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SENATE BILL 6121

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State of Washington                      64th Legislature      2015 1st Special Session

By Senators Hargrove, Habib, Ranker, and Kohl-Welles

Read first time 05/13/15.      Referred to Committee on Energy,  
Environment & Telecommunications.

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 79A.25 RCW; adding a new section to chapter 82.16 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 (CO<sub>2</sub>), methane (CH<sub>4</sub>),  
4 nitrogen trifluoride (NF<sub>3</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride  
5 (SF<sub>6</sub>), 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 of all fuel that the  
7 refinery facility operator supplies.

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

16 NEW SECTION. **Sec. 106.** REGISTRATION REQUIREMENTS FOR PROGRAM  
17 PARTICIPATION. (1) All covered entities must register to participate  
18 in the program, following procedures adopted by the department by  
19 rule.

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

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

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

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

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

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

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

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

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

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

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

37 (a) Registered entities intending to participate in an auction  
38 must submit an application to participate at least thirty days prior  
39 to the auction. The application must include the documentation

1 required for review and approval by the department. A registered  
2 entity is eligible to participate only after receiving a notice of  
3 approval from the department or its designee.

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

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

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

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

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

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

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

34 (8) A covered entity or opt-in entity with a compliance  
35 obligation that exceeds fifteen percent of the annual allowance  
36 budget may, subject to advance approval by the department, purchase  
37 allowances beyond the allowance purchase limit in subsection (7)(a)  
38 of this section, not to exceed the entity's proportionate share, on a  
39 percentage basis, of the annual allowance budget plus ten percent of  
40 the allowances available during a single auction. Approval to

1 purchase these additional allowances must be secured prior to the  
2 auction and must be requested from the department at least thirty  
3 days prior to the auction.

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

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

- 19 (a) Provided false or misleading facts;
- 20 (b) Withheld material information that could influence a decision  
21 by the department;
- 22 (c) Violated any part of the auction rules;
- 23 (d) Violated registration requirements; or
- 24 (e) Violated any of the rules regarding the conduct of the  
25 auction.

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

30 (12) The department shall design allowance auctions so as to  
31 allow, to the maximum extent practicable, linking with external  
32 greenhouse gas emissions trading programs in other jurisdictions and  
33 to facilitate the transfer of allowances when the state's program is  
34 linked with other external greenhouse gas emissions trading programs.  
35 The department may conduct auctions jointly with other jurisdictions  
36 with which it has a linkage agreement under section 117 of this act.  
37 For joint auctions, the financial services administrator, the market  
38 monitor, and the auction administrator must be the same as the one  
39 employed by those jurisdictions.

1        NEW SECTION.    **Sec. 108.**    ALLOWANCE PRICE CONTAINMENT RESERVE. (1)

2    At the start of the program, the department shall place four percent  
3    of the total number of allowances available for 2017 to 2026 in the  
4    allowance price containment reserve. The price containment reserve  
5    must be designed as a mechanism to assist in containing compliance  
6    costs for covered and opt-in entities in the event of unanticipated  
7    high costs for compliance instruments.

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

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

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

18        (5) The department shall by rule:

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

25        (b) Establish the requirements and schedule for the allowance  
26   price containment reserve auctions; and

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

30        NEW SECTION.    **Sec. 109.**    OFFSET CREDITS. (1) The department shall

31   adopt by rule the protocols for establishing offset projects and  
32   securing offset credits that can be used to meet a portion of a  
33   covered entity's or opt-in entity's compliance obligation under  
34   section 110 of this act.

35        (2) The protocols must require that offset projects result in  
36   greenhouse gas emission reductions or removals from the atmosphere  
37   that are real, quantifiable, permanent, verifiable, and enforceable,  
38   and that would occur in addition to other existing requirements. The  
39   offset protocols must, where available, use established criteria,

1 methods to determine baseline assumptions, emission factors, and  
2 monitoring methods. The protocols must:

3 (a) Specify the amount of greenhouse gas emission reductions and  
4 removals achieved by the offset project type, in relation to a  
5 project baseline that estimates business-as-usual performance or  
6 practices for the offset project type, and accounting for any  
7 uncertainty in quantification protocols;

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

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

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

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

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

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

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

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

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

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

39 (7) The department shall adopt rules setting out the criteria and  
40 procedures for the recognition of offset credits as a method for

1 meeting a part of a compliance obligation by a covered entity. The  
2 rules must incorporate the following criteria and limitations:

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

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

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

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

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

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

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

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

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

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

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

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

38 (10) The department shall invalidate offset credits if they are  
39 found to be fraudulent through a process adopted by rule by the  
40 department. The offset credit buyer is liable if the offset credits

1 are invalidated. If some or all of the offset credits are  
2 invalidated, the covered or opt-in entity must, within six months of  
3 that invalidation, surrender replacement credits or allowances to  
4 meet its compliance obligation.

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

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

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

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

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

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

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

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

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

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

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

10 (8) Upon receipt by the department of all compliance instruments  
11 surrendered by a covered entity or opt-in entity to meet its  
12 compliance obligation, the department shall retire the allowances or  
13 offset credits.

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

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

31 (3) If a covered entity or opt-in entity fails to submit penalty  
32 allowances as required by subsection (2) of this section, the  
33 department may issue a civil penalty to the entity of up to ten  
34 thousand dollars for each penalty allowance that is not submitted per  
35 day. The department may also issue an order or issue a penalty of up  
36 to ten thousand dollars per day per violation, or both, for failure  
37 to comply with any provision of this chapter or the rules adopted  
38 under this chapter. The order may include a plan and schedule for  
39 coming into compliance.

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

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

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

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

19 (2) Beginning in fiscal year 2017 and for each fiscal year  
20 thereafter, the state treasurer shall distribute, at the start of  
21 each quarter during each fiscal year, the moneys deposited into the  
22 account during the prior quarter, as follows:

23 (a) For the 2015-2017 biennium, five hundred million dollars  
24 generated in fiscal year 2017 and beginning in the 2017-2019 biennium  
25 at least fifty percent of the moneys generated by the program must be  
26 deposited into the education legacy trust account created in RCW  
27 83.100.230; and

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

32 (3) Moneys remaining in the account must be expended for the  
33 following purposes:

34 (a) Administering program rebates to energy intense and trade-  
35 exposed industries pursuant to section 113 of this act and to fuel  
36 suppliers and refinery facilities pursuant to section 114 of this  
37 act, and to the establishment and implementation of the working  
38 forests and local mills support program consistent with section 208  
39 of this act;

1 (b) During the 2015-2017 biennium, for the purposes of the  
2 appropriations in sections 301 through 407 of this act;

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

8 (ii) Beginning in the 2017-2019 biennium, up to seventy million  
9 dollars per year to the department for the purposes of grants to  
10 address cumulative environmental hazard impacts, and social, and  
11 economic disparities identified by the task force created in section  
12 119 of this act.

13 (d) The department's and other agencies' costs to support and  
14 administer the program including but not limited to coordination of  
15 regional auction allowance, tracking of emissions inventory,  
16 monitoring and verification, market monitor contracting, and  
17 stakeholder communication and outreach; and

18 (e) Investments in clean energy and other programs that achieve  
19 the purposes of this chapter.

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

24 (1) By February 1, 2018, the department must issue a rebate to  
25 covered entities that operate energy intense and trade-exposed  
26 industries to help cover the costs due to their compliance obligation  
27 in the first compliance period. The rebate issued must be of an  
28 amount equal to the number of compliance instruments surrendered by  
29 energy intense and trade-exposed industries during the first  
30 compliance period of the program by November 1, 2017, multiplied by  
31 the average auction clearance price of allowances during the  
32 compliance period.

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

1 industries by November 1st of the preceding year, multiplied by the  
2 average auction clearance price of allowances during the year.

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

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

17 (2) By February 1, 2019, and every February 1st thereafter, each  
18 year the department shall distribute a rebate to refinery facilities  
19 and fuel suppliers to help cover a portion of certain costs due to  
20 their compliance obligation for the preceding year in an amount equal  
21 to seventy-five percent of the number of compliance instruments  
22 surrendered by November 1st of the preceding year that are associated  
23 with the eventual combustion, oxidation, or use in other processes of  
24 the fuel other than natural gas that they supply in Washington,  
25 multiplied by the auction floor price of allowances established by  
26 the department under section 107(5) of this act for the year.

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

30 (4) In order to be eligible for a rebate under this section, a  
31 fuel supplier or refinery facility must demonstrate that rebate-  
32 eligible costs of program compliance are not being passed on to  
33 purchasers of fuel from the refinery facility or fuel supplier in the  
34 form of a fee or a surcharge, consistent with the requirements of  
35 section 115 of this act.

36 NEW SECTION. **Sec. 115.** TRANSPARENCY IN PROGRAM EFFECTS ON  
37 TRANSPORTATION FUEL COST. (1) Each fuel supplier and refinery

1 facility must provide the following program cost information to a  
2 purchaser of fuel covered by the program, upon request:

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

6 (b) The total cost of the compliance instruments obtained to  
7 satisfy the compliance obligation of the refinery facility or fuel  
8 supplier associated with the combustion, oxidation, or use of fuel  
9 other than natural gas during the most recently completed compliance  
10 period;

11 (c) The per gallon costs associated with the fuel supplier or  
12 refinery facility's program compliance, as calculated by: Dividing  
13 the difference between the total cost of the compliance instruments  
14 as measured in (b) of this subsection and the value of the rebates  
15 obtained as measured in (a) of this subsection, by the total amount  
16 of covered fuel, other than natural gas, supplied by the supplier or  
17 refinery facility during the most recently completed compliance  
18 period.

19 (2) The information specified in subsection (1)(a) through (c) of  
20 this section, along with information related to any fees or  
21 surcharges imposed by the refinery facility or fuel supplier on fuel  
22 purchasers, must be provided to the department in order for the fuel  
23 supplier or refinery facility to be eligible for a rebate under  
24 section 114 of this act.

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

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

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

- 1 (i) Primary metal manufacturing, North American industrial  
2 classification system codes beginning with 331;
- 3 (ii) Paper manufacturing, North American industrial  
4 classification system codes beginning with 322;
- 5 (iii) Wood products manufacturing, North American industrial  
6 classification system codes beginning with 322;
- 7 (iv) Nonmetallic mineral manufacturing, North American industrial  
8 classification system codes beginning with 327;
- 9 (v) Chemical manufacturing, North American industrial  
10 classification system codes beginning with 325;
- 11 (vi) Computer and electronic product manufacturing, North  
12 American industrial classification system codes beginning with 334;  
13 and
- 14 (vii) Food manufacturing, North American industrial  
15 classification system codes beginning with 311;
- 16 (b) The process for a business to apply to the department of  
17 commerce for a certificate to be used to claim the program compliance  
18 cost rebates authorized under section 113 of this act, including the  
19 information required to determine if the business meets the criteria;  
20 and
- 21 (c) The process for a business to renew the certificate every  
22 five years.
- 23 (2) The department of commerce must issue a certificate to  
24 businesses that meet the requirements of this section.

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

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

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

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

36 (d) Enhance market security;

37 (e) Reduce program administration costs; and

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

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

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

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

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

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

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

25 (f) Provisions to share information collected and developed under  
26 each individual jurisdiction's program, including confidential  
27 information;

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

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

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

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

36 (2) The department shall contract with an independent  
37 organization to provide the following services relating to the  
38 functioning of the compliance instrument market:

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

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

3 (c) Auditing and monitoring the auctions to assess the adherence  
4 of participants and the auction operator to the adopted procedures  
5 and protocols;

6 (d) Monitoring compliance instrument holding, transfer activity,  
7 and secondary market behavior;

8 (e) Preparing reports on auction results, market activities, and  
9 trends; and

10 (f) Reviewing program guidance documents, program rules, and  
11 other policies to mitigate market risk and improve the efficiency of  
12 the auctions and market activities.

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

20 (4) By July 1, 2016, the department shall create an independent  
21 review committee composed of financial market professionals to  
22 provide an independent assessment of the market monitoring functions  
23 and performance of the program. This committee shall provide their  
24 independent assessment to the department by July 1, 2018, and every  
25 two years thereafter.

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

31 (a) Public health;

32 (b) Racial equity; and

33 (c) Economic and environmental justice.

34 (2) The department must support the work of the task force by  
35 creating a tool that uses geospatial methods to identify communities  
36 adversely affected by the cumulative impacts of exposure to  
37 environmental hazards and other social and economic disparities,  
38 including adverse impacts of the program established in this chapter.  
39 The task force must consult with the department, the department of

1 health, and outside experts in order to establish the metrics to be  
2 used by the department to assess cumulative impacts.

3 (3) The task force must establish criteria to prioritize the use  
4 of grants from the carbon pollution reduction account created in  
5 section 112 of this act to implement projects to address the  
6 cumulative environmental hazard impacts and the economic and social  
7 disparities identified in subsection (2) of this section. The task  
8 force must consult with the communities identified in subsection (2)  
9 of this section on the design and implementation of projects to  
10 address the cumulative impacts to be addressed by grants from the  
11 carbon pollution reduction account created in section 112 of this  
12 act.

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

16 NEW SECTION. **Sec. 120.** ALLOWANCE TRADING AND TRACKING  
17 COMPLIANCE INSTRUMENTS. (1) The department shall use a secure, online  
18 electronic tracking system to: Register entities in the state  
19 program; issue compliance instruments; track ownership of compliance  
20 instruments; enable and record compliance instrument transfers;  
21 facilitate program compliance; and support market oversight. The  
22 department shall use an existing market tracking system in use by  
23 potential linked jurisdictions.

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

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

28 (b) A holding account that is used when a registered entity is  
29 interested or potentially interested in trading allowances.  
30 Allowances in holding accounts can be bought, sold, or traded. The  
31 amount of allowances a registered entity may have in its holding  
32 account is constrained to the holding limit.

33 (3) Registered general market participants are each allowed one  
34 account, to hold, trade, sell, or surrender allowances.

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

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

1        NEW SECTION.    **Sec. 121.**    PUBLIC RECORDS. In the administration of  
2 the program required by this chapter, the department shall ensure the  
3 protection from public disclosure of financial, commercial, and  
4 proprietary information whose release would place the registered  
5 entity submitting the information at a competitive disadvantage. The  
6 department shall require any of its contractors working on the  
7 program to comply with the disclosure requirements of RCW 42.56.070  
8 and 42.56.270. Nothing in this chapter affects the department's  
9 ability to release air quality data or emissions data pursuant to RCW  
10 70.94.205.

11        NEW SECTION.    **Sec. 122.**    RULES. (1) The department may adopt  
12 rules to implement the provisions of this chapter. To the extent  
13 possible and consistent with this chapter, the rules adopted by the  
14 department must be compatible with regulations adopted by other  
15 external greenhouse gas emissions trading programs to facilitate  
16 linkage agreements between these programs. The department must  
17 periodically review and, as necessary, update its rules to ensure  
18 compatibility with carbon market programs in linked jurisdictions.

19        (2) The department shall adopt emergency rules pursuant to RCW  
20 34.05.350 for initial implementation of the program, to implement the  
21 state omnibus appropriations act for the 2015-2017 fiscal biennium,  
22 and to ensure that reporting and other program requirements are  
23 determined early for the purpose of program design and early notice  
24 to registered entities with a compliance obligation under the  
25 program.

26        NEW SECTION.    **Sec. 123.**    The department shall evaluate and report  
27 on the implementation of the program created in section 103 of this  
28 act including a review of progress on emission reductions and other  
29 observed benefits and costs of the program. The department shall  
30 submit the report, along with any recommendations for changes to the  
31 program, to the governor and the appropriate fiscal and policy  
32 committees of the legislature by November 1, 2016, and every two  
33 years thereafter.

34        **Sec. 201.**    RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and  
35 2014 c 144 s 6 are each reenacted and amended to read as follows:

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

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

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

10 (3) Financial and commercial information and records supplied by  
11 private persons pertaining to export services provided under chapters  
12 43.163 and 53.31 RCW, and by persons pertaining to export projects  
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by  
15 businesses or individuals during application for loans or program  
16 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
17 43.168 RCW, or during application for economic development loans or  
18 program services provided by any local agency;

19 (5) Financial information, business plans, examination reports,  
20 and any information produced or obtained in evaluating or examining a  
21 business and industrial development corporation organized or seeking  
22 certification under chapter 31.24 RCW;

23 (6) Financial and commercial information supplied to the state  
24 investment board by any person when the information relates to the  
25 investment of public trust or retirement funds and when disclosure  
26 would result in loss to such funds or in private loss to the  
27 providers of this information;

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

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

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

36 (10)(a) Financial information, including but not limited to  
37 account numbers and values, and other identification numbers supplied  
38 by or on behalf of a person, firm, corporation, limited liability  
39 company, partnership, or other entity related to an application for a  
40 horse racing license submitted pursuant to RCW 67.16.260(1)(b),

1 marijuana producer, processor, or retailer license, liquor license,  
2 gambling license, or lottery retail license;

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

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

15 (12)(a) When supplied to and in the records of the department of  
16 commerce:

17 (i) Financial and proprietary information collected from any  
18 person and provided to the department of commerce pursuant to RCW  
19 43.330.050(8); and

20 (ii) Financial or proprietary information collected from any  
21 person and provided to the department of commerce or the office of  
22 the governor in connection with the siting, recruitment, expansion,  
23 retention, or relocation of that person's business and until a siting  
24 decision is made, identifying information of any person supplying  
25 information under this subsection and the locations being considered  
26 for siting, relocation, or expansion of a business;

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

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

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

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

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

7 (15) Financial and commercial information provided as evidence to  
8 the department of licensing as required by RCW 19.112.110 or  
9 19.112.120, except information disclosed in aggregate form that does  
10 not permit the identification of information related to individual  
11 fuel licensees;

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

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

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

22 (18) Financial, commercial, operations, and technical and  
23 research information and data submitted to or obtained by a health  
24 sciences and services authority in applications for, or delivery of,  
25 grants under RCW 35.104.010 through 35.104.060, to the extent that  
26 such information, if revealed, would reasonably be expected to result  
27 in private loss to providers of this information;

28 (19) Information gathered under chapter 19.85 RCW or RCW  
29 34.05.328 that can be identified to a particular business;

30 (20) Financial and commercial information submitted to or  
31 obtained by the University of Washington, other than information the  
32 university is required to disclose under RCW 28B.20.150, when the  
33 information relates to investments in private funds, to the extent  
34 that such information, if revealed, would reasonably be expected to  
35 result in loss to the University of Washington consolidated endowment  
36 fund or to result in private loss to the providers of this  
37 information; ((and))

38 (21) Market share data submitted by a manufacturer under RCW  
39 70.95N.190(4); ((and))

1 (22) Financial information supplied to the department of  
2 financial institutions or to a portal under RCW 21.20.883, when filed  
3 by or on behalf of an issuer of securities for the purpose of  
4 obtaining the exemption from state securities registration for small  
5 securities offerings provided under RCW 21.20.880 or when filed by or  
6 on behalf of an investor for the purpose of purchasing such  
7 securities; and

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

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

14 (1) The hearings board shall only have jurisdiction to hear and  
15 decide appeals from the following decisions of the department, the  
16 director, local conservation districts, the air pollution control  
17 boards or authorities as established pursuant to chapter 70.94 RCW,  
18 local health departments, the department of natural resources, the  
19 department of fish and wildlife, the parks and recreation commission,  
20 and authorized public entities described in chapter 79.100 RCW:

21 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
22 70.94.431, 70.105.080, 70.107.050, section 111 of this act,  
23 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270,  
24 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

25 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
26 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 111 of this  
27 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and  
28 90.56.330.

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

31 (d) Except as provided in RCW 90.03.210(2), the issuance,  
32 modification, or termination of any permit, certificate, or license  
33 by the department or any air authority in the exercise of its  
34 jurisdiction, including the issuance or termination of a waste  
35 disposal permit, the denial of an application for a waste disposal  
36 permit, the modification of the conditions or the terms of a waste  
37 disposal permit, or a decision to approve or deny an application for  
38 a solid waste permit exemption under RCW 70.95.300.

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

3 (f) Decisions of local health departments regarding the issuance  
4 and enforcement of permits to use or dispose of biosolids under RCW  
5 70.95J.080.

6 (g) Decisions of the department regarding waste-derived  
7 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
8 decisions of the department regarding waste-derived soil amendments  
9 under RCW 70.95.205.

10 (h) Decisions of local conservation districts related to the  
11 denial of approval or denial of certification of a dairy nutrient  
12 management plan; conditions contained in a plan; application of any  
13 dairy nutrient management practices, standards, methods, and  
14 technologies to a particular dairy farm; and failure to adhere to the  
15 plan review and approval timelines in RCW 90.64.026.

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

19 (j) Decisions of the department of natural resources, the  
20 department of fish and wildlife, and the department that are  
21 reviewable under chapter 76.09 RCW, and the department of natural  
22 resources' appeals of county, city, or town objections under RCW  
23 76.09.050(7).

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

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

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

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

35 (2) The following hearings shall not be conducted by the hearings  
36 board:

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

1 (b) Hearings conducted by the department pursuant to RCW  
2 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
3 90.44.180.

4 (c) Appeals of decisions by the department under RCW 90.03.110  
5 and 90.44.220.

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

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

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

13 (1) The hearings board shall only have jurisdiction to hear and  
14 decide appeals from the following decisions of the department, the  
15 director, local conservation districts, the air pollution control  
16 boards or authorities as established pursuant to chapter 70.94 RCW,  
17 local health departments, the department of natural resources, the  
18 department of fish and wildlife, the parks and recreation commission,  
19 and authorized public entities described in chapter 79.100 RCW:

20 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
21 70.94.431, 70.105.080, 70.107.050, section 111 of this act,  
22 76.09.170, 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270,  
23 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

24 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
25 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 111 of this  
26 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and  
27 90.56.330.

28 (c) Except as provided in RCW 90.03.210(2), the issuance,  
29 modification, or termination of any permit, certificate, or license  
30 by the department or any air authority in the exercise of its  
31 jurisdiction, including the issuance or termination of a waste  
32 disposal permit, the denial of an application for a waste disposal  
33 permit, the modification of the conditions or the terms of a waste  
34 disposal permit, or a decision to approve or deny an application for  
35 a solid waste permit exemption under RCW 70.95.300.

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

1 (e) Decisions of local health departments regarding the issuance  
2 and enforcement of permits to use or dispose of biosolids under RCW  
3 70.95J.080.

4 (f) Decisions of the department regarding waste-derived  
5 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
6 decisions of the department regarding waste-derived soil amendments  
7 under RCW 70.95.205.

8 (g) Decisions of local conservation districts related to the  
9 denial of approval or denial of certification of a dairy nutrient  
10 management plan; conditions contained in a plan; application of any  
11 dairy nutrient management practices, standards, methods, and  
12 technologies to a particular dairy farm; and failure to adhere to the  
13 plan review and approval timelines in RCW 90.64.026.

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

17 (i) Decisions of the department of natural resources, the  
18 department of fish and wildlife, and the department that are  
19 reviewable under chapter 76.09 RCW, and the department of natural  
20 resources' appeals of county, city, or town objections under RCW  
21 76.09.050(7).

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

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

27 (l) Decisions of the department of natural resources that are  
28 reviewable under RCW 78.44.270.

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

33 (2) The following hearings shall not be conducted by the hearings  
34 board:

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

37 (b) Hearings conducted by the department pursuant to RCW  
38 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
39 90.44.180.

1 (c) Appeals of decisions by the department under RCW 90.03.110  
2 and 90.44.220.

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

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

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

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

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

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

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

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

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

21 (6) "Greenhouse gas" and "greenhouse gases" includes carbon  
22 dioxide, methane, nitrogen trifluoride, nitrous oxide,  
23 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, other  
24 fluorinated greenhouse gases, and any other gas or gases designated  
25 by the department by rule.

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

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

30 (~~(9) "Western climate initiative" means the collaboration of~~  
31 ~~states, Canadian provinces, Mexican states, and tribes to design a~~  
32 ~~multisector market-based mechanism as directed under the western~~  
33 ~~regional climate action initiative signed by the governor on February~~  
34 ~~22, 2007.~~)

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

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

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

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

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

12 (b) By December 1, 2008, the department shall submit a greenhouse  
13 gas reduction plan for review and approval to the legislature,  
14 describing those actions necessary to achieve the emission reductions  
15 in (a) of this subsection by using existing statutory authority and  
16 any additional authority granted by the legislature. Actions taken  
17 using existing statutory authority may proceed prior to approval of  
18 the greenhouse gas reduction plan.

19 (c) Except where explicitly stated otherwise, nothing in chapter  
20 14, Laws of 2008 limits any state agency authorities as they existed  
21 prior to June 12, 2008.

22 (d) Consistent with this directive, the department shall take the  
23 following actions:

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

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

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

39 (3) Except for purposes of reporting, emissions of carbon dioxide  
40 from industrial combustion of biomass in the form of fuel wood, wood

1 waste, wood by-products, and wood residuals shall not be considered a  
2 greenhouse gas as long as the region's silvicultural sequestration  
3 capacity is maintained or increased.

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

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

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

1 sources pursuant to registration program requirements, staff review,  
2 including engineering or other reliable analysis for accuracy and  
3 currentness, of information provided by sources pursuant to  
4 registration program requirements, clerical and other office support  
5 provided in direct furtherance of the registration program, and  
6 administrative support provided in directly carrying out the  
7 registration program: PROVIDED FURTHER, That any such registration  
8 made with either the board or the department shall preclude a further  
9 registration and reporting with any other board or the department,  
10 except that emissions of greenhouse gases as defined in RCW  
11 70.235.010 must be reported as required under subsection (5) of this  
12 section.

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

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

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

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

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

39 (b) A "license" is a license issued by the department of  
40 agriculture licensing a facility as a grain warehouse or grain

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

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

6 (5)(a) The department shall adopt rules requiring persons to  
7 report emissions of greenhouse gases as defined in RCW 70.235.010,  
8 and supporting data, where those emissions from a single facility,  
9 ~~((source, or site,))~~ or from electricity, fossil fuels ~~((sold))~~, or  
10 carbon dioxide supplied in Washington by a single supplier, meet or  
11 exceed ten thousand metric tons of carbon dioxide equivalent  
12 annually. The ~~((department may phase in the requirement to report  
13 greenhouse gas emissions until the reporting threshold in this  
14 subsection is met, which must occur by January 1, 2012))~~ rules  
15 adopted by the department must support implementation of the program  
16 created in section 103 of this act. In addition, the rules must  
17 require that:

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

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

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

1 ~~82.38.150, or each distributor of aircraft fuel required to file~~  
2 ~~periodic tax reports under RCW 82.42.040 must report to the~~  
3 ~~department the annual emissions of carbon dioxide from the complete~~  
4 ~~combustion or oxidation of the fuels listed in those reports as sold~~  
5 ~~in the state of Washington. The department shall not require~~  
6 ~~suppliers to use additional data to calculate greenhouse gas~~  
7 ~~emissions other than the data the suppliers report to the department~~  
8 ~~of licensing. The rules may allow this information to be aggregated~~  
9 ~~when reported to the department. The department and the department of~~  
10 ~~licensing shall enter into an interagency agreement to ensure~~  
11 ~~proprietary and confidential information is protected if the~~  
12 ~~departments share reported information. Any proprietary or~~  
13 ~~confidential information exempt from disclosure when reported to the~~  
14 ~~department of licensing is exempt from disclosure when shared by the~~  
15 ~~department of licensing with the department under this provision)).~~  
16 Electric power entities and persons filing an abbreviated report must  
17 submit their annual report for the preceding year by June 1st.

18 (b)(i) ~~((Except as otherwise provided in this subsection, the~~  
19 ~~rules adopted by the department under (a) of this subsection must be~~  
20 ~~consistent with the regulations adopted by the United States~~  
21 ~~environmental protection agency in 40 C.F.R. Part 98 on September 22,~~  
22 ~~2009))~~ The department may allow facility operators without a  
23 compliance obligation under section 110 of this act to submit an  
24 abbreviated report. Abbreviated reports must be consistent with full  
25 reports, but may use less stringent monitoring, calculation, and  
26 verification methods.

27 (ii) The department may by rule include additional gases to the  
28 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has  
29 been designated as a greenhouse gas by the United States congress  
30 ~~((or)),~~ by the United States environmental protection agency, or  
31 included in external greenhouse gas emission trading programs where  
32 Washington has a linkage agreement in effect pursuant to section 117  
33 of this act. Prior to including additional gases to the definition of  
34 "greenhouse gas" in RCW 70.235.010, the department shall notify the  
35 appropriate committees of the legislature. ~~((Decisions to amend the~~  
36 ~~rule to include additional gases must be made prior to December 1st~~  
37 ~~of any year and the amended rule may not take effect before the end~~  
38 ~~of the regular legislative session in the next year.))~~

39 (iii) The department may by rule exempt persons who are required  
40 to report greenhouse gas emissions to the United States environmental

1 protection agency and who emit less than ten thousand metric tons  
2 carbon dioxide equivalent annually.

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

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

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

11 (B) Needed to ensure consistency with emissions reporting  
12 requirements for jurisdictions with a linkage agreement pursuant to  
13 section 117 of this act. ((However,))

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

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

19 (e) The fee provisions in subsection (2) of this section apply to  
20 reporting of emissions of greenhouse gases. Persons required to  
21 report under (a) of this subsection who fail to report or pay the fee  
22 required in subsection (2) of this section are subject to enforcement  
23 penalties under this chapter. The department shall enforce the  
24 reporting rule requirements ~~((unless it approves a local air~~  
25 ~~authority's request to enforce the requirements for persons operating~~  
26 ~~within the authority's jurisdiction. However, neither the department~~  
27 ~~nor a local air authority approved under this section are authorized~~  
28 ~~to assess enforcement penalties on persons required to report under~~  
29 ~~(a) of this subsection until six months after the department adopts~~  
30 ~~its reporting rule in 2010)).~~ When a person that holds a compliance  
31 obligation under section 110 of this act fails to submit an emission  
32 data report or fails to obtain a positive emissions data verification  
33 statement in accordance with (g)(iii) of this subsection, the  
34 department must attempt to provide assistance to the person. If the  
35 person refuses assistance from the department, the department may  
36 develop an assigned emissions level for that person.

37 (f) The energy facility site evaluation council shall,  
38 simultaneously with the department, adopt rules that impose  
39 greenhouse gas reporting requirements in site certifications on  
40 owners or operators of a facility permitted by the energy facility

1 site evaluation council. The greenhouse gas reporting requirements  
2 imposed by the energy facility site evaluation council must be the  
3 same as the greenhouse gas reporting requirements imposed by the  
4 department. The department shall share any information reported to it  
5 from facilities permitted by the energy facility site evaluation  
6 council with the council, including notice of a facility that has  
7 failed to report as required. The energy facility site evaluation  
8 council shall contract with the department to monitor the reporting  
9 requirements adopted under this section.

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

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

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

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

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

35 (ii) For the purpose of this subsection (5), the term "supplier"  
36 includes: (A) ~~((A motor vehicle fuel supplier or a motor vehicle fuel~~  
37 ~~importer, as those terms are defined in RCW 82.36.010; (B) a special~~  
38 ~~fuel supplier or a special fuel importer, as those terms are defined~~  
39 ~~in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those~~  
40 ~~terms are defined in RCW 82.42.010)) Suppliers of fuels that produce,~~

1 refine, import, or deliver, or any combination of producing,  
2 refining, importing, or delivering, a quantity of fuel in Washington  
3 that, if completely combusted, oxidized, or used in other processes,  
4 would result in the release of greenhouse gases equivalent to or  
5 higher than the threshold established under (a) of this subsection;  
6 and (B) suppliers of carbon dioxide that produce, import, or deliver  
7 a quantity of carbon dioxide in Washington that, if released, would  
8 result in emissions equivalent to or higher than the threshold  
9 established under (a) of this subsection. A refinery facility, as  
10 defined in section 102 of this act, is considered a supplier for the  
11 purposes of this section.

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

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

28 (v) For the purpose of this subsection (5), the term "electric  
29 power entity" includes any of the following that supply electric  
30 power in Washington with associated emissions of greenhouse gases  
31 equal to or above the threshold established under (a) of this  
32 subsection: (A) Electricity importers and exporters; (B) retail  
33 providers, including multijurisdictional retail providers; and (C)  
34 first jurisdictional deliverers, as defined in section 102 of this  
35 act, not otherwise included here. A federal power market agency may  
36 voluntarily report associated emissions of greenhouse gases under  
37 this section in the same manner as an electric power entity.

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

1 The legislature finds that supporting the public and private  
2 ownership of working, healthy forests and local milling  
3 infrastructure is integral to an effective carbon policy in  
4 Washington. Therefore, in order to combat the conversion of forests  
5 to other uses, to recognize the carbon sequestration value of working  
6 forestlands, to support rural economic development, to recognize the  
7 value of the public recreational access opportunities afforded by  
8 working forestlands, and to recognize the ecosystem services provided  
9 by working forests in the form of clean air, clean water, and  
10 wildlife habitat, the legislature finds that manifold public benefits  
11 are achieved through the payments in section 208 of this act to  
12 public and private landowners.

13 NEW SECTION. **Sec. 208.** A new section is added to chapter 76.09  
14 RCW to read as follows:

15 (1) Beginning July 1, 2016, the department shall implement a  
16 working forests and local mills support program to support domestic  
17 milling infrastructure in order to maintain both local rural  
18 employment and economic incentive for private landowners to stay in  
19 working forests rather than convert to nonforest uses. Preventing  
20 forest conversion reduces potential future carbon dioxide emissions  
21 that occur when forest vegetation is permanently removed, along with  
22 supporting rural economies and securing other associated public  
23 benefits. The working forests and local mills support program will  
24 provide payments for timber that is:

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

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

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

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

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

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

4 (iii) Meets state forest practice rules and compliance standards  
5 at the time of application and for the duration of support program  
6 participation.

7 (b) Nothing in the requirements of (a) of this subsection  
8 prevents a forest landowner from implementing temporary closures or  
9 limitations on access due to safety concerns, fire danger rating,  
10 harvest or restoration operations, maintenance activities, or  
11 protections required by state or federal law for habitat for state  
12 and federally listed endangered or threatened species. The forest  
13 landowner may place reasonable restrictions on the types of public  
14 access to ensure public safety, compatibility of uses, and protection  
15 of sensitive habitats. The eligibility of forest lands to count  
16 towards the eighty percent threshold established in (a)(ii) of this  
17 subsection is not affected by restrictions, temporary closures, and  
18 limitations specified in this subsection (2)(b).

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

21 (3) All sawmills and planing mills required to pay business and  
22 occupation tax under chapter 82.04 RCW or that are operated by a  
23 tribe located in Washington state may register to participate in the  
24 program at their discretion. However, an eligible forest landowner  
25 may not receive a support payment unless the mill to which the timber  
26 is delivered is also registered with the department to participate in  
27 the program.

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

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

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

36 (i) The state forest practice application completed under this  
37 chapter; or

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

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

5 (ii) If the timber is harvested from forest lands owned by a  
6 tribe in Washington state, the forest landowner must report the  
7 following to the department within ninety days of delivering the  
8 wood: The appropriate tribal forest harvest documentation, tag  
9 information, mill information, and number of board feet of wood  
10 delivered and milled.

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

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

24 (7) Any harvest area for which a forest landowner receives a  
25 support payment must be included for no less than twenty years after  
26 the date of payment within the land base that is made available for  
27 public recreational access for a fee of no greater than fifty dollars  
28 per year, adjusted by inflation, per family or individual vehicle  
29 consistent with subsection (2) of this section. If a forest landowner  
30 fails to maintain the entire harvest area, consistent with the  
31 exemptions in subsection (2)(b) of this section, for which a support  
32 payment has been received open for recreational access, the forest  
33 landowner or its successor are jointly and severally responsible for  
34 repaying the entire support payment to the department.

35 (8) The department may require a forest landowner to provide  
36 documentation of recreational access availability for lands  
37 associated with support payments that have been received by the  
38 forest landowner. The department may require documentation of the  
39 public recreational access policies and practices of a forest

1 landowner in conjunction with registration by a forest landowner  
2 under subsection (2) of this section.

3 (9) The department shall conduct regular compliance audits and  
4 fraud investigations.

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

6 NEW SECTION. **Sec. 209.** A new section is added to chapter 79A.25  
7 RCW to read as follows:

8 (1) A working forest conservation easement program is established  
9 with an annual disbursement of thirty million dollars from the carbon  
10 auction revenue from the carbon pollution reduction account created  
11 in section 112 of this act. The purpose of this program is to avoid  
12 carbon emissions from the conversion of forestland to development and  
13 to maintain or enhance the carbon storage benefits of working private  
14 forestlands in Washington. Secondary purposes include maintaining and  
15 improving wildlife habitat and water quality and providing compatible  
16 public recreational access.

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

19 (3) The program must be administered through the recreation and  
20 conservation office. The recreation and conservation office shall  
21 consult with appropriate agencies and stakeholders when developing  
22 program requirements. Program requirements must be finalized by  
23 January 1, 2016.

24 (4) Program requirements must include a ranking system in which  
25 conversion risk and the total amount of carbon sequestered by the  
26 forest project over the first one hundred years of the easement is  
27 the most important criterion. The recreation and conservation office,  
28 in consultation with the department of natural resources, must  
29 include as part of the program requirements a method for determining  
30 risk of conversion.

31 (5) The program requirements must allow land trusts and state  
32 agencies to hold easements. Easements under this program mean  
33 permanent conservation easements.

34 (6) The program requirements must consider differences between  
35 forest species composition, ecosystem functioning, and fire regime  
36 across forestlands. The ranking of easement opportunities under the  
37 program must evaluate wet western Washington forests separately from  
38 dry eastern Washington forests.

1 (7) Standards for forest inventory data used to determine  
2 easement value must be reasonable and of the same quality as is  
3 required in a typical timber appraisal.

4 NEW SECTION. **Sec. 210.** This section is the tax preference  
5 performance statement for the public utility tax credit in section  
6 211 of this act. The tax preference performance statement is only  
7 intended to be used for subsequent evaluation of the tax preference.  
8 It is not intended to create a private right of action by any party  
9 or be used to determine eligibility for preferential tax treatment.

10 (1) The legislature categorizes this tax preference as one  
11 intended to accomplish the general purpose indicated in RCW  
12 82.32.808(2) (b) and (c).

13 (2) It is the legislature's specific public policy objective to  
14 mitigate the impacts of fuel price increases for log transportation  
15 businesses and motor transportation businesses that transport  
16 agriculture products.

17 (3) To measure the effectiveness of the credit provided in  
18 section 211 of this act in achieving the public policy objectives  
19 described in subsection (2) of this section, the joint legislative  
20 audit and review committee must evaluate the following:

21 (a) The number of businesses that claim the credit under section  
22 211 of this act;

23 (b) The change in total taxable income for taxpayers claiming the  
24 credit under section 211 of this act;

25 (c) The change in total employment for taxpayers claiming the  
26 credit under section 211 of this act; and

27 (d) For each calendar year, the total tax credits claimed under  
28 section 211 of this act as a percentage of total taxable income for  
29 taxpayers within taxable income categories.

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

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

1        NEW SECTION.    **Sec. 211.**    A new section is added to chapter 82.16  
2    RCW to read as follows:

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

7        (2) The credit is equal to three cents per gallon of special fuel  
8    as defined in RCW 82.38.020 or motor vehicle fuel as defined in RCW  
9    82.36.010 or 82.38.020 that is purchased after the effective date of  
10   this section and that is used for the bulk transport of logs or  
11   agricultural products. The credit may not exceed the amount of tax  
12   otherwise due under this chapter for the calendar year. A person may  
13   carry over credit, but must claim all credits for which eligible  
14   costs were incurred within two years.

15       (3) Application for credit must be made by a log transportation  
16   business or motor transportation business that transports  
17   agricultural products in a form and manner prescribed by the  
18   department and must include but is not limited to the number of  
19   gallons of fuel purchased, the date of fuel purchase, and any other  
20   information required by the department. The department shall rule on  
21   the application within thirty days of receipt.

22       (4) For any person claiming the credit who is not eligible under  
23   this section, the department must disallow the credit and declare the  
24   taxes against which the credit was claimed to be immediately due and  
25   payable. The department must assess interest, but not penalties, on  
26   the taxes against which the credit was claimed. Interest must be  
27   assessed at the rate provided under chapter 82.32 RCW, retroactively  
28   to the date the credit was claimed, and accrues until the taxes  
29   against which the credit was claimed are repaid.

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

32       (a) "Agricultural product" has the same meaning as in RCW  
33   82.04.213.

34       (b) "Log transportation business" means the business of  
35   transporting logs by truck, except when such transportation meets the  
36   definition of urban transportation business or occurs exclusively  
37   upon private roads.

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

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

1        NEW SECTION.     **Sec. 212.**     This section is the tax preference  
2 performance statement for the business and occupation tax credit in  
3 section 213 of this act. The performance statement is only intended  
4 to be used for subsequent evaluation of the tax preference. It is not  
5 intended to create a private right of action by any party or be used  
6 to determine eligibility for preferential tax treatment.

7        (1) The legislature categorizes this tax preference as one  
8 intended to accomplish the general purpose indicated in RCW  
9 82.32.808(2) (b) and (c).

10        (2) It is the legislature's specific public policy objective to  
11 ensure that forest product mills continue to provide stability in  
12 rural economies through continued employment opportunities and to  
13 retain the forest product supply chain infrastructure necessary to  
14 support working forests.

15        (3) To measure the effectiveness of the credit provided in  
16 section 213 of this act in achieving the public policy objectives  
17 described in subsection (2) of this section, the joint legislative  
18 audit and review committee must evaluate the following:

19        (a) The number of businesses that claim the credit under section  
20 213 of this act;

21        (b) The change in total taxable income for taxpayers claiming the  
22 credit under section 213 of this act;

23        (c) The change in total employment for taxpayers claiming the  
24 credit under section 213 of this act; and

25        (d) For each calendar year, the total tax credits claimed under  
26 section 213 of this act as a percentage of total taxable income for  
27 taxpayers within taxable income categories.

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

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

36        NEW SECTION.     **Sec. 213.**     A new section is added to chapter 82.04  
37 RCW to read as follows:

38        (1) A sawmill or planing mill subject to tax under this chapter  
39 and registered to participate in the working forests and local mills

1 support program created in section 208 of this act is allowed a  
2 credit against the tax due under this chapter as provided in this  
3 section. The credit equals ten thousand dollars per each new position  
4 created above the baseline employment assumptions set under  
5 subsection (3) of this section after July 1, 2016.

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

9 (3) The department shall establish by rule procedures by which a  
10 sawmill or planing mill may demonstrate the number of employees  
11 retained during the preceding calendar year. The department shall  
12 establish baseline employment assumptions based on the information  
13 provided by the sawmill or planing mill. For purposes of this  
14 section, baseline employment assumptions are the average number of  
15 employees employed by a sawmill or planing mill during the preceding  
16 calendar year.

17 (4) The credit may be used against any tax due under this chapter  
18 and may be carried over to subsequent years until used. The credit  
19 claimed for a calendar year may not exceed the tax otherwise due  
20 under this chapter. No refunds may be granted for credits under this  
21 section.

22 (5) If a sawmill or planing mill discharges a new employee for  
23 whom the sawmill or planing mill has claimed a credit under this  
24 section, the sawmill or planing mill may not claim a new credit under  
25 this section for a period of one year from the date the shift was  
26 canceled or the employee was discharged. However, this subsection (5)  
27 does not apply if the employee was discharged for misconduct, as  
28 defined in RCW 50.04.294, connected with his or her work or  
29 discharged due to a felony or gross misdemeanor conviction, and the  
30 employer contemporaneously documents the reason for discharge.

31 (6) Credits earned under this section may be claimed only on  
32 returns filed electronically with the department using the  
33 department's online tax filing service or other method of electronic  
34 reporting as the department may authorize. Once baseline employment  
35 assumptions are established, no application is required to claim the  
36 credit but the taxpayer must keep records necessary for the  
37 department to determine eligibility under this section. In addition,  
38 a sawmill or planing mill claiming a credit under this section must  
39 complete an annual survey as required under RCW 82.32.585.

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

2	General Fund—State Appropriation (FY 2016) . . . . .	\$4,942,000
3	General Fund—State Appropriation (FY 2017) . . . . .	\$373,000
4	Air Pollution Control Account—State Appropriation. . . . .	\$1,490,000
5	Carbon Pollution Reduction Account—State	
6	Appropriation. . . . .	\$390,476,000
7	TOTAL APPROPRIATION. . . . .	\$397,281,000

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

10          (1) \$4,942,000 of the general fund—state appropriation for fiscal  
11 year 2016, \$373,000 of the general fund—state appropriation for  
12 fiscal year 2017, \$1,490,000 of the air pollution control account—  
13 state appropriation, and \$3,756,000 of the carbon pollution reduction  
14 account—state appropriation are provided solely for the  
15 implementation of Substitute House Bill No. 1314 (carbon pollution  
16 accountability act).

17          (2) \$500,000 of the carbon pollution reduction account—state  
18 appropriation is provided solely to conduct a study using geospatial  
19 methods to support the work of the cumulative economic impacts task  
20 force pursuant to section 119 of this act.

21          (3) \$53,400,000 of the carbon pollution reduction account—state  
22 appropriation is provided solely for the implementation of the  
23 rebates to energy intense and trade-exposed industries authorized in  
24 section 114 of this act.

25          (4) \$332,820,000 of the carbon pollution reduction account—state  
26 appropriation is provided solely for the implementation of the  
27 rebates to refinery facilities and fuel suppliers authorized in  
28 section 114 of this act.

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

30	General Fund—State Appropriation (FY 2016) . . . . .	\$1,212,000
31	General Fund—State Appropriation (FY 2017) . . . . .	\$106,453,000
32	Carbon Pollution Reduction Account—State	
33	Appropriation. . . . .	\$35,000,000
34	TOTAL APPROPRIATION. . . . .	\$142,665,000

35            The appropriations in this section are subject to the following  
36 conditions and limitations:

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

5 (2) \$25,000,000 of the carbon pollution reduction account—state  
6 appropriation is provided solely for the purposes of the public  
7 utility tax credit established in section 211 of this act.

8 (3) \$10,000,000 of the carbon pollution reduction account—state  
9 appropriation is provided solely for the purposes of the mill  
10 employment credit established in section 213 of this act.

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

12	General Fund—State Appropriation (FY 2016) . . . . .	\$105,000
13	Carbon Pollution Reduction Account—State	
14	Appropriation . . . . .	\$177,700,000
15	TOTAL APPROPRIATION. . . . .	\$177,805,000

16 The appropriations in this section are subject to the following  
17 conditions and limitations:

18 (1) \$105,000 of the general fund—state appropriation for fiscal  
19 year 2016 and \$150,000 of the carbon pollution reduction account—  
20 state appropriation are provided solely for the implementation of  
21 Substitute House Bill No. 1314 (carbon pollution accountability act).  
22 If the bill is not enacted by June 30, 2015, the amount provided in  
23 this subsection shall lapse.

24 (2) \$21,550,000 of the carbon pollution reduction account—state  
25 appropriation is provided solely for emergency fire suppression. None  
26 of the amounts provided in this subsection may be used to fund agency  
27 indirect and administrative expenses.

28 (3) \$3,000,000 of the carbon pollution reduction account—state  
29 appropriation is provided solely for the department to carry out the  
30 forest practices adaptive management program pursuant to RCW  
31 76.09.370 and the May 24, 2012, settlement agreement entered into by  
32 the department and the department of ecology. Scientific research  
33 must be carried out according to the master project schedule and work  
34 plan of cooperative monitoring, evaluation, and research priorities  
35 adopted by the forest practices board.

36 (4) \$153,000,000 of the carbon pollution reduction account—state  
37 appropriation is provided solely for the implementation of the

1 working forestland and mills program and payments authorized under  
2 section 208 of this act.

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

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

6 The appropriation in this section is subject to the following  
7 conditions and limitations: The appropriation in this section is  
8 provided solely for the implementation of Substitute House Bill No.  
9 1314 (carbon pollution accountability act).

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

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

13 The appropriation in this section is subject to the following  
14 conditions and limitations: The appropriation in this section is  
15 provided solely for the implementation of Substitute House Bill No.  
16 1314 (carbon pollution accountability act).

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

18 General Fund—State Appropriation (FY 2016) . . . . . \$517,000  
19 Carbon Pollution Reduction Account—State Appropriation. . . . \$45,000  
20 TOTAL APPROPRIATION. . . . . \$562,000

21 The appropriations in this section are subject to the following  
22 conditions and limitations: The appropriations in this section are  
23 provided solely for the implementation of Substitute House Bill No.  
24 1314 (carbon pollution accountability act).

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

26 Carbon Pollution Reduction Account—State  
27 Appropriation. . . . . \$500,000  
28 TOTAL APPROPRIATION. . . . . \$500,000

29 The appropriation in this section is subject to the following  
30 conditions and limitations: The appropriation in this section is  
31 provided solely for the state board of health to provide staffing  
32 support for the work of the cumulative economic impacts taskforce  
33 pursuant to section 119 of this act.

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

2	Legal Services Revolving Account—State Appropriation . . . . .	\$467,000
3	TOTAL APPROPRIATION. . . . .	\$467,000

4        The appropriation in this section is subject to the following  
5 conditions and limitations: The appropriation in this section is  
6 provided solely for the implementation of Substitute House Bill No.  
7 1314 (carbon pollution accountability act). If the bill is not  
8 enacted by June 30, 2015, the amount provided in this subsection  
9 shall lapse.

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

11	Carbon Pollution Reduction Account: For transfer	
12	to the housing trust fund, \$15,000,000 for	
13	fiscal year 2017 . . . . .	\$15,000,000

14       NEW SECTION.    **Sec. 401.    FOR THE STATE CONSERVATION COMMISSION**

15       Voluntary Stewardship Program Implementation

16       Appropriation:

17	Carbon Pollution Reduction Account—State. . . . .	\$3,830,000
18	Prior Biennia (Expenditures). . . . .	\$0
19	Future Biennia (Projected Costs). . . . .	\$0
20	TOTAL. . . . .	\$3,830,000

21       NEW SECTION.    **Sec. 402.    FOR THE STATE CONSERVATION COMMISSION**

22       CREP Riparian Cost Share—State Match

23       Appropriation:

24	Carbon Pollution Reduction Account—State. . . . .	\$1,300,000
25	Prior Biennia (Expenditures). . . . .	\$0
26	Future Biennia (Projected Costs). . . . .	\$0
27	TOTAL. . . . .	\$1,300,000

28       NEW SECTION.    **Sec. 403.    FOR THE DEPARTMENT OF NATURAL RESOURCES**

29       Forest Hazard Reduction

30       The appropriation in this section is subject to the following  
31 conditions and limitations: The appropriation is provided solely for  
32 forest health restoration treatments on state or private lands. The  
33 appropriation may be used for project planning, site preparation,

1 permitting, mechanical treatments, thinning treatments, or prescribed  
2 burning.

3 Appropriation:

4	Carbon Pollution Reduction Account—State. . . . .	\$10,000,000
5	Prior Biennia (Expenditures). . . . .	\$0
6	Future Biennia (Projected Costs). . . . .	\$0
7	TOTAL. . . . .	\$10,000,000

8 NEW SECTION. **Sec. 404. FOR THE DEPARTMENT OF NATURAL RESOURCES**

9 Forest Riparian Easement Program

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

18 Appropriation:

19	Carbon Pollution Reduction Account—State. . . . .	\$7,600,000
20	Prior Biennia (Expenditures). . . . .	\$0
21	Future Biennia (Projected Costs). . . . .	\$0
22	TOTAL. . . . .	\$7,600,000

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

24 **FUNDING BOARD**

25 Forest Carbon Easement Program

26 The appropriation in this section is subject to the following  
27 conditions and limitations: This appropriation is provided solely to  
28 implement the working forest conservation easement program  
29 established in section 209 of this act. The board may retain a  
30 portion of the funds appropriated for its office for the  
31 administration of the program and purposes specified in section 209  
32 of this act not to exceed four and three-tenths percent.

33 Appropriation:

34	Carbon Pollution Reduction Account—State. . . . .	\$30,000,000
35	Prior Biennia (Expenditures). . . . .	\$0

1 Future Biennia (Projected Costs). . . . . \$0  
2 TOTAL. . . . . \$30,000,000

3 NEW SECTION. **Sec. 406. FOR THE RECREATION AND CONSERVATION**  
4 **FUNDING BOARD**

5 Coastal Restoration Initiative

6 Appropriation:

7 Carbon Pollution Reduction Account—State. . . . . \$8,200,000  
8 Prior Biennia (Expenditures). . . . . \$0  
9 Future Biennia (Projected Costs). . . . . \$0  
10 TOTAL. . . . . \$8,200,000

11 NEW SECTION. **Sec. 407. FOR THE RECREATION AND CONSERVATION**  
12 **FUNDING BOARD**

13 Family Forest Fish Passage Program

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

24 Appropriation:

25 Carbon Pollution Reduction Account—State. . . . . \$6,500,000  
26 Prior Biennia (Expenditures). . . . . \$0  
27 Future Biennia (Projected Costs). . . . . \$0  
28 TOTAL. . . . . \$6,500,000

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

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

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

6        NEW SECTION.    **Sec. 504.**    Section 202 of this act expires June 30,  
7 2019.

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

10       NEW SECTION.    **Sec. 506.**    If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

14       NEW SECTION.    **Sec. 507.**    This act is necessary for the immediate  
15 preservation of the public peace, health, or safety, or support of  
16 the state government and its existing public institutions, and takes  
17 effect immediately.

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