below
23 the threshold during an entire compliance period, or has ceased all
24 processes at the facility requiring reporting under RCW 70.94.151,
25 the entity is no longer a covered entity having a compliance
26 obligation until such time as the emissions from the facility again
27 exceed the threshold.

28 (3) For types of emission sources described in subsection (1) of
29 this section that begin or modify operation after January 1, 2014,
30 coverage under the program starts in the calendar year where
31 emissions from the source exceed the applicable thresholds in
32 subsection (1) of this section. Sources meeting these conditions are
33 required to surrender their first allowances on the first surrender
34 deadline of the year following the year in which their emissions were
35 equal to or exceeded the emissions threshold.

36 (4) For emission sources described in subsection (1) of this
37 section that are in operation or otherwise active between 2012
38 through 2014 but were not required to report emissions for those
39 years, coverage under the program starts in the calendar year
40 following the year where emissions from the source exceed the

1 applicable thresholds in subsection (1) of this section as reported
2 pursuant to RCW 70.94.151, or upon formal notice from the department
3 that the source is expected to exceed the applicable emissions
4 threshold for the first year that source is required to report
5 emissions, whichever happens first. Sources meeting these conditions
6 are required to surrender their first allowances on the first
7 surrender deadline of the year following the year in which their
8 emissions, as reported under RCW 70.235.020, were equal to or
9 exceeded the emissions threshold.

10 (5) Emissions that are not required to be reported under RCW
11 70.94.151 are not covered by the program. In addition, the following
12 emissions are not covered by the program, regardless of the emissions
13 reported under RCW 70.94.151:

14 (a) Emissions from the combustion of biomass in the form of fuel
15 wood, wood waste, wood by-products, and wood residuals, as long as
16 the source biomass is harvested pursuant to an approved timber
17 management plan prepared in accordance with the forest practices act
18 under chapter 76.09 RCW, a habitat conservation plan, or other state
19 or federally approved management plan, or harvested under an approved
20 forest fire fuel reduction or forest stand improvement plan;

21 (b) Emissions from combustion of biofuels or the biofuel
22 component of blended fuels, as the term "biofuels" is defined in RCW
23 43.325.010;

24 (c) Emissions from the combustion of aviation fuels during a
25 flight originating or terminating outside of Washington;

26 (d) Vented or fugitive emissions that are unintentional and could
27 not reasonably pass through a stack, chimney, vent, or other
28 functionally equivalent opening;

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

32 (f) Emissions from facilities with 2012 North American industry
33 classification system code 92811 (national security).

34 (6)(a) The department may not require multiple covered entities
35 to have a compliance obligation for the same emissions.

36 (b)(i) The operator of a facility that is a covered entity under
37 subsection (1)(a) of this section, other than a refinery facility,
38 has the compliance obligation for the emissions associated with
39 natural gas delivered to the facility by a natural gas supplier and

1 the emissions associated with this delivered natural gas are not part
2 of the compliance obligation of the natural gas supplier.

3 (ii) The operator of a refinery facility that is a covered entity
4 under subsection (1)(a) of this section has a compliance obligation
5 equal to the sum of the refinery facility's reported emissions and
6 the emissions associated with the combustion, oxidation, or use of
7 all fuel that the refinery facility operator supplies, except for the
8 emissions associated with the supply of fuel combusted, oxidized, or
9 used in a jurisdiction with which the state has adopted a linkage
10 agreement or combusted, oxidized, or used in a jurisdiction that has
11 established a tax or program that establishes a price or cost
12 associated with greenhouse gas emissions.

13 (iii) The compliance obligation for a fuel supplier that is a
14 covered entity under subsection (1)(c) of this section must be
15 reduced by the total amount of the emissions associated with any fuel
16 obtained from a refinery facility as determined under (b)(ii) of this
17 subsection. In order for this compliance obligation to be reduced,
18 the fuel supplier must demonstrate that the applicable fuel was
19 obtained from a refinery facility that is a covered entity, in a
20 manner prescribed by the department by rule.

21 NEW SECTION. **Sec. 106.** REGISTRATION REQUIREMENTS FOR PROGRAM
22 PARTICIPATION. (1) All covered entities must register to participate
23 in the program, following procedures adopted by the department by
24 rule.

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

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

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

5 (5) Tribal governments and federal agencies are not covered
6 entities, but may elect to participate in the program as opt-in
7 entities or general market participants.

8 NEW SECTION. **Sec. 107.** ALLOWANCE DISTRIBUTION THROUGH AUCTIONS.

9 (1) The department shall distribute the allowances established in
10 section 104 of this act through auctions as provided in this section
11 and in rules adopted by the department. An allowance is not a
12 property right.

13 (2) The department shall hold a maximum of four auctions
14 annually. An auction may include allowances from the annual allowance
15 budget of the current year and allowances from the annual allowance
16 budgets from prior years that remained unsold at previous auctions.
17 The department must auction allowances from future annual allowance
18 budgets separately from allowances from current and previous annual
19 allowance budgets.

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

25 (4) The department shall issue notice for an upcoming auction at
26 least ninety days prior to the auction. The auction must consist of a
27 single round of sealed bids with a three hour open window and must be
28 conducted through a secure online system.

29 (5) To help minimize allowance price volatility in the auction
30 and any secondary markets, the department shall adopt by rule an
31 auction floor price and a schedule for the floor price to increase by
32 a predetermined amount every year through 2026. The department may
33 not sell allowances at bids lower than the auction floor price. The
34 department's rules shall specify holding limits that determine the
35 maximum number of allowances that may be held for use or trade by a
36 registered entity at any one time.

37 (6) Auctions are open to covered entities, opt-in entities, and
38 general market participants that are registered entities in good

1 standing. The department shall adopt by rule the requirements for a
2 registered entity to register and participate in a given auction.

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

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

16 (c) A registered entity intending to participate in an auction
17 must submit to the financial services administrator a bid guarantee,
18 payable to the financial services administrator, in an amount greater
19 than or equal to the sum of the maximum value of the bids to be
20 submitted by the registered entity. The bid guarantee can be cash in
21 the form of a wire transfer, an irrevocable letter of credit from a
22 financial institution with a United States banking license, a bond
23 issued by a financial institution with a United States banking
24 license, or a security bond issued by an institution named in the
25 United States treasury department list of acceptable security
26 companies.

27 (7) To protect the integrity of the auctions, a registered entity
28 or group of registered entities with a direct corporate association
29 are subject to the following auction purchase limits:

30 (a) A covered entity or an opt-in entity may not buy more than
31 fifteen percent of the allowances offered during a single auction,
32 except as provided in subsection (8) of this section;

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

35 (c) No registered entity may purchase more than the entity's bid
36 guarantee; and

37 (d) No registered entity may purchase allowances that would
38 exceed the entity's holding limit at the time of the auction.

39 (8) A covered entity or opt-in entity with a compliance
40 obligation that exceeds fifteen percent of the annual allowance

1 budget may, subject to advance approval by the department, purchase
2 allowances beyond the allowance purchase limit in subsection (7)(a)
3 of this section, not to exceed the entity's proportionate share, on a
4 percentage basis, of the annual allowance budget plus ten percent of
5 the allowances available during a single auction. Approval to
6 purchase these additional allowances must be secured prior to the
7 auction and must be requested from the department at least thirty
8 days prior to the auction.

9 (9) Upon completion and verification of the auction results, the
10 financial services administrator shall notify winning bidders and
11 transfer the auction proceeds to the state treasurer for deposit in
12 the carbon pollution reduction account created in section 112 of this
13 act.

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

24 (a) Provided false or misleading facts;

25 (b) Withheld material information that could influence a decision
26 by the department;

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

28 (d) Violated registration requirements; or

29 (e) Violated any of the rules regarding the conduct of the
30 auction.

31 (11) Any cancellation or restriction approved by the department
32 may be permanent or for a specified number of auctions and the
33 cancellation or restriction imposed is in addition to any other
34 penalties, fines, and additional remedies available under the law.

35 (12) The department shall design allowance auctions so as to
36 allow, to the maximum extent practicable, linking with external
37 greenhouse gas emissions trading programs in other jurisdictions and
38 to facilitate the transfer of allowances when the state's program is
39 linked with other external greenhouse gas emissions trading programs.
40 The department may conduct auctions jointly with other jurisdictions

1 with which it has a linkage agreement under section 117 of this act.
2 For joint auctions, the financial services administrator, the market
3 monitor, and the auction administrator must be the same as the one
4 employed by those jurisdictions.

5 NEW SECTION. **Sec. 108.** ALLOWANCE PRICE CONTAINMENT RESERVE. (1)
6 At the start of the program, the department shall place four percent
7 of the total number of allowances available for 2017 to 2026 in the
8 allowance price containment reserve. The price containment reserve
9 must be designed as a mechanism to assist in containing compliance
10 costs for covered and opt-in entities in the event of unanticipated
11 high costs for compliance instruments.

12 (2) The department shall auction allowances from the allowance
13 price containment reserve once a quarter each year through reserve
14 sales, separate from the auction of other allowances. Allowances
15 unsold through the reserve auction must be made available again at
16 future reserve auctions.

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

19 (4) The process for reserve auctions is the same as the process
20 outlined in section 107 of this act and the proceeds from reserve
21 auctions must be treated the same.

22 (5) The department shall by rule:

23 (a) Set the auction floor price for allowances from the allowance
24 price containment reserve in advance of the reserve auction. The
25 department shall set the auction floor price high enough to
26 incentivize direct emissions reductions. The department may choose to
27 establish multiple price tiers for the allowances from the allowance
28 price containment reserve;

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

31 (c) Establish the percent of allowances to be set aside for the
32 allowance price containment reserve after the compliance period
33 ending in 2026.

34 NEW SECTION. **Sec. 109.** OFFSET CREDITS. (1) The department shall
35 adopt by rule the protocols for establishing offset projects and
36 securing offset credits that can be used to meet a portion of a
37 covered entity's or opt-in entity's compliance obligation under
38 section 110 of this act.

1 (2) The protocols must require that offset projects result in
2 greenhouse gas emission reductions or removals from the atmosphere
3 that are real, quantifiable, permanent, verifiable, and enforceable,
4 and that would occur in addition to other existing requirements. The
5 offset protocols must, where available, use established criteria,
6 methods to determine baseline assumptions, emission factors, and
7 monitoring methods. The protocols must:

8 (a) Specify the amount of greenhouse gas emission reductions and
9 removals achieved by the offset project type, in relation to a
10 project baseline that estimates business-as-usual performance or
11 practices for the offset project type, and accounting for any
12 uncertainty in quantification protocols;

13 (b) Ensure greenhouse gas emission reductions and removals are
14 permanent as defined by the particular offset protocol, including the
15 length of time for which an offset project can generate offset
16 credits; and

17 (c) Specify the data collection and monitoring procedures
18 required for each offset project type.

19 (3) The department shall coordinate the review, development, and
20 approval of offset protocols with any jurisdiction to which
21 Washington has a linkage agreement pursuant to section 117 of this
22 act.

23 (4) Until January 1, 2021, an offset credit may only be created
24 for the following offset types and only if offset protocols have been
25 adopted by rule by the department:

26 (a) Projects that prevent greenhouse gas emissions through
27 anaerobic digestion of organic wastes;

28 (b) Projects that reduce emissions of ozone depleting substances;

29 (c) Projects that capture methane from mining and other resource
30 extraction and transmission projects; and

31 (d) Projects that sequester biogenic or atmospheric carbon
32 through forestry and agricultural practices. In reviewing,
33 developing, and approving offset protocols for forestry and
34 agricultural practices, the department must, in consultation with the
35 department of natural resources and the department of agriculture,
36 develop protocols unique to Washington and that accredit the widest
37 possible range of forestry and agriculture projects that sequester
38 carbon.

39 (5) An offset project proponent must apply to register a project
40 with the department within one year of commencing the project.

1 (6) The department shall submit a report to the legislature by
2 September 1, 2019, that describes any decision of the department to
3 expand or modify the eligible project categories starting in 2021.

4 (7) The department shall adopt rules setting out the criteria and
5 procedures for the recognition of offset credits as a method for
6 meeting a part of a compliance obligation by a covered entity. The
7 rules must incorporate the following criteria and limitations:

8 (a) The offset project proponent must be registered to conduct
9 business in Washington, or have a designated agent legally qualified
10 to receive service of process, and is responsible for all statements
11 and information required for recognition of the credit;

12 (b) A single offset credit must represent a reduction or removal
13 of one metric ton of carbon dioxide equivalent that results from a
14 clearly identified action or decision. A credit:

15 (i) May be created only for an offset project or activity that
16 commenced on or after January 1, 2016;

17 (ii) May be awarded only for the portion of the emission
18 reductions or removals that would not have occurred under the project
19 baseline;

20 (iii) Must not derive from emissions otherwise subject to a
21 compliance obligation under the program;

22 (iv) Must result from actions that are not already required by
23 law, regulation, court order, or legally binding agreement; and

24 (v) Is not allowed if the offset credit has been claimed in any
25 other external greenhouse gas emission trading program;

26 (c) The geographic boundary for an offset project must be within
27 the United States, Canada, or Mexico;

28 (d) The offset project's greenhouse gas reduction or removal must
29 be quantified and verified by an independent third-party verifier
30 accredited by the department or accredited by any jurisdiction with
31 which Washington has a linkage agreement pursuant to section 117 of
32 this act; and

33 (e) Offset credits generated from offset projects located in
34 Washington are not valid until approved by the department. Offset
35 credits for projects located outside of Washington are subject to
36 approval by Washington unless, through a linkage agreement,
37 responsibility for offset approval is shared across linked
38 jurisdictions.

39 (8) The offset credit must be registered and tracked as a
40 compliance instrument under section 120 of this act.

1 (9) All information on offset protocols, projects, and credits
2 must be made public and posted on the department's web site.

3 (10) The department shall invalidate offset credits if they are
4 found to be fraudulent through a process adopted by rule by the
5 department. The offset credit buyer is liable if the offset credits
6 are invalidated. If some or all of the offset credits are
7 invalidated, the covered or opt-in entity must, within six months of
8 that invalidation, surrender replacement credits or allowances to
9 meet its compliance obligation.

10 NEW SECTION. **Sec. 110.** COMPLIANCE REQUIREMENTS. (1) A covered
11 or opt-in entity has a compliance obligation for its emissions from
12 each three-year compliance period, except for the first compliance
13 period that will only cover emissions from July 1, 2016, through
14 December 31, 2017.

15 (2) A covered or opt-in entity shall surrender a number of
16 compliance instruments equal to their total verified emissions as
17 reported in accordance with RCW 70.94.151 as follows:

18 (a) By November 1, 2018, all covered and opt-in entities shall
19 submit all of their compliance instruments for the first compliance
20 period.

21 (b) Beginning November 1, 2019, thirty percent of a covered or
22 opt-in entity's compliance obligation for the previous year's covered
23 emissions must be submitted annually on November 1st for the first
24 and second years of each three-year compliance period thereafter.

25 (c) Beginning November 1, 2021, and every three years thereafter
26 by November 1st, every covered and opt-in entity must submit
27 compliance instruments covering the remainder of their emissions for
28 the prior compliance period.

29 (d) Submission of allowances occurs through the transfer of
30 compliance instruments, on or before the surrender date, from the
31 holding account to the compliance account of the covered or opt-in
32 entity as described in section 120 of this act.

33 (3) The department must determine whether the covered or opt-in
34 entity submitted, by the specified surrender date, a sufficient
35 number of compliance instruments. A covered entity or opt-in entity
36 submitting insufficient compliance instruments to meet its compliance
37 obligation is subject to a penalty as provided in section 111 of this
38 act.

1 (4) Surrendered allowances must be from an allowance budget year
2 that is from the current year or any previous compliance year.

3 (5) An emission allowance may be surrendered in the same
4 compliance period in which it is created or in any future compliance
5 period. An emission allowance does not expire and may be banked by a
6 registered entity for future use.

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

10 (7) A compliance instrument representing an offset credit
11 provided by the covered or opt-in entity or opt-in entity pursuant to
12 section 109 of this act may be submitted to meet a compliance
13 obligation. A covered entity may submit offset credits in an amount
14 that does not exceed eight percent of the entity's compliance
15 obligation in a compliance period.

16 (8) Upon receipt by the department of all compliance instruments
17 surrendered by a covered entity or opt-in entity to meet its
18 compliance obligation, the department shall retire the allowances or
19 offset credits.

20 NEW SECTION. **Sec. 111.** ENFORCEMENT. (1) All covered and opt-in
21 entities are required to submit compliance instruments in a timely
22 manner to meet the entities' compliance obligations and shall comply
23 with all requirements for monitoring, reporting, holding, and
24 submitting emission allowances and other provisions of this chapter.

25 (2) If a covered or opt-in entity does not submit sufficient
26 allowances to meet its compliance obligation by the specified
27 surrender dates, a penalty of four allowances for every one allowance
28 that is missing must be submitted to the department within six
29 months. When a covered entity or opt-in entity reasonably believes
30 that it will be unable to meet a compliance obligation, the entity
31 shall immediately notify the department. Upon receiving notification,
32 the department shall issue an order requiring the entity to submit
33 the penalty allowances. Three of every four penalty allowances must
34 be offered by the department for purchase in future auctions. One of
35 the four allowances must be retired to fulfill the covered entity's
36 or opt-in entity's original compliance obligation.

37 (3) If a covered entity or opt-in entity fails to submit penalty
38 allowances as required by subsection (2) of this section, the
39 department may issue a civil penalty to the entity of up to ten

1 thousand dollars for each penalty allowance that is not submitted per
2 day. The department may also issue an order or issue a penalty of up
3 to ten thousand dollars per day per violation, or both, for failure
4 to comply with any provision of this chapter or the rules adopted
5 under this chapter. The order may include a plan and schedule for
6 coming into compliance.

7 (4) Except as provided in subsection (3) of this section, any
8 person that violates the terms of this chapter or an order issued
9 under this chapter incurs a penalty of up to ten thousand dollars per
10 day per violation for each day that the person does not comply. All
11 penalties must be deposited into the state general fund.

12 (5) Appeals of orders and penalties issued under this chapter
13 must be to the pollution control hearings board under chapter 43.21B
14 RCW.

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

19 NEW SECTION. **Sec. 112.** CARBON POLLUTION REDUCTION ACCOUNT. (1)
20 The carbon pollution reduction account is created in the state
21 treasury. All receipts from the auction of allowances paid under
22 sections 107 and 108 of this act, and other moneys directed to the
23 account by the legislature, must be deposited into the account.
24 Moneys in the account may only be spent after appropriation.

25 (2) Beginning in fiscal year 2017 and for each fiscal year
26 thereafter, the state treasurer shall distribute, at the start of
27 each quarter during each fiscal year, the moneys deposited into the
28 account during the prior quarter, as follows:

29 (a) For the 2015-2017 biennium, five hundred million dollars
30 generated in fiscal year 2017 and beginning in the 2017-2019 biennium
31 at least fifty percent of the moneys generated by the program must be
32 deposited into the education legacy trust account created in RCW
33 83.100.230; and

34 (b) One hundred eight million dollars in fiscal year 2017 and at
35 least that amount in each fiscal year thereafter must be deposited
36 into the state general fund to implement the working families tax
37 rebate in RCW 82.08.0206.

38 (3) Moneys remaining in the account must be expended for the
39 following purposes:

1 (a) Administering program rebates to energy intense and trade-
2 exposed industries pursuant to section 113 of this act and to fuel
3 suppliers and refinery facilities pursuant to section 114 of this
4 act, and to the establishment and implementation of the working
5 forests and local mills support program consistent with section 208
6 of this act;

7 (b) During the 2015-2017 biennium, for the purposes of the
8 appropriations in sections 301 through 405 of this act;

9 (c)(i) During the 2015-2017 biennium, along with the work of the
10 task force created in section 119 of this act to identify communities
11 subject to environmental hazard impacts and social and economic
12 disparities, fifteen million dollars must be deposited into the
13 Washington housing trust fund created in RCW 43.185.030.

14 (ii) Beginning in the 2017-2019 biennium, up to seventy million
15 dollars per fiscal year to the department for the purposes of grants
16 to address cumulative environmental hazard impacts, and social, and
17 economic disparities identified by the task force created in section
18 119 of this act.

19 (d) Up to thirty million dollars per fiscal year to the
20 recreation and conservation funding board to implement the working
21 forest carbon easement program established under section 213 of this
22 act.

23 (e) The department's and other agencies' costs to support and
24 administer the program including but not limited to coordination of
25 regional auction allowance, tracking of emissions inventory,
26 monitoring and verification, market monitor contracting, and
27 stakeholder communication and outreach; and

28 (f) Investments in clean energy and other programs that achieve
29 the purposes of this chapter.

30 NEW SECTION. **Sec. 113.** The department shall issue a rebate to
31 covered entities that operate energy intense and trade-exposed
32 industries identified by the department of commerce pursuant to
33 section 116 of this act, as follows:

34 (1) By February 1, 2019, the department must issue a rebate to
35 covered entities that operate energy intense and trade-exposed
36 industries to help cover the costs due to their compliance obligation
37 in the first compliance period. The rebate issued must be of an
38 amount equal to the number of compliance instruments surrendered by
39 energy intense and trade-exposed industries during the first

1 compliance period of the program by November 1, 2018, multiplied by
2 the average auction clearance price of allowances during the
3 compliance period.

4 (2) By February 1, 2020, and each February 1st thereafter, the
5 department shall issue a rebate to covered entities that operate
6 energy intense and trade-exposed industries to help cover the costs
7 due to their compliance obligation in the preceding year, as follows:

8 (a) For rebates issued for the compliance period ending on
9 December 31, 2020, the total amount of the rebate issued on February
10 1st of each year must be of an amount equal to the number of
11 compliance instruments surrendered by energy intense and trade-
12 exposed industries by November 1st of the preceding year, multiplied
13 by the average auction clearance price of allowances during the year.

14 (b) For rebates issued for the compliance periods ending on
15 December 31, 2023, and December 31, 2026, the total amount of the
16 rebate issued on February 1st of each year must be of an amount equal
17 to eighty percent of the number of compliance instruments surrendered
18 by energy intense and trade-exposed industries by November 1st of the
19 preceding year, multiplied by the average auction clearance price of
20 allowances during the year.

21 (3) The total amount of the rebate provided to a person for a
22 given year may not exceed a person's compliance obligation for the
23 year.

24 NEW SECTION. **Sec. 114.** (1) By February 1, 2018, the department
25 must issue a rebate to refinery facilities and fuel suppliers to help
26 cover a portion of certain costs due to their compliance obligation
27 for the compliance period ending on December 31, 2017. The amount of
28 the rebate must be equal to seventy-five percent of the number of
29 compliance instruments surrendered by November 1, 2017, that are
30 associated with the eventual combustion, oxidation, or use in other
31 processes of the fuel other than natural gas that they supply in
32 Washington, multiplied by the average auction floor price of
33 allowances established by the department under section 107(5) of this
34 act during the compliance period.

35 (2) By February 1, 2019, and every February 1st thereafter, each
36 year the department shall distribute a rebate to refinery facilities
37 and fuel suppliers to help cover a portion of certain costs due to
38 their compliance obligation for the preceding year in an amount equal
39 to seventy-five percent of the number of compliance instruments

1 surrendered by November 1st of the preceding year that are associated
2 with the eventual combustion, oxidation, or use in other processes of
3 the fuel other than natural gas that they supply in Washington,
4 multiplied by the auction floor price of allowances established by
5 the department under section 107(5) of this act for the year.

6 (3) The total amount of the rebate provided to a person for a
7 given year may not exceed a person's compliance obligation for the
8 year.

9 (4) In order to be eligible for a rebate under this section, a
10 fuel supplier or refinery facility must demonstrate that rebate-
11 eligible costs of program compliance are not being passed on to
12 purchasers of fuel from the refinery facility or fuel supplier in the
13 form of a fee or a surcharge, consistent with the requirements of
14 section 115 of this act.

15 NEW SECTION. **Sec. 115.** TRANSPARENCY IN PROGRAM EFFECTS ON
16 TRANSPORTATION FUEL COST. (1) Each fuel supplier and refinery
17 facility must provide the following program cost information to a
18 purchaser of fuel covered by the program, upon request:

19 (a) The total value of the rebates obtained by the fuel supplier
20 or refinery facility during the most recently completed compliance
21 period under section 113 of this act;

22 (b) The total cost of the compliance instruments obtained to
23 satisfy the compliance obligation of the refinery facility or fuel
24 supplier associated with the combustion, oxidation, or use of fuel
25 other than natural gas during the most recently completed compliance
26 period;

27 (c) The per gallon costs associated with the fuel supplier or
28 refinery facility's program compliance, as calculated by: Dividing
29 the difference between the total cost of the compliance instruments
30 as measured in (b) of this subsection and the value of the rebates
31 obtained as measured in (a) of this subsection, by the total amount
32 of covered fuel, other than natural gas, supplied by the supplier or
33 refinery facility during the most recently completed compliance
34 period.

35 (2) The information specified in subsection (1)(a) through (c) of
36 this section, along with information related to any fees or
37 surcharges imposed by the refinery facility or fuel supplier on fuel
38 purchasers, must be provided to the department in order for the fuel

1 supplier or refinery facility to be eligible for a rebate under
2 section 114 of this act.

3 (3) The information in subsection (1) of this section may be
4 provided in a form that is compatible with other required disclosures
5 related to fuel inventories or transactions, including but not
6 limited to reports under RCW 82.36.150 and chapter 82.38 RCW.

7 NEW SECTION. **Sec. 116.** CARBON POLLUTION COMPETITIVENESS
8 CERTIFICATE PROGRAM. (1) By January 31, 2016, the department of
9 commerce must adopt rules to establish:

10 (a) The criteria for identifying energy intense and trade-exposed
11 businesses that would experience significant competitive disadvantage
12 in selling manufactured products in other countries due to the costs
13 of compliance with the carbon pollution reduction program created in
14 section 103 of this act. The rules adopted by the department of
15 commerce must identify, at minimum, the following industries as
16 energy intense and trade-exposed businesses:

17 (i) Primary metal manufacturing, North American industrial
18 classification system codes beginning with 331;

19 (ii) Paper manufacturing, North American industrial
20 classification system codes beginning with 322;

21 (iii) Wood products manufacturing, North American industrial
22 classification system codes beginning with 322;

23 (iv) Nonmetallic mineral manufacturing, North American industrial
24 classification system codes beginning with 327;

25 (v) Chemical manufacturing, North American industrial
26 classification system codes beginning with 325;

27 (vi) Computer and electronic product manufacturing, North
28 American industrial classification system codes beginning with 334;
29 and

30 (vii) Food manufacturing, North American industrial
31 classification system codes beginning with 311;

32 (b) The process for a business to apply to the department of
33 commerce for a certificate to be used to claim the program compliance
34 cost rebates authorized under section 113 of this act, including the
35 information required to determine if the business meets the criteria;
36 and

37 (c) The process for a business to renew the certificate every
38 five years.

1 (2) The department of commerce must issue a certificate to
2 businesses that meet the requirements of this section.

3 NEW SECTION. **Sec. 117.** LINKING TO OTHER CARBON MARKETS. (1) The
4 department shall seek to link with other jurisdictions with
5 established market-based carbon emissions reduction programs in order
6 to:

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

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

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

14 (d) Enhance market security;

15 (e) Reduce program administration costs; and

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

18 (2) The department is authorized to execute linkage agreements
19 with other jurisdictions with established market-based carbon
20 emissions reduction programs consistent with the requirements in this
21 chapter and any rule adopted by the department. The department must
22 adopt a rule prior to executing a linkage agreement. The rule must be
23 supported by peer-reviewed economic analysis of the impacts of the
24 linkage agreement. A linkage agreement must cover the following:

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

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

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

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

1 (e) Provisions to ensure coordinated administrative and technical
2 support;

3 (f) Provisions to share information collected and developed under
4 each individual jurisdiction's program, including confidential
5 information;

6 (g) Provisions for public notice and participation; and

7 (h) Provisions to collectively resolve differences, amend the
8 agreements, and delink or otherwise withdraw from the agreements.

9 (3) The state shall retain legal and policymaking authority over
10 its program design and enforcement.

11 NEW SECTION. **Sec. 118.** ALLOWANCE MARKET MONITORING AND
12 OVERSIGHT. (1) The department shall adopt by rule the processes
13 required to buy, sell, transfer, or surrender compliance instruments.

14 (2) The department shall contract with an independent
15 organization to provide the following services relating to the
16 functioning of the compliance instrument market:

17 (a) Creating a market monitoring and security plan;

18 (b) Reviewing auction and reserve sale procedures and protocols
19 to ensure fair and competitive auctions;

20 (c) Auditing and monitoring the auctions to assess the adherence
21 of participants and the auction operator to the adopted procedures
22 and protocols;

23 (d) Monitoring compliance instrument holding, transfer activity,
24 and secondary market behavior;

25 (e) Preparing reports on auction results, market activities, and
26 trends; and

27 (f) Reviewing program guidance documents, program rules, and
28 other policies to mitigate market risk and improve the efficiency of
29 the auctions and market activities.

30 (3) The department shall coordinate with existing state and
31 federal market regulatory agencies, including the United States
32 commodity futures trading commission, to ensure that all regulatory
33 requirements for conducting trading in allowances are met. The
34 department may consult with other jurisdictions administering
35 emissions trading programs to observe and track market participant
36 behavior across multiple emission trading venues.

37 (4) By July 1, 2016, the department shall create an independent
38 review committee composed of financial market professionals to
39 provide an independent assessment of the market monitoring functions

1 and performance of the program. This committee shall provide their
2 independent assessment to the department by July 1, 2018, and every
3 two years thereafter.

4 NEW SECTION. **Sec. 119.** CITIZEN ACCOUNTABILITY. (1) The
5 interagency coordinating council on health disparities established
6 under RCW 43.20.270 must form a permanent cumulative impacts task
7 force comprised of ten members with subject matter expertise in the
8 following fields:

- 9 (a) Public health;
- 10 (b) Racial equity; and
- 11 (c) Economic and environmental justice.

12 (2) The department must support the work of the task force by
13 creating a tool that uses geospatial methods to identify communities
14 adversely affected by the cumulative impacts of exposure to
15 environmental hazards and other social and economic disparities,
16 including adverse impacts of the program established in this chapter.
17 The task force must consult with the department, the department of
18 health, and outside experts in order to establish the metrics to be
19 used by the department to assess cumulative impacts.

20 (3) The task force must establish criteria to prioritize the use
21 of grants from the carbon pollution reduction account created in
22 section 112 of this act to implement projects to address the
23 cumulative environmental hazard impacts and the economic and social
24 disparities identified in subsection (2) of this section. The task
25 force must consult with the communities identified in subsection (2)
26 of this section on the design and implementation of projects to
27 address the cumulative impacts to be addressed by grants from the
28 carbon pollution reduction account created in section 112 of this
29 act.

30 (4) The task force shall report on its evaluation and findings to
31 the appropriate fiscal and policy committees of the legislature and
32 to the governor by February 1, 2017, and every two years thereafter.

33 NEW SECTION. **Sec. 120.** ALLOWANCE TRADING AND TRACKING
34 COMPLIANCE INSTRUMENTS. (1) The department shall use a secure, online
35 electronic tracking system to: Register entities in the state
36 program; issue compliance instruments; track ownership of compliance
37 instruments; enable and record compliance instrument transfers;
38 facilitate program compliance; and support market oversight. The

1 department shall use an existing market tracking system in use by
2 potential linked jurisdictions.

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 or potentially interested in trading allowances.
9 Allowances in holding accounts can be bought, sold, or traded. The
10 amount of allowances a registered entity may have in its holding
11 account is constrained to the holding limit.

12 (3) Registered general market participants are each allowed one
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. 121.** 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 NEW SECTION. **Sec. 122.** RULES. (1) The department may adopt
29 rules to implement the provisions of this chapter. To the extent
30 possible and consistent with this chapter, the rules adopted by the
31 department must be compatible with regulations adopted by other
32 external greenhouse gas emissions trading programs to facilitate
33 linkage agreements between these programs. The department must
34 periodically review and, as necessary, update its rules to ensure
35 compatibility with carbon market programs in linked jurisdictions.

36 (2) The department shall adopt emergency rules pursuant to RCW
37 34.05.350 for initial implementation of the program, to implement the
38 state omnibus appropriations act for the 2015-2017 fiscal biennium,

1 and to ensure that reporting and other program requirements are
2 determined early for the purpose of program design and early notice
3 to registered entities with a compliance obligation under the
4 program.

5 NEW SECTION. **Sec. 123.** The department shall evaluate and report
6 on the implementation of the program created in section 103 of this
7 act including a review of progress on emission reductions and other
8 observed benefits and costs of the program. The department shall
9 submit the report, along with any recommendations for changes to the
10 program, to the governor and the appropriate fiscal and policy
11 committees of the legislature by November 1, 2016, and every two
12 years thereafter.

13 **Sec. 201.** RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and
14 2014 c 144 s 6 are each reenacted and amended to read as follows:

15 The following financial, commercial, and proprietary information
16 is exempt from disclosure under this chapter:

17 (1) Valuable formulae, designs, drawings, computer source code or
18 object code, and research data obtained by any agency within five
19 years of the request for disclosure when disclosure would produce
20 private gain and public loss;

21 (2) Financial information supplied by or on behalf of a person,
22 firm, or corporation for the purpose of qualifying to submit a bid or
23 proposal for (a) a ferry system construction or repair contract as
24 required by RCW 47.60.680 through 47.60.750 or (b) highway
25 construction or improvement as required by RCW 47.28.070;

26 (3) Financial and commercial information and records supplied by
27 private persons pertaining to export services provided under chapters
28 43.163 and 53.31 RCW, and by persons pertaining to export projects
29 under RCW 43.23.035;

30 (4) Financial and commercial information and records supplied by
31 businesses or individuals during application for loans or program
32 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
33 43.168 RCW, or during application for economic development loans or
34 program services provided by any local agency;

35 (5) Financial information, business plans, examination reports,
36 and any information produced or obtained in evaluating or examining a
37 business and industrial development corporation organized or seeking
38 certification under chapter 31.24 RCW;

1 (6) Financial and commercial information supplied to the state
2 investment board by any person when the information relates to the
3 investment of public trust or retirement funds and when disclosure
4 would result in loss to such funds or in private loss to the
5 providers of this information;

6 (7) Financial and valuable trade information under RCW 51.36.120;

7 (8) Financial, commercial, operations, and technical and research
8 information and data submitted to or obtained by the clean Washington
9 center in applications for, or delivery of, program services under
10 chapter 70.95H RCW;

11 (9) Financial and commercial information requested by the public
12 stadium authority from any person or organization that leases or uses
13 the stadium and exhibition center as defined in RCW 36.102.010;

14 (10)(a) Financial information, including but not limited to
15 account numbers and values, and other identification numbers supplied
16 by or on behalf of a person, firm, corporation, limited liability
17 company, partnership, or other entity related to an application for a
18 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
19 marijuana producer, processor, or retailer license, liquor license,
20 gambling license, or lottery retail license;

21 (b) Internal control documents, independent auditors' reports and
22 financial statements, and supporting documents: (i) Of house-banked
23 social card game licensees required by the gambling commission
24 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
25 by tribes with an approved tribal/state compact for class III gaming;

26 (11) Proprietary data, trade secrets, or other information that
27 relates to: (a) A vendor's unique methods of conducting business; (b)
28 data unique to the product or services of the vendor; or (c)
29 determining prices or rates to be charged for services, submitted by
30 any vendor to the department of social and health services for
31 purposes of the development, acquisition, or implementation of state
32 purchased health care as defined in RCW 41.05.011;

33 (12)(a) When supplied to and in the records of the department of
34 commerce:

35 (i) Financial and proprietary information collected from any
36 person and provided to the department of commerce pursuant to RCW
37 43.330.050(8); and

38 (ii) Financial or proprietary information collected from any
39 person and provided to the department of commerce or the office of
40 the governor in connection with the siting, recruitment, expansion,

1 retention, or relocation of that person's business and until a siting
2 decision is made, identifying information of any person supplying
3 information under this subsection and the locations being considered
4 for siting, relocation, or expansion of a business;

5 (b) When developed by the department of commerce based on
6 information as described in (a)(i) of this subsection, any work
7 product is not exempt from disclosure;

8 (c) For the purposes of this subsection, "siting decision" means
9 the decision to acquire or not to acquire a site;

10 (d) If there is no written contact for a period of sixty days to
11 the department of commerce from a person connected with siting,
12 recruitment, expansion, retention, or relocation of that person's
13 business, information described in (a)(ii) of this subsection will be
14 available to the public under this chapter;

15 (13) Financial and proprietary information submitted to or
16 obtained by the department of ecology or the authority created under
17 chapter 70.95N RCW to implement chapter 70.95N RCW;

18 (14) Financial, commercial, operations, and technical and
19 research information and data submitted to or obtained by the life
20 sciences discovery fund authority in applications for, or delivery
21 of, grants under chapter 43.350 RCW, to the extent that such
22 information, if revealed, would reasonably be expected to result in
23 private loss to the providers of this information;

24 (15) Financial and commercial information provided as evidence to
25 the department of licensing as required by RCW 19.112.110 or
26 19.112.120, except information disclosed in aggregate form that does
27 not permit the identification of information related to individual
28 fuel licensees;

29 (16) Any production records, mineral assessments, and trade
30 secrets submitted by a permit holder, mine operator, or landowner to
31 the department of natural resources under RCW 78.44.085;

32 (17)(a) Farm plans developed by conservation districts, unless
33 permission to release the farm plan is granted by the landowner or
34 operator who requested the plan, or the farm plan is used for the
35 application or issuance of a permit;

36 (b) Farm plans developed under chapter 90.48 RCW and not under
37 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
38 to RCW 42.56.610 and 90.64.190;

39 (18) Financial, commercial, operations, and technical and
40 research information and data submitted to or obtained by a health

1 sciences and services authority in applications for, or delivery of,
2 grants under RCW 35.104.010 through 35.104.060, to the extent that
3 such information, if revealed, would reasonably be expected to result
4 in private loss to providers of this information;

5 (19) Information gathered under chapter 19.85 RCW or RCW
6 34.05.328 that can be identified to a particular business;

7 (20) Financial and commercial information submitted to or
8 obtained by the University of Washington, other than information the
9 university is required to disclose under RCW 28B.20.150, when the
10 information relates to investments in private funds, to the extent
11 that such information, if revealed, would reasonably be expected to
12 result in loss to the University of Washington consolidated endowment
13 fund or to result in private loss to the providers of this
14 information; ~~((and))~~

15 (21) Market share data submitted by a manufacturer under RCW
16 70.95N.190(4); ~~((and))~~

17 (22) Financial information supplied to the department of
18 financial institutions or to a portal under RCW 21.20.883, when filed
19 by or on behalf of an issuer of securities for the purpose of
20 obtaining the exemption from state securities registration for small
21 securities offerings provided under RCW 21.20.880 or when filed by or
22 on behalf of an investor for the purpose of purchasing such
23 securities; and

24 (23) Financial, commercial, and proprietary information submitted
25 to the departments of ecology and commerce pursuant to chapter 70.--
26 RCW (the new chapter created in section 503 of this act) and
27 consistent with section 121 of this act.

28 **Sec. 202.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
29 read as follows:

30 (1) The hearings board shall only have jurisdiction to hear and
31 decide appeals from the following decisions of the department, the
32 director, local conservation districts, the air pollution control
33 boards or authorities as established pursuant to chapter 70.94 RCW,
34 local health departments, the department of natural resources, the
35 department of fish and wildlife, the parks and recreation commission,
36 and authorized public entities described in chapter 79.100 RCW:

37 (a) Civil penalties imposed pursuant to RCW 18.104.155,
38 70.94.431, 70.105.080, 70.107.050, section 111 of this act,

1 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270,
2 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

3 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
4 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 111 of this
5 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
6 90.56.330.

7 (c) A final decision by the department or director made under
8 chapter 183, Laws of 2009.

9 (d) Except as provided in RCW 90.03.210(2), the issuance,
10 modification, or termination of any permit, certificate, or license
11 by the department or any air authority in the exercise of its
12 jurisdiction, including the issuance or termination of a waste
13 disposal permit, the denial of an application for a waste disposal
14 permit, the modification of the conditions or the terms of a waste
15 disposal permit, or a decision to approve or deny an application for
16 a solid waste permit exemption under RCW 70.95.300.

17 (e) Decisions of local health departments regarding the grant or
18 denial of solid waste permits pursuant to chapter 70.95 RCW.

19 (f) Decisions of local health departments regarding the issuance
20 and enforcement of permits to use or dispose of biosolids under RCW
21 70.95J.080.

22 (g) Decisions of the department regarding waste-derived
23 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
24 decisions of the department regarding waste-derived soil amendments
25 under RCW 70.95.205.

26 (h) Decisions of local conservation districts related to the
27 denial of approval or denial of certification of a dairy nutrient
28 management plan; conditions contained in a plan; application of any
29 dairy nutrient management practices, standards, methods, and
30 technologies to a particular dairy farm; and failure to adhere to the
31 plan review and approval timelines in RCW 90.64.026.

32 (i) Any other decision by the department or an air authority
33 which pursuant to law must be decided as an adjudicative proceeding
34 under chapter 34.05 RCW.

35 (j) Decisions of the department of natural resources, the
36 department of fish and wildlife, and the department that are
37 reviewable under chapter 76.09 RCW, and the department of natural
38 resources' appeals of county, city, or town objections under RCW
39 76.09.050(7).

1 (k) Forest health hazard orders issued by the commissioner of
2 public lands under RCW 76.06.180.

3 (l) Decisions of the department of fish and wildlife to issue,
4 deny, condition, or modify a hydraulic project approval permit under
5 chapter 77.55 RCW.

6 (m) Decisions of the department of natural resources that are
7 reviewable under RCW 78.44.270.

8 (n) Decisions of an authorized public entity under RCW 79.100.010
9 to take temporary possession or custody of a vessel or to contest the
10 amount of reimbursement owed that are reviewable by the hearings
11 board under RCW 79.100.120.

12 (2) The following hearings shall not be conducted by the hearings
13 board:

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

16 (b) Hearings conducted by the department pursuant to RCW
17 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
18 90.44.180.

19 (c) Appeals of decisions by the department under RCW 90.03.110
20 and 90.44.220.

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

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

26 **Sec. 203.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
27 read as follows:

28 (1) The hearings board shall only have jurisdiction to hear and
29 decide appeals from the following decisions of the department, the
30 director, local conservation districts, the air pollution control
31 boards or authorities as established pursuant to chapter 70.94 RCW,
32 local health departments, the department of natural resources, the
33 department of fish and wildlife, the parks and recreation commission,
34 and authorized public entities described in chapter 79.100 RCW:

35 (a) Civil penalties imposed pursuant to RCW 18.104.155,
36 70.94.431, 70.105.080, 70.107.050, section 111 of this act,
37 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270,
38 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 111 of this
3 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
4 90.56.330.

5 (c) Except as provided in RCW 90.03.210(2), the issuance,
6 modification, or termination of any permit, certificate, or license
7 by the department or any air authority in the exercise of its
8 jurisdiction, including the issuance or termination of a waste
9 disposal permit, the denial of an application for a waste disposal
10 permit, the modification of the conditions or the terms of a waste
11 disposal permit, or a decision to approve or deny an application for
12 a solid waste permit exemption under RCW 70.95.300.

13 (d) Decisions of local health departments regarding the grant or
14 denial of solid waste permits pursuant to chapter 70.95 RCW.

15 (e) Decisions of local health departments regarding the issuance
16 and enforcement of permits to use or dispose of biosolids under RCW
17 70.95J.080.

18 (f) Decisions of the department regarding waste-derived
19 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
20 decisions of the department regarding waste-derived soil amendments
21 under RCW 70.95.205.

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

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

31 (i) Decisions of the department of natural resources, the
32 department of fish and wildlife, and the department that are
33 reviewable under chapter 76.09 RCW, and the department of natural
34 resources' appeals of county, city, or town objections under RCW
35 76.09.050(7).

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

38 (k) Decisions of the department of fish and wildlife to issue,
39 deny, condition, or modify a hydraulic project approval permit under
40 chapter 77.55 RCW.

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

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

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

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

11 (b) Hearings conducted by the department pursuant to RCW
12 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
13 90.44.180.

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

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

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

21 **Sec. 204.** RCW 70.235.010 and 2010 c 146 s 1 are each amended to
22 read as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

25 (1) "Carbon dioxide equivalents" means a metric measure used to
26 compare the emissions from various greenhouse gases based upon their
27 global warming potential.

28 (2) "Climate advisory team" means the stakeholder group formed in
29 response to executive order 07-02.

30 (3) "Climate impacts group" means the University of Washington's
31 climate impacts group.

32 (4) "Department" means the department of ecology.

33 (5) "Director" means the director of the department.

34 (6) "Greenhouse gas" and "greenhouse gases" includes carbon
35 dioxide, methane, nitrogen trifluoride, nitrous oxide,
36 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, other
37 fluorinated greenhouse gases, and any other gas or gases designated
38 by the department by rule.

1 (7) "Person" means an individual, partnership, franchise holder,
2 association, corporation, a state, a city, a county, or any
3 subdivision or instrumentality of the state.

4 (8) "Program" means the department's climate change program.

5 (~~(9) "Western climate initiative" means the collaboration of~~
6 ~~states, Canadian provinces, Mexican states, and tribes to design a~~
7 ~~multisector market-based mechanism as directed under the western~~
8 ~~regional climate action initiative signed by the governor on February~~
9 ~~22, 2007.~~)

10 **Sec. 205.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to
11 read as follows:

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

14 (i) By 2020, reduce overall emissions of greenhouse gases in the
15 state to (~~(1990 levels)~~) 88.4 million metric tons of carbon dioxide
16 equivalent;

17 (ii) By 2035, reduce overall emissions of greenhouse gases in the
18 state to (~~(twenty five percent below 1990 levels)~~) 66.3 million
19 metric tons of carbon dioxide equivalent;

20 (iii) By 2050, the state will do its part to reach global climate
21 stabilization levels by reducing overall emissions to (~~(fifty percent~~
22 ~~below 1990 levels, or seventy percent below the state's expected~~
23 ~~emissions that year)~~) 44.2 million metric tons of carbon dioxide
24 equivalent.

25 (b) By December 1, 2008, the department shall submit a greenhouse
26 gas reduction plan for review and approval to the legislature,
27 describing those actions necessary to achieve the emission reductions
28 in (a) of this subsection by using existing statutory authority and
29 any additional authority granted by the legislature. Actions taken
30 using existing statutory authority may proceed prior to approval of
31 the greenhouse gas reduction plan.

32 (c) Except where explicitly stated otherwise, nothing in chapter
33 14, Laws of 2008 limits any state agency authorities as they existed
34 prior to June 12, 2008.

35 (d) Consistent with this directive, the department shall take the
36 following actions:

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

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

5 (2) By December 31st of each even-numbered year beginning in
6 2010, the department and the department of (~~community, trade, and~~
7 ~~economic development~~) commerce shall report to the governor and the
8 appropriate committees of the senate and house of representatives the
9 total emissions of greenhouse gases for the preceding two years, and
10 totals in each major source sector. The department shall ensure the
11 reporting rules adopted under RCW 70.94.151 allow it to develop a
12 comprehensive inventory of emissions of greenhouse gases from all
13 significant sectors of the Washington economy.

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

19 **Sec. 206.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to
20 read as follows:

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

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

1 information as is relevant to air pollution and available or
2 reasonably capable of being assembled. In the case of emissions of
3 greenhouse gases as defined in RCW 70.235.010 the department shall
4 adopt rules requiring reporting of those emissions. The department or
5 board may require that such registration or reporting be accompanied
6 by a fee, and may determine the amount of such fee for such class or
7 classes: PROVIDED, That the amount of the fee shall only be to
8 compensate for the costs of administering such registration or
9 reporting program which shall be defined as initial registration and
10 annual or other periodic reports from the source owner providing
11 information directly related to air pollution registration, on-site
12 inspections necessary to verify compliance with registration
13 requirements, data storage and retrieval systems necessary for
14 support of the registration program, emission inventory reports and
15 emission reduction credits computed from information provided by
16 sources pursuant to registration program requirements, staff review,
17 including engineering or other reliable analysis for accuracy and
18 currentness, of information provided by sources pursuant to
19 registration program requirements, clerical and other office support
20 provided in direct furtherance of the registration program, and
21 administrative support provided in directly carrying out the
22 registration program: PROVIDED FURTHER, That any such registration
23 made with either the board or the department shall preclude a further
24 registration and reporting with any other board or the department,
25 except that emissions of greenhouse gases as defined in RCW
26 70.235.010 must be reported as required under subsection (5) of this
27 section.

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

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

1 the warehouse or elevator under this section must be made by the date
2 the warehouse or elevator receives grain from the first harvest
3 season that occurs after the increase in its capacity is listed in
4 the license.

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

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

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

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

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

21 (5)(a) The department shall adopt rules requiring persons to
22 report emissions of greenhouse gases as defined in RCW 70.235.010,
23 and supporting data, where those emissions from a single facility,
24 ~~((source, or site,))~~ or from electricity, fossil fuels ~~((sold))~~, or
25 carbon dioxide supplied in Washington by a single supplier, meet or
26 exceed ten thousand metric tons of carbon dioxide equivalent
27 annually. The ~~((department may phase in the requirement to report~~
28 ~~greenhouse gas emissions until the reporting threshold in this~~
29 ~~subsection is met, which must occur by January 1, 2012))~~ rules
30 adopted by the department must support implementation of the program
31 created in section 103 of this act. In addition, the rules must
32 require that:

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

36 (ii) ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each
37 annual report must include emissions data for the preceding calendar
38 year and must be submitted to the department by October 31st of the
39 year in which the report is due. However, starting in 2011, a person
40 who is required to report greenhouse gas emissions to the United

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

9 ~~(iii) Emissions of carbon dioxide associated with the complete
10 combustion or oxidation of liquid motor vehicle fuel, special fuel,
11 or aircraft fuel that is sold in Washington where the annual
12 emissions associated with that combustion or oxidation equal or
13 exceed ten thousand metric tons be reported to the department. Each
14 person who is required to file periodic tax reports of motor vehicle
15 fuel sales under RCW 82.36.031 or special fuel sales under RCW
16 82.38.150, or each distributor of aircraft fuel required to file
17 periodic tax reports under RCW 82.42.040 must report to the
18 department the annual emissions of carbon dioxide from the complete
19 combustion or oxidation of the fuels listed in those reports as sold
20 in the state of Washington. The department shall not require
21 suppliers to use additional data to calculate greenhouse gas
22 emissions other than the data the suppliers report to the department
23 of licensing. The rules may allow this information to be aggregated
24 when reported to the department. The department and the department of
25 licensing shall enter into an interagency agreement to ensure
26 proprietary and confidential information is protected if the
27 departments share reported information. Any proprietary or
28 confidential information exempt from disclosure when reported to the
29 department of licensing is exempt from disclosure when shared by the
30 department of licensing with the department under this provision)).~~
31 Electric power entities and persons filing an abbreviated report must
32 submit their annual report for the preceding year by June 1st.

33 (b)(i) ~~((Except as otherwise provided in this subsection, the
34 rules adopted by the department under (a) of this subsection must be
35 consistent with the regulations adopted by the United States
36 environmental protection agency in 40 C.F.R. Part 98 on September 22,
37 2009))~~ The department may allow facility operators without a
38 compliance obligation under section 110 of this act to submit an
39 abbreviated report. Abbreviated reports must be consistent with full

1 reports, but may use less stringent monitoring, calculation, and
2 verification methods.

3 (ii) The department may by rule include additional gases to the
4 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has
5 been designated as a greenhouse gas by the United States congress
6 ~~((or)),~~ by the United States environmental protection agency, or
7 included in external greenhouse gas emission trading programs where
8 Washington has a linkage agreement in effect pursuant to section 117
9 of this act. Prior to including additional gases to the definition of
10 "greenhouse gas" in RCW 70.235.010, the department shall notify the
11 appropriate committees of the legislature. ~~((Decisions to amend the~~
12 ~~rule to include additional gases must be made prior to December 1st~~
13 ~~of any year and the amended rule may not take effect before the end~~
14 ~~of the regular legislative session in the next year.))~~

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

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

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

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

27 (B) Needed to ensure consistency with emissions reporting
28 requirements for jurisdictions with a linkage agreement pursuant to
29 section 117 of this act. ~~((However,))~~

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

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

35 (e) The fee provisions in subsection (2) of this section apply to
36 reporting of emissions of greenhouse gases. Persons required to
37 report under (a) of this subsection who fail to report or pay the fee
38 required in subsection (2) of this section are subject to enforcement
39 penalties under this chapter. The department shall enforce the
40 reporting rule requirements ~~((unless it approves a local air~~

1 ~~authority's request to enforce the requirements for persons operating~~
2 ~~within the authority's jurisdiction. However, neither the department~~
3 ~~nor a local air authority approved under this section are authorized~~
4 ~~to assess enforcement penalties on persons required to report under~~
5 ~~(a) of this subsection until six months after the department adopts~~
6 ~~its reporting rule in 2010)).~~ When a person that holds a compliance
7 obligation under section 110 of this act fails to submit an emission
8 data report or fails to obtain a positive emissions data verification
9 statement in accordance with (g)(iii) of this subsection, the
10 department must attempt to provide assistance to the person. If the
11 person refuses assistance from the department, the department may
12 develop an assigned emissions level for that person.

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

26 (g) ~~The ((inclusion or failure to include any person, source,~~
27 ~~classes of persons or sources, or types of emissions of greenhouse~~
28 ~~gases into the department's rules for reporting under this section~~
29 ~~does not indicate whether such a person, source, or category is~~
30 ~~appropriate for inclusion in state, regional, or national greenhouse~~
31 ~~gas reduction programs or strategies. Furthermore, aircraft fuel~~
32 ~~purchased in the state may not be considered equivalent to aircraft~~
33 ~~fuel combusted in the state))~~ department must establish by rule the
34 methods of verifying the accuracy of emissions reports.

35 (i) Verification requirements apply to persons required to report
36 under (a) of this subsection with emissions that equal or exceed
37 twenty-five thousand metric tons of carbon dioxide equivalent
38 emissions, including carbon dioxide from biomass-derived fuels, or to
39 persons who have a compliance obligation under section 110 of this
40 act in any year of the current compliance period.

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

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

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

11 (ii) For the purpose of this subsection (5), the term "supplier"
12 includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel~~
13 ~~importer, as those terms are defined in RCW 82.36.010; (B) a special~~
14 ~~fuel supplier or a special fuel importer, as those terms are defined~~
15 ~~in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those~~
16 ~~terms are defined in RCW 82.42.010)) Suppliers of fuels that produce,~~

17 refine, import, or deliver, or any combination of producing,
18 refining, importing, or delivering, a quantity of fuel in Washington
19 that, if completely combusted, oxidized, or used in other processes,
20 would result in the release of greenhouse gases equivalent to or
21 higher than the threshold established under (a) of this subsection;
22 and (B) suppliers of carbon dioxide that produce, import, or deliver
23 a quantity of carbon dioxide in Washington that, if released, would
24 result in emissions equivalent to or higher than the threshold
25 established under (a) of this subsection. A refinery facility, as
26 defined in section 102 of this act, is considered a supplier for the
27 purposes of this section.

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

33 an electric power entity.

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

1 categories: (A) Municipal solid waste landfills; (B) industrial waste
2 landfills; (C) industrial wastewater treatment; and (D) manure
3 management.

4 (v) For the purpose of this subsection (5), the term "electric
5 power entity" includes any of the following that supply electric
6 power in Washington with associated emissions of greenhouse gases
7 equal to or above the threshold established under (a) of this
8 subsection: (A) Electricity importers and exporters; (B) retail
9 providers, including multijurisdictional retail providers; and (C)
10 first jurisdictional deliverers, as defined in section 102 of this
11 act, not otherwise included here. A federal power market agency may
12 voluntarily report associated emissions of greenhouse gases under
13 this section in the same manner as an electric power entity.

14 NEW SECTION. Sec. 207. A new section is added to chapter 76.09
15 RCW to read as follows:

16 The legislature finds that supporting the public and private
17 ownership of working, healthy forests and local milling
18 infrastructure is integral to an effective carbon policy in
19 Washington. Therefore, in order to combat the conversion of forests
20 to other uses, to recognize the carbon sequestration value of working
21 forestlands, to support rural economic development, to recognize the
22 value of the public recreational access opportunities afforded by
23 working forestlands, and to recognize the ecosystem services provided
24 by working forests in the form of clean air, clean water, and
25 wildlife habitat, the legislature finds that manifold public benefits
26 are achieved through the payments in section 208 of this act to
27 public and private landowners.

28 NEW SECTION. Sec. 208. A new section is added to chapter 76.09
29 RCW to read as follows:

30 (1) Beginning July 1, 2016, the department shall implement a
31 working forests and local mills support program to support domestic
32 milling infrastructure in order to maintain both local rural
33 employment and economic incentive for private landowners to stay in
34 working forests rather than convert to nonforest uses. Preventing
35 forest conversion reduces potential future carbon dioxide emissions
36 that occur when forest vegetation is permanently removed, along with
37 supporting rural economies and securing other associated public

1 benefits. The working forests and local mills support program will
2 provide payments for timber that is:

3 (a) Harvested under a state forest practices application approved
4 under this chapter or a similar regulation of harvest from lands
5 owned by a tribe in Washington; and

6 (b) Milled at a facility enrolled for participation under
7 subsection (3) of this section.

8 (2) In order to be eligible to receive payment under the program,
9 forest landowners must register with the department.

10 (a) Forest landowners required to complete a state forest
11 practice application under this chapter must meet the following
12 criteria to be eligible for the program:

13 (i) Does not charge more than fifty dollars per year, adjusted
14 for inflation, per family or individual vehicle for recreational
15 access to the land base specified in (a)(ii) of this subsection;

16 (ii) At any given point in time, makes available at least eighty
17 percent of the landowner's forest land ownership in each county for
18 publicly accessible recreational purposes; and

19 (iii) Meets state forest practice rules and compliance standards
20 at the time of application and for the duration of support program
21 participation.

22 (b) Nothing in the requirements of (a) of this subsection
23 prevents a forest landowner from implementing temporary closures or
24 limitations on access due to safety concerns, fire danger rating,
25 harvest or restoration operations, maintenance activities, or
26 protections required by state or federal law for habitat for state
27 and federally listed endangered or threatened species. The forest
28 landowner may place reasonable restrictions on the types of public
29 access to ensure public safety, compatibility of uses, and protection
30 of sensitive habitats. The eligibility of forest lands to count
31 towards the eighty percent threshold established in (a)(ii) of this
32 subsection is not affected by restrictions, temporary closures, and
33 limitations specified in this subsection (2)(b).

34 (c) Small forest landowners, as defined in RCW 76.09.450, are not
35 required to provide recreation access to be eligible.

36 (3) All sawmills and planing mills required to pay business and
37 occupation tax under chapter 82.04 RCW or that are operated by a
38 tribe located in Washington state may register to participate in the
39 program at their discretion. However, an eligible forest landowner
40 may not receive a support payment unless the mill to which the timber

1 is delivered is also registered with the department to participate in
2 the program.

3 (4) To receive a support payment, the following requirements must
4 be met:

5 (a) The registered mill must document the number of board feet of
6 wood it receives from an eligible forest landowner for which a
7 support payment is sought;

8 (b) The timber must be tagged in a manner sufficient to identify
9 the harvest area and eligible forest landowner as identified in
10 either:

11 (i) The state forest practice application completed under this
12 chapter; or

13 (ii) A similar documentation of harvest from lands owned by a
14 tribe in Washington state; and

15 (c)(i) Except as provided in (c)(ii) of this subsection, the
16 registered mill must report the tag information and number of board
17 feet delivered and milled to the department within ninety days of
18 receiving the wood;

19 (ii) If the timber is harvested from forest lands owned by a
20 tribe in Washington state, the forest landowner must report the
21 following to the department within ninety days of delivering the
22 wood: The appropriate tribal forest harvest documentation, tag
23 information, mill information, and number of board feet of wood
24 delivered and milled.

25 (5) In fiscal year 2017, the payment amount per board foot is
26 four and one-half cents, and each year thereafter may be no less than
27 this amount. The department shall annually adjust by rule the amount
28 of the per board foot payment based on estimated eligible harvest
29 volumes and appropriations available for purposes of this section
30 from the carbon pollution reduction account created in section 112 of
31 this act.

32 (6) The department shall distribute the payments under this
33 section from amounts appropriated to the department from the carbon
34 pollution reduction account created in section 112 of this act by
35 February 1st of each calendar year for the preceding year, except for
36 payments issued by February 1, 2018, which must include payments for
37 the period from July 1, 2017, until December 31, 2017.

38 (7) Any harvest area for which a forest landowner receives a
39 support payment must be included for no less than twenty years after
40 the date of payment within the land base that is made available for

1 public recreational access for a fee of no greater than fifty dollars
2 per year, adjusted by inflation, per family or individual vehicle
3 consistent with subsection (2) of this section. If a forest landowner
4 fails to maintain the entire harvest area, consistent with the
5 exemptions in subsection (2)(b) of this section, for which a support
6 payment has been received open for recreational access, the forest
7 landowner or its successor are jointly and severally responsible for
8 repaying the entire support payment to the department.

9 (8) The department may require a forest landowner to provide
10 documentation of recreational access availability for lands
11 associated with support payments that have been received by the
12 forest landowner. The department may require documentation of the
13 public recreational access policies and practices of a forest
14 landowner in conjunction with registration by a forest landowner
15 under subsection (2) of this section.

16 (9) The department shall conduct regular compliance audits and
17 fraud investigations.

18 (10) The department may adopt rules to implement this section.

19 NEW SECTION. **Sec. 209.** This section is the tax preference
20 performance statement for the public utility tax credit in section
21 210 of this act. The tax preference performance statement is only
22 intended to be used for subsequent evaluation of the tax preference.
23 It is not intended to create a private right of action by any party
24 or be used to determine eligibility for preferential tax treatment.

25 (1) The legislature categorizes this tax preference as one
26 intended to accomplish the general purpose indicated in RCW
27 82.32.808(2) (b) and (c).

28 (2) It is the legislature's specific public policy objective to
29 mitigate the impacts of fuel price increases for log transportation
30 businesses and motor transportation businesses that transport
31 agriculture products.

32 (3) To measure the effectiveness of the credit provided in
33 section 210 of this act in achieving the public policy objectives
34 described in subsection (2) of this section, the joint legislative
35 audit and review committee must evaluate the following:

36 (a) The number of businesses that claim the credit under section
37 210 of this act;

38 (b) The change in total taxable income for taxpayers claiming the
39 credit under section 210 of this act;

1 (c) The change in total employment for taxpayers claiming the
2 credit under section 210 of this act; and

3 (d) For each calendar year, the total tax credits claimed under
4 section 210 of this act as a percentage of total taxable income for
5 taxpayers within taxable income categories.

6 (4)(a) The information collected by the department of revenue and
7 data collected by the employment security department is intended to
8 provide the informational basis for the evaluation under subsection
9 (3) of this section.

10 (b) In addition to the data sources described under (a) of this
11 subsection, the joint legislative audit and review committee may use
12 any other data it deems necessary in performing the evaluation under
13 subsection (3) of this section.

14 NEW SECTION. **Sec. 210.** A new section is added to chapter 82.16
15 RCW to read as follows:

16 PUBLIC UTILITY TAX CREDIT PROGRAM. (1) A log transportation
17 business or motor transportation business that transports
18 agricultural products is allowed a credit against taxes due under
19 this chapter as provided in this section.

20 (2) The credit is equal to three cents per gallon of special fuel
21 as defined in RCW 82.38.020 or motor vehicle fuel as defined in RCW
22 82.36.010 or 82.38.020 that is purchased after the effective date of
23 this section and that is used for the bulk transport of logs or
24 agricultural products. The credit may not exceed the amount of tax
25 otherwise due under this chapter for the calendar year. A person may
26 carry over credit, but must claim all credits for which eligible
27 costs were incurred within two years.

28 (3) Application for credit must be made by a log transportation
29 business or motor transportation business that transports
30 agricultural products in a form and manner prescribed by the
31 department and must include but is not limited to the number of
32 gallons of fuel purchased, the date of fuel purchase, and any other
33 information required by the department. The department shall rule on
34 the application within thirty days of receipt.

35 (4) For any person claiming the credit who is not eligible under
36 this section, the department must disallow the credit and declare the
37 taxes against which the credit was claimed to be immediately due and
38 payable. The department must assess interest, but not penalties, on
39 the taxes against which the credit was claimed. Interest must be

1 assessed at the rate provided under chapter 82.32 RCW, retroactively
2 to the date the credit was claimed, and accrues until the taxes
3 against which the credit was claimed are repaid.

4 (5) For the purposes of this section, the following definitions
5 apply:

6 (a) "Agricultural product" has the same meaning as in RCW
7 82.04.213.

8 (b) "Log transportation business" means the business of
9 transporting logs by truck, except when such transportation meets the
10 definition of urban transportation business or occurs exclusively
11 upon private roads.

12 (c) "Motor transportation business" and "urban transportation
13 business" has the same meaning as defined in RCW 82.16.010.

14 (6) This section takes effect July 1, 2016.

15 NEW SECTION. **Sec. 211.** This section is the tax preference
16 performance statement for the business and occupation tax credit in
17 section 212 of this act. The performance statement is only intended
18 to be used for subsequent evaluation of the tax preference. It is not
19 intended to create a private right of action by any party or be used
20 to determine eligibility for preferential tax treatment.

21 (1) The legislature categorizes this tax preference as one
22 intended to accomplish the general purpose indicated in RCW
23 82.32.808(2) (b) and (c).

24 (2) It is the legislature's specific public policy objective to
25 ensure that forest product mills continue to provide stability in
26 rural economies through continued employment opportunities and to
27 retain the forest product supply chain infrastructure necessary to
28 support working forests.

29 (3) To measure the effectiveness of the credit provided in
30 section 212 of this act in achieving the public policy objectives
31 described in subsection (2) of this section, the joint legislative
32 audit and review committee must evaluate the following:

33 (a) The number of businesses that claim the credit under section
34 212 of this act;

35 (b) The change in total taxable income for taxpayers claiming the
36 credit under section 212 of this act;

37 (c) The change in total employment for taxpayers claiming the
38 credit under section 212 of this act; and

1 (d) For each calendar year, the total tax credits claimed under
2 section 212 of this act as a percentage of total taxable income for
3 taxpayers within taxable income categories.

4 (4)(a) The information collected by the department of revenue and
5 data collected by the employment security department is intended to
6 provide the informational basis for the evaluation under subsection
7 (3) of this section.

8 (b) In addition to the data sources described under (a) of this
9 subsection, the joint legislative audit and review committee may use
10 any other data it deems necessary in performing the evaluation under
11 subsection (3) of this section.

12 NEW SECTION. **Sec. 212.** A new section is added to chapter 82.04
13 RCW to read as follows:

14 (1) A sawmill or planing mill subject to tax under this chapter
15 and registered to participate in the working forests and local mills
16 support program created in section 208 of this act is allowed a
17 credit against the tax due under this chapter as provided in this
18 section. The credit equals ten thousand dollars per each new position
19 created above the baseline employment assumptions set under
20 subsection (3) of this section after July 1, 2016.

21 (2) No credit may be claimed under this section until a new
22 employee has been employed or additional shift work has been assigned
23 for at least two consecutive full calendar quarters.

24 (3) The department shall establish by rule procedures by which a
25 sawmill or planing mill may demonstrate the number of employees
26 retained during the preceding calendar year. The department shall
27 establish baseline employment assumptions based on the information
28 provided by the sawmill or planing mill. For purposes of this
29 section, baseline employment assumptions are the average number of
30 employees employed by a sawmill or planing mill during the preceding
31 calendar year.

32 (4) The credit may be used against any tax due under this chapter
33 and may be carried over to subsequent years until used. The credit
34 claimed for a calendar year may not exceed the tax otherwise due
35 under this chapter. No refunds may be granted for credits under this
36 section.

37 (5) If a sawmill or planing mill discharges a new employee for
38 whom the sawmill or planing mill has claimed a credit under this
39 section, the sawmill or planing mill may not claim a new credit under

1 this section for a period of one year from the date the shift was
2 canceled or the employee was discharged. However, this subsection (5)
3 does not apply if the employee was discharged for misconduct, as
4 defined in RCW 50.04.294, connected with his or her work or
5 discharged due to a felony or gross misdemeanor conviction, and the
6 employer contemporaneously documents the reason for discharge.

7 (6) Credits earned under this section may be claimed only on
8 returns filed electronically with the department using the
9 department's online tax filing service or other method of electronic
10 reporting as the department may authorize. Once baseline employment
11 assumptions are established, no application is required to claim the
12 credit but the taxpayer must keep records necessary for the
13 department to determine eligibility under this section. In addition,
14 a sawmill or planing mill claiming a credit under this section must
15 complete an annual survey as required under RCW 82.32.585.

16 NEW SECTION. **Sec. 213.** A new section is added to chapter 79A.25
17 RCW to read as follows:

18 (1) A working forest carbon easement program is established with
19 an annual disbursement of thirty million dollars from the carbon
20 auction revenue from the carbon pollution reduction account created
21 in section 112 of this act. The purpose of this program is to
22 optimize the retention and management of working private forestlands
23 in Washington for carbon storage as well as the maintenance and
24 improvement of wildlife habitat and water quality and the provision
25 of compatible public recreational access.

26 (2) The funding for this program may be used on an ongoing basis
27 as money accrues.

28 (3) The working forest carbon easement program shall be
29 administered through the recreation and conservation office. The
30 recreation and conservation office shall consult appropriate agencies
31 and stakeholders when developing program requirements. Program
32 requirements must be finalized by January 1, 2016.

33 (4) Program requirements include a ranking system in which the
34 total amount of carbon sequestered by the forest project over the
35 first one hundred years of the easement is the most important
36 criterion. Habitat values, connectivity, and water quality must be
37 secondary criterion.

1 (5) The program requirements must allow land trusts and state
2 agencies to hold easements. Easements under this program mean
3 permanent conservation easements.

4 (6) The program requirements must consider differences between
5 forest species composition, ecosystem functioning, and fire regime
6 across forestlands in the state. The ranking of easement
7 opportunities under the program must evaluate wet western Washington
8 forests separately from dry eastern Washington forests.

9 (7) Accounting for carbon amounts must include the retention of
10 carbon stocks that would otherwise be lost to conversion, in addition
11 to carbon stocks that are added to the property over time. The
12 recreation and conservation office, in consultation with the
13 department of natural resources, must include as part of the program
14 requirements a method for determining risk of conversion.

15 (8) Standards for forest inventory data used to determine carbon
16 sequestered in proposed projects must be reasonable and of the same
17 quality as is required in a typical timber appraisal used to
18 determine the value of the easement.

19 (9) The board may retain a portion of the funds appropriated for
20 this section for its office for the administration of the programs
21 and purposes specified in this section. The portion of the funds
22 retained for administration may not exceed: (a) The actual
23 administration costs for the purposes of implementing this section
24 and the grant programs authorized in chapter 79A.15 RCW averaged over
25 the previous five biennia as a percentage of the legislature's new
26 appropriation for this section; or (b) the amount specified in the
27 appropriation, if any. Each biennium the percentage specified under
28 (a) of this subsection must be approved by the office of financial
29 management and submitted along with the prioritized lists of projects
30 to be funded under this section.

31 NEW SECTION. **Sec. 301. FOR THE DEPARTMENT OF ECOLOGY**

32	General Fund—State Appropriation (FY 2016)	\$4,942,000
33	General Fund—State Appropriation (FY 2017)	\$373,000
34	Air Pollution Control Account—State Appropriation.	\$1,490,000
35	Carbon Pollution Reduction Account—State	
36	Appropriation.	\$390,476,000
37	TOTAL APPROPRIATION.	\$397,281,000

1 The appropriations in this section are subject to the following
2 conditions and limitations:

3 (1) \$4,942,000 of the general fund—state appropriation for fiscal
4 year 2016, \$373,000 of the general fund—state appropriation for
5 fiscal year 2017, \$1,490,000 of the air pollution control account—
6 state appropriation, and \$3,756,000 of the carbon pollution reduction
7 account—state appropriation are provided solely for the
8 implementation of Substitute House Bill No. 1314 (carbon pollution
9 accountability act).

10 (2) \$500,000 of the carbon pollution reduction account—state
11 appropriation is provided solely to conduct a study using geospatial
12 methods to support the work of the cumulative economic impacts task
13 force pursuant to section 119 of this act.

14 (3) \$53,400,000 of the carbon pollution reduction account—state
15 appropriation is provided solely for the implementation of the
16 rebates to energy intense and trade-exposed industries authorized in
17 section 114 of this act.

18 (4) \$332,820,000 of the carbon pollution reduction account—state
19 appropriation is provided solely for the implementation of the
20 rebates to refinery facilities and fuel suppliers authorized in
21 section 114 of this act.

22 NEW SECTION. **Sec. 302. FOR THE DEPARTMENT OF REVENUE**

23	General Fund—State Appropriation (FY 2016)	\$1,212,000
24	General Fund—State Appropriation (FY 2017)	\$106,453,000
25	Carbon Pollution Reduction Account—State	
26	Appropriation.	\$35,000,000
27	TOTAL APPROPRIATION.	\$142,665,000

28 The appropriations in this section are subject to the following
29 conditions and limitations:

30 (1) \$1,212,000 of the general fund—state appropriation for fiscal
31 year 2016 and \$106,453,000 of the general fund—state appropriation
32 for fiscal year 2017 are provided solely for the implementation of
33 Substitute House Bill No. 1314 (carbon pollution accountability act).

34 (2) \$25,000,000 of the carbon pollution reduction account—state
35 appropriation is provided solely for the purposes of the public
36 utility tax credit established in section 210 of this act.

1 (3) \$10,000,000 of the carbon pollution reduction account—state
2 appropriation is provided solely for the purposes of the mill
3 employment credit established in section 212 of this act.

4 **NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF NATURAL RESOURCES**

5 General Fund—State Appropriation (FY 2016)	\$105,000
6 Carbon Pollution Reduction Account—State	
7 Appropriation	\$174,700,000
8 TOTAL APPROPRIATION.	\$174,805,000

9 The appropriations in this section are subject to the following
10 conditions and limitations:

11 (1) \$105,000 of the general fund—state appropriation for fiscal
12 year 2016 and \$150,000 of the carbon pollution reduction account—
13 state appropriation are provided solely for the implementation of
14 Substitute House Bill No. 1314 (carbon pollution accountability act).
15 If the bill is not enacted by June 30, 2015, the amount provided in
16 this subsection shall lapse.

17 (2) \$21,550,000 of the carbon pollution reduction account—state
18 appropriation is provided solely for emergency fire suppression. None
19 of the amounts provided in this subsection may be used to fund agency
20 indirect and administrative expenses.

21 (3) \$153,000,000 of the carbon pollution reduction account—state
22 appropriation is provided solely for the implementation of the
23 working forestland and mills program and payments authorized under
24 section 208 of this act.

25 **NEW SECTION. Sec. 304. FOR THE UNIVERSITY OF WASHINGTON**

26 General Fund—State Appropriation (FY 2017)	\$1,159,000
27 TOTAL APPROPRIATION.	\$1,159,000

28 The appropriation in this section is subject to the following
29 conditions and limitations: The appropriation in this section is
30 provided solely for the implementation of Substitute House Bill No.
31 1314 (carbon pollution accountability act).

32 **NEW SECTION. Sec. 305. FOR THE WASHINGTON STATE UNIVERSITY**

33 General Fund—State Appropriation (FY 2017)	\$789,000
34 TOTAL APPROPRIATION.	\$789,000

1 The appropriation in this section is subject to the following
2 conditions and limitations: The appropriation in this section is
3 provided solely for the implementation of Substitute House Bill No.
4 1314 (carbon pollution accountability act).

5 NEW SECTION. **Sec. 306. FOR THE DEPARTMENT OF COMMERCE**

6	General Fund—State Appropriation (FY 2016)	\$517,000
7	Carbon Pollution Reduction Account—State Appropriation. . . .	\$45,000
8	TOTAL APPROPRIATION.	\$562,000

9 The appropriations in this section are subject to the following
10 conditions and limitations: The appropriations in this section are
11 provided solely for the implementation of Substitute House Bill No.
12 1314 (carbon pollution accountability act).

13 NEW SECTION. **Sec. 307. FOR THE DEPARTMENT OF HEALTH**

14	Carbon Pollution Reduction Account—State	
15	Appropriation.	\$500,000
16	TOTAL APPROPRIATION.	\$500,000

17 The appropriation in this section is subject to the following
18 conditions and limitations: The appropriation in this section is
19 provided solely for the state board of health to provide staffing
20 support for the work of the cumulative economic impacts task force
21 pursuant to section 119 of this act.

22 NEW SECTION. **Sec. 308. FOR THE ATTORNEY GENERAL**

23	Legal Services Revolving Account—State Appropriation	\$467,000
24	TOTAL APPROPRIATION.	\$467,000

25 The appropriation in this section is subject to the following
26 conditions and limitations: The appropriation in this section is
27 provided solely for the implementation of Substitute House Bill No.
28 1314 (carbon pollution accountability act). If the bill is not
29 enacted by June 30, 2015, the amount provided in this subsection
30 shall lapse.

31 NEW SECTION. **Sec. 309. FOR THE STATE TREASURER—TRANSFERS**

32	Carbon Pollution Reduction Account: For transfer	
33	to the housing trust fund, \$15,000,000 for	
34	fiscal year 2017	\$15,000,000

1 NEW SECTION. **Sec. 401. FOR THE DEPARTMENT OF NATURAL RESOURCES**

2 Forest Hazard Reduction

3 The appropriation in this section is subject to the following
4 conditions and limitations: The appropriation is provided solely for
5 forest health restoration treatments on state or private lands. The
6 appropriation may be used for project planning, site preparation,
7 permitting, mechanical treatments, thinning treatments, or prescribed
8 burning.

9 Appropriation:

10	Carbon Pollution Reduction Account—State.	\$10,000,000
11	Prior Biennia (Expenditures).	\$0
12	Future Biennia (Projected Costs).	\$0
13	TOTAL.	\$10,000,000

14 NEW SECTION. **Sec. 402. FOR THE DEPARTMENT OF NATURAL RESOURCES**

15 Forest Riparian Easement Program

16 The appropriation in this section is subject to the following
17 conditions and limitations: Within the amounts appropriated in this
18 section, the department must conduct an assessment of the program's
19 effectiveness through compiling information on the length of
20 ownership prior to program funding, barriers that contribute to
21 current and a potential future project backlog, and projected future
22 demand for program funds. The results of the assessment must be
23 reported to the legislature by December 31, 2016.

24 Appropriation:

25	Carbon Pollution Reduction Account—State.	\$7,600,000
26	Prior Biennia (Expenditures).	\$0
27	Future Biennia (Projected Costs).	\$0
28	TOTAL.	\$7,600,000

29 NEW SECTION. **Sec. 403. FOR THE RECREATION AND CONSERVATION**

30 **FUNDING BOARD**

31 Working Forest Carbon Easement Program

32 The appropriation in this section is subject to the following
33 conditions and limitations: This appropriation is provided solely to
34 implement the working forest carbon easement program established in
35 section 213 of this act. The board may retain a portion of the funds

1 appropriated for its office for the administration of the program and
2 purposes specified in section 213 of this act not to exceed four and
3 three-tenths percent.

4 Appropriation:

5	Carbon Pollution Reduction Account—State.	\$30,000,000
6	Prior Biennia (Expenditures).	\$0
7	Future Biennia (Projected Costs).	\$0
8	TOTAL.	\$30,000,000

9 NEW SECTION. **Sec. 404. FOR THE RECREATION AND CONSERVATION**

10 **FUNDING BOARD**

11 Coastal Restoration Initiative

12 Appropriation:

13	Carbon Pollution Reduction Account—State.	\$6,700,000
14	Prior Biennia (Expenditures).	\$0
15	Future Biennia (Projected Costs).	\$0
16	TOTAL.	\$6,700,000

17 NEW SECTION. **Sec. 405. FOR THE RECREATION AND CONSERVATION**

18 **FUNDING BOARD**

19 Family Forest Fish Passage Program

20 The appropriation in this section is subject to the following
21 conditions and limitations: Within the amounts appropriated in this
22 section, the board must work with the Washington state department of
23 transportation, the department of fish and wildlife, the department
24 of ecology, local government representatives, and tribes to identify
25 fish passage barrier removal needs with a priority on improving
26 climate change adaptation and survival of anadromous fish species.
27 The study will include an estimate for future funding needs that may
28 be added to the carbon pollution reduction account. The board must
29 provide a report to the legislature by December 31, 2016.

30 Appropriation:

31	Carbon Pollution Reduction Account—State.	\$6,500,000
32	Prior Biennia (Expenditures).	\$0
33	Future Biennia (Projected Costs).	\$0
34	TOTAL.	\$6,500,000

1 NEW SECTION. **Sec. 501.** Except where explicitly stated
2 otherwise, nothing in this chapter limits any state agency authority
3 as it existed prior to the effective date of this section. This act
4 supersedes the provisions of RCW 70.235.005 to the extent that
5 section is inconsistent with the provisions of this chapter.

6 NEW SECTION. **Sec. 502.** This act may be known and cited as the
7 carbon pollution accountability act.

8 NEW SECTION. **Sec. 503.** Sections 101 through 123 and 501 of this
9 act constitute a new chapter in Title 70 RCW and must be codified
10 immediately following chapter 70.235 RCW.

11 NEW SECTION. **Sec. 504.** Section 202 of this act expires June 30,
12 2019.

13 NEW SECTION. **Sec. 505.** Section 203 of this act takes effect
14 June 30, 2019.

15 NEW SECTION. **Sec. 506.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 507.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of
21 the state government and its existing public institutions, and takes
22 effect immediately.

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