

**E2SSB 5141** - H AMD

By Representative Fitzgibbon

ADOPTED AND ENGROSSED 04/10/2021

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The purpose of  
4 this chapter is to reduce environmental and health disparities in  
5 Washington state and improve the health of all Washington state  
6 residents. This chapter implements the recommendations of the  
7 environmental justice task force established in section 221(48),  
8 chapter 415, Laws of 2019 entitled "Report to the Washington state  
9 governor and legislature, *Environmental Justice Task Force:*  
10 *Recommendations for Prioritizing EJ in Washington State Government*  
11 (October 2020)."

12 (2) As conveyed in the task force report, Washington state  
13 studies and national studies found that people of color and low-  
14 income people continue to be disproportionately exposed to  
15 environmental harms in their communities. As a result, there is a  
16 higher risk of adverse health outcomes for those communities. This  
17 risk is amplified when overlaid on communities with preexisting  
18 social and economic barriers and environmental risks, and creates  
19 cumulative environmental health impacts, which this act seeks to  
20 prevent and mitigate.

21 This chapter also seeks to reduce exposure to environmental  
22 hazards within Indian country, as defined in 18 U.S.C. Sec. 1151, due  
23 to off-reservation activities within the state, and to improve state  
24 practices to reduce contamination of traditional foods wherever they  
25 occur. Exposure to such hazards can result in generational health and  
26 ecological problems, particularly on small reservations where it is  
27 impossible to move away from a hazard.

28 (3) Accordingly, the state has a compelling interest in  
29 preventing and addressing such environmental health disparities in  
30 the administration of ongoing and new environmental programs,  
31 including allocation of funds, and in administering these programs so  
32 as to remedy the effects of past disparate treatment of overburdened  
33 communities and vulnerable populations.

1 (4) The task force provided recommendations to state agencies for  
2 measurable goals and model policies to reduce environmental health  
3 inequities in Washington, equitable practices for meaningful  
4 community involvement, and how to use the environmental health  
5 disparities map to identify and promote the equitable distribution of  
6 environmental benefits to overburdened communities. In order for all  
7 communities in Washington state to be healthy and thriving, state  
8 government should aim to concentrate government actions to benefit  
9 communities that currently have the greatest environmental and health  
10 burdens.

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

14 (1) "Council" means the environmental justice council established  
15 in section 20 of this act.

16 (2) "Covered agency" means the departments of ecology, health,  
17 natural resources, commerce, agriculture, and transportation, the  
18 Puget Sound partnership, and any agency that opts to assume all of  
19 the obligations of this act pursuant to section 11 of this act.

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

23 (4) "Environmental benefits" means activities that:

24 (a) Prevent or reduce existing environmental harms or associated  
25 risks that contribute significantly to cumulative environmental  
26 health impacts;

27 (b) Prevent or mitigate impacts to overburdened communities or  
28 vulnerable populations from, or support community response to, the  
29 impacts of environmental harm; or

30 (c) Meet a community need formally identified to a covered agency  
31 by an overburdened community or vulnerable population that is  
32 consistent with the intent of this chapter.

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

36 (a) Exposure to pollution, conventional or toxic pollutants,  
37 environmental hazards, or other contamination in the air, water, and  
38 land;

1 (b) Adverse environmental effects, including exposure to  
2 contamination, hazardous substances, or pollution that increase the  
3 risk of adverse environmental health outcomes or create  
4 vulnerabilities to the impacts of climate change;

5 (c) Loss or impairment of ecosystem functions or traditional food  
6 resources or loss of access to gather cultural resources or harvest  
7 traditional foods; or

8 (d) Health and economic impacts from climate change.

9 (6) "Environmental health disparities map" means the data and  
10 information developed pursuant to section 19 of this act.

11 (7) "Environmental impacts" means environmental benefits or  
12 environmental harms, or the combination of environmental benefits and  
13 harms, resulting or expected to result from a proposed action.

14 (8) "Environmental justice" means the fair treatment and  
15 meaningful involvement of all people regardless of race, color,  
16 national origin, or income with respect to the development,  
17 implementation, and enforcement of environmental laws, rules, and  
18 policies. Environmental justice includes addressing disproportionate  
19 environmental and health impacts in all laws, rules, and policies  
20 with environmental impacts by prioritizing vulnerable populations and  
21 overburdened communities, the equitable distribution of resources and  
22 benefits, and eliminating harm.

23 (9) "Equitable distribution" means a fair and just, but not  
24 necessarily equal, allocation intended to mitigate disparities in  
25 benefits and burdens that are based on current conditions, including  
26 existing legacy and cumulative impacts, that are informed by  
27 cumulative environmental health impact analysis.

28 (10) "Evidence-based" means a process that is conducted by a  
29 systematic review of available data based on a well-established and  
30 widely used hierarchy of data in current use by other state and  
31 national programs, selected by the departments of ecology and health.  
32 The environmental justice council may provide input on the  
33 development of the process.

34 (11) "Overburdened community" means a geographic area where  
35 vulnerable populations face combined, multiple environmental harms  
36 and health impacts, and includes, but is not limited to, highly  
37 impacted communities as defined in RCW 19.405.020.

38 (12) "Significant agency action" means the following actions as  
39 identified at the beginning of a covered agency's consideration of  
40 the significant agency action or at the time when an environmental

1 justice assessment would normally be initiated in conjunction with an  
2 agency action:

3 (a) The development and adoption of significant legislative rules  
4 as defined in RCW 34.05.328;

5 (b) The development and adoption of any new grant or loan program  
6 that a covered agency is explicitly authorized or required by statute  
7 to carry out;

8 (c) A capital project, grant, or loan award by a covered agency  
9 of at least \$12,000,000 or a transportation project, grant, or loan  
10 by a covered agency of at least \$15,000,000;

11 (d) The submission of agency request legislation to the office of  
12 the governor or the office of financial management for approval; and

13 (e) Any other agency actions deemed significant by a covered  
14 agency consistent with section 14 of this act.

15 (13) "Tribal lands" has the same meaning as "Indian country" as  
16 provided in 18 U.S.C. Sec. 1151, and also includes sacred sites,  
17 traditional cultural properties, burial grounds, and other tribal  
18 sites protected by federal or state law.

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

28 (b) "Vulnerable populations" includes, but is not limited to:

29 (i) Racial or ethnic minorities;

30 (ii) Low-income populations;

31 (iii) Populations disproportionately impacted by environmental  
32 harms; and

33 (iv) Populations of workers experiencing environmental harms.

34 NEW SECTION. **Sec. 3.** ENVIRONMENTAL JUSTICE OBLIGATIONS FOR ALL  
35 AGENCIES. Covered agencies are required to comply with all provisions  
36 of this chapter. All other state agencies should strive to apply the  
37 laws of the state of Washington, and the rules and policies of the  
38 agency, in accordance with the policies of this chapter including, to  
39 the extent feasible, incorporating the principles of environmental

1 justice assessment processes set forth in section 14 of this act into  
2 agency decisions.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.70  
4 RCW to read as follows:

5 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF HEALTH.  
6 The department must apply and comply with the substantive and  
7 procedural requirements of chapter 70A.--- RCW (the new chapter  
8 created in section 25 of this act).

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.21A  
10 RCW to read as follows:

11 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF ECOLOGY.  
12 The department must apply and comply with the substantive and  
13 procedural requirements of chapter 70A.--- RCW (the new chapter  
14 created in section 25 of this act).

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.23  
16 RCW to read as follows:

17 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF  
18 AGRICULTURE. The department must apply and comply with the  
19 substantive and procedural requirements of chapter 70A.--- RCW (the  
20 new chapter created in section 25 of this act).

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.30  
22 RCW to read as follows:

23 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF NATURAL  
24 RESOURCES. The department must apply and comply with the substantive  
25 and procedural requirements of chapter 70A.--- RCW (the new chapter  
26 created in section 25 of this act).

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.330  
28 RCW to read as follows:

29 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF COMMERCE.  
30 The department must apply and comply with the substantive and  
31 procedural requirements of chapter 70A.--- RCW (the new chapter  
32 created in section 25 of this act).

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 47.01  
34 RCW to read as follows:

1 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF  
2 TRANSPORTATION. The department must apply and comply with the  
3 substantive and procedural requirements of chapter 70A.--- RCW (the  
4 new chapter created in section 25 of this act).

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.71  
6 RCW to read as follows:

7 ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE PUGET SOUND PARTNERSHIP.  
8 The partnership must apply and comply with the substantive and  
9 procedural requirements of chapter 70A.--- RCW (the new chapter  
10 created in section 25 of this act).

11 NEW SECTION. **Sec. 11.** AUTHORITY OF OTHER AGENCIES TO OPT IN TO  
12 ENVIRONMENTAL JUSTICE OBLIGATIONS. (1) Any state agency, as the term  
13 "agency" is defined in RCW 34.05.010, including the governor's office  
14 and the office of the attorney general but excluding local  
15 governmental entities, may opt in to assume all of the substantive  
16 and procedural requirements of covered agencies under chapter 70A.---  
17 RCW (the new chapter created in section 25 of this act) at any time  
18 by notifying the council established in section 20 of this act.

19 (2) An agency that opts in to assume all of the substantive and  
20 procedural requirements of chapter 70A.--- RCW (the new chapter  
21 created in section 25 of this act) is not subject to the deadlines or  
22 timelines established in sections 12, 13, 14, 16, and 20 of this act.

23 NEW SECTION. **Sec. 12.** INCORPORATING ENVIRONMENTAL JUSTICE INTO  
24 AGENCY STRATEGIC PLANS. (1) By January 1, 2023, each covered agency  
25 shall include an environmental justice implementation plan within its  
26 strategic plan. A covered agency may additionally incorporate an  
27 environmental justice implementation plan into other significant  
28 agency planning documents. The plan must describe how the covered  
29 agency plans to apply the principles of environmental justice to the  
30 agency's activities and must guide the agency in its implementation  
31 of its obligations under this chapter.

32 (2) In its environmental justice implementation plan, each  
33 covered agency must include:

34 (a) Agency-specific goals and actions to reduce environmental and  
35 health disparities and for otherwise achieving environmental justice  
36 in the agency's programs;

1 (b) Metrics to track and measure accomplishments of the agency  
2 goals and actions;

3 (c) Methods to embed equitable community engagement with, and  
4 equitable participation from, members of the public, into agency  
5 practices for soliciting and receiving public comment;

6 (d) Strategies to ensure compliance with existing federal and  
7 state laws and policies relating to environmental justice, including  
8 Title VI of the civil rights act of 1964, 42 U.S.C. Sec.  
9 2000d-2000d-4, Title IX of the Education Amendments of 1972, 20  
10 U.S.C. Sec. 1681-1683, Section 504 of the Rehabilitation Act of 1973,  
11 29 U.S.C. Sec. 794, and the age discrimination act of 1975, 42 U.S.C.  
12 Sec. 6101-6107;

13 (e) The plan for community engagement required under section 13  
14 of this act; and

15 (f) Specific plans and timelines for incorporating environmental  
16 justice considerations into agency activities as required under this  
17 chapter.

18 (3) In developing and updating its plan, each covered agency must  
19 consider any guidance developed by the council pursuant to section 20  
20 of this act.

21 NEW SECTION. **Sec. 13.** EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC  
22 PARTICIPATION. (1) By July 1, 2022, each covered agency must create  
23 and adopt a community engagement plan that describes how it will  
24 engage with overburdened communities and vulnerable populations as it  
25 evaluates new and existing activities and programs. This plan must  
26 describe how the agency plans to facilitate equitable participation  
27 and support meaningful and direct involvement of vulnerable  
28 populations and overburdened communities. The plan must include:

29 (a) How the covered agency will identify and prioritize  
30 overburdened communities for purposes of this chapter;

31 (b) Best practices for outreach and communication to overcome  
32 barriers to engagement with overburdened communities and vulnerable  
33 populations;

34 (c) Use of special screening tools that integrate environmental,  
35 demographic, and health disparities data, such as the environmental  
36 health disparities map, to evaluate and understand the nature and  
37 needs of the people who the agency expects to be impacted by  
38 significant agency actions under section 14 of this act and processes  
39 under section 16 of this act to overcome barriers to participation;

1 (d) Processes that facilitate and support the inclusion of  
2 members of communities affected by agency decision making including,  
3 to the extent legal and practicable, but not limited to, child care  
4 and reimbursement for travel and other expenses; and

5 (e) Methods for outreach and communication with those who face  
6 barriers, language or otherwise, to participation.

7 (2) Covered agencies must regularly review their compliance with  
8 existing laws and policies that guide community engagement and must  
9 comply with the following:

10 (a) Title VI of the civil rights act, prohibiting discrimination  
11 based on race, color, or national origin and requiring meaningful  
12 access to people with limited English proficiency, and disability;

13 (b) Executive Order 05-03, requiring plain talk when  
14 communicating with the public; and

15 (c) Guidance related to Executive Order 13166, requiring  
16 meaningful access to agency programs and services for people with  
17 limited English proficiency.

18 (3) In developing and updating its plan, each covered agency must  
19 consider any guidance developed by the council pursuant to section 20  
20 of this act.

21 (4) A covered agency may coordinate with the office of equity to  
22 identify policy and system barriers to meaningful engagement with  
23 communities as conducted by the office under RCW 43.06D.040(1)(b).

24 NEW SECTION. **Sec. 14.** ENVIRONMENTAL JUSTICE ASSESSMENT. (1)(a)  
25 When considering a significant agency action initiated after July 1,  
26 2023, a covered agency must conduct an environmental justice  
27 assessment in accordance with this section to inform and support the  
28 agency's consideration of overburdened communities and vulnerable  
29 populations when making decisions and to assist the agency with the  
30 equitable distribution of environmental benefits, the reduction of  
31 environmental harms, and the identification and reduction of  
32 environmental and health disparities.

33 (b) A covered agency must aspire to complete the environmental  
34 justice assessment for a significant agency action without delaying  
35 the completion of the underlying agency action.

36 (2)(a) Consistent with section 2(12)(e) of this act, for the  
37 purpose of preparing environmental justice assessments, a covered  
38 agency may deem actions significant that are additional to the  
39 significant agency actions identified in section 2(12)(a) through



1 (d) of this act, in iterative consultation with the council and  
2 interagency work group established under section 20 of this act. By  
3 July 1, 2025, each covered agency must consider their agency's  
4 activities and identify and begin applying environmental justice  
5 assessments to any actions that the agency identifies as significant  
6 that are in addition to the significant agency actions identified in  
7 section 2(12) (a) through (d) of this act. Significant agency actions  
8 designated by a covered agency under this subsection must be actions  
9 that may cause environmental harm or may affect the equitable  
10 distribution of environmental benefits to an overburdened community  
11 or a vulnerable population.

12 (b) In the identification of significant agency actions, covered  
13 agencies shall consider guidance issued by the council established in  
14 section 20 of this act. Each covered agency must periodically review  
15 and update its identified types of significant agency actions for  
16 which an environmental justice assessment is required under this  
17 section, and the relevant factors to the agency's environmental  
18 justice assessments that result from the unique mission, authorities,  
19 and priorities of the agency.

20 (3) By July 1, 2023, and periodically thereafter, after an  
21 opportunity for public comment on its determinations, each covered  
22 agency must:

23 (a) Publish on its website the types of agency actions that the  
24 agency has determined are significant agency actions that require an  
25 environmental justice assessment under this section, including any  
26 significant agency actions identified under subsection (2)(a) of this  
27 section;

28 (b) Provide notification of the determination of the types of  
29 significant agency actions in the Washington State Register; and

30 (c) Prepare an environmental justice assessment when considering  
31 a listed action, after publication of the list of any additional  
32 significant agency actions identified under (a) of this subsection.

33 (4) The environmental justice assessment obligation of a covered  
34 agency for a significant agency action under this section is  
35 satisfied by the completion by the covered agency of a checklist  
36 developed by the covered agency that functions akin to the  
37 environmental checklist developed by the department of ecology  
38 pursuant to chapter 43.21C RCW, and that directs the covered agency  
39 to at a minimum:

1 (a) Consider guidance prepared by the council under section 20 of  
2 this act relating to best practices on environmental justice  
3 assessments and when and how to use cumulative environmental health  
4 impact analysis;

5 (b) Where applicable, use cumulative environmental health impact  
6 analysis, such as the environmental health disparities map or other  
7 data that considers the effects of a proposed action on overburdened  
8 communities and vulnerable populations;

9 (c) Identify overburdened communities and vulnerable populations  
10 who are expected to be affected by the proposed action and the  
11 potential environmental and health impacts;

12 (d) Pursuant to the consultation process in section 18 of this  
13 act, identify if the proposed action is expected to have any local or  
14 regional impacts to federally reserved tribal rights and resources  
15 including, but not limited to, those protected by treaty, executive  
16 order, or federal law;

17 (e) Summarize community input and describe how the covered agency  
18 can further involve overburdened communities, vulnerable populations,  
19 affected tribes, and indigenous populations in development of the  
20 proposed action; and

21 (f) Describe options for the agency to reduce, mitigate, or  
22 eliminate identified probable impacts on overburdened communities and  
23 vulnerable populations, or provide a justification for not reducing,  
24 mitigating, or eliminating identified probable impacts.

25 (5)(a) To obtain information for the purposes of assessments, a  
26 covered agency must solicit feedback from members of overburdened  
27 communities and vulnerable populations to assist in the accurate  
28 assessment of the potential impact of the action and in developing  
29 the means to reduce or eliminate the impact on overburdened  
30 communities and vulnerable populations.

31 (b) A covered agency may include items in the checklist required  
32 under subsection (4) of this section that are not specified in  
33 subsection (4) of this section.

34 (c) The completion of an environmental justice checklist under  
35 subsection (4) of this section is not required to be a comprehensive  
36 or an exhaustive examination of all potential impacts of a  
37 significant agency action and does not require a covered agency to  
38 conduct novel quantitative or economic analysis of the proposed  
39 significant agency action.

1 (6) Based on the environmental justice assessment, each covered  
2 agency must seek, to the extent legal and feasible and consistent  
3 with the underlying statute being implemented, to reduce or eliminate  
4 the environmental harms and maximize the environmental benefits  
5 created by the significant agency action on overburdened communities  
6 and vulnerable populations. Consistent with agency authority,  
7 mission, and statutory responsibilities, the covered agency must  
8 consider each of the following methods for reducing environmental  
9 harms or equitably distributing environmental benefits:

10 (a) Eliminating the disparate impact of environmental harms on  
11 overburdened communities and vulnerable populations;

12 (b) Reducing cumulative environmental health impacts on  
13 overburdened communities or vulnerable populations;

14 (c) Preventing the action from adding to the cumulative  
15 environmental health impacts on overburdened communities or  
16 vulnerable populations;

17 (d) Providing equitable participation and meaningful engagement  
18 of vulnerable populations and overburdened communities in the  
19 development of the significant agency action;

20 (e) Prioritizing equitable distribution of resources and benefits  
21 to overburdened communities;

22 (f) Promoting positive workforce and job outcomes for  
23 overburdened communities;

24 (g) Meeting community needs identified by the affected  
25 overburdened community;

26 (h) Modifying substantive regulatory or policy requirements; and

27 (i) Any other mitigation techniques, including those suggested by  
28 the council, the office of equity, or representatives of overburdened  
29 communities and vulnerable populations.

30 (7) If the covered agency determines it does not have the ability  
31 or authority to avoid or reduce any estimated environmental harm of  
32 the significant agency action on overburdened communities and  
33 vulnerable populations or address the distribution of environmental  
34 and health benefits, the agency must provide a clear explanation of  
35 why it has made that determination and provide notice of that  
36 explanation to members of the public who participated in the process  
37 for the significant agency action or the process for the  
38 environmental justice assessment and who provided contact information  
39 to the agency.

1 (8) In developing a process for conducting environmental justice  
2 assessments, each covered agency must consider any guidance developed  
3 by the council pursuant to section 20 of this act.

4 (9) The issuance of forest practices permits under chapter 76.09  
5 RCW or sale of timber from state lands and state forestlands as  
6 defined in RCW 79.02.010 do not require an environmental justice  
7 assessment under this section.

8 NEW SECTION. **Sec. 15.** The obligation of a covered agency to  
9 conduct an environmental justice assessment pursuant to section 14 of  
10 this act for significant agency actions does not, by itself, trigger  
11 requirements in chapter 43.21C RCW.

12 NEW SECTION. **Sec. 16.** ENVIRONMENTAL JUSTICE OBLIGATIONS OF  
13 AGENCIES RELATING TO BUDGETS AND FUNDING. (1) With consideration of  
14 the guidelines issued by the council in section 20 of this act, and  
15 in iterative consultation with the council, each covered agency must  
16 incorporate environmental justice principles into its decision  
17 processes for budget development, making expenditures, and granting  
18 or withholding environmental benefits. Through the incorporation of  
19 environmental justice principles into its decision processes,  
20 including by conducting environmental justice assessments where  
21 required under section 14 of this act, each covered agency, to the  
22 extent allowed by law and consistent with legislative appropriations,  
23 must equitably distribute funding and expenditures related to  
24 programs that address or may cause environmental harms or provide  
25 environmental benefits towards overburdened communities and  
26 vulnerable populations.

27 (2) Beginning on or before July 1, 2023, each covered agency  
28 must, where practicable, take the following actions when making  
29 expenditure decisions or developing budget requests to the office of  
30 financial management and the legislature for programs that address or  
31 may cause environmental harms or provide environmental benefits:

32 (a) Focus applicable expenditures on creating environmental  
33 benefits that are experienced by overburdened communities and  
34 vulnerable populations, including reducing or eliminating  
35 environmental harms, creating community and population resilience,  
36 and improving the quality of life of overburdened communities and  
37 vulnerable populations;

1 (b) Create opportunities for overburdened communities and  
2 vulnerable populations to meaningfully participate in agency  
3 expenditure decisions;

4 (c) Clearly articulate environmental justice goals and  
5 performance metrics to communicate the basis for agency expenditures;

6 (d) Consider a broad scope of grants and contracting  
7 opportunities that effectuate environmental justice principles,  
8 including:

9 (i) Community grants to monitor pollution;

10 (ii) Grants focused on building capacity and providing training  
11 for community scientists and other staff;

12 (iii) Making technical assistance available for communities that  
13 may be new to receiving agency grant funding; and

14 (iv) Education and work readiness youth programs focused on  
15 infrastructure or utility-related internships to develop career paths  
16 and leadership skills for youth; and

17 (e) Establish a goal of directing 40 percent of grants and  
18 expenditures that create environmental benefits to vulnerable  
19 populations and overburdened communities.

20 (3) A covered agency may adopt rules or guidelines for criteria  
21 and procedures applicable to incorporating environmental justice  
22 principles in expenditure decisions, granting or withholding  
23 benefits, and processes for budget development.

24 (4) In incorporating environmental justice principles into its  
25 decision processes for budget development, making expenditures, and  
26 granting or withholding benefits, each covered agency must consider  
27 any guidance developed by the council pursuant to section 20 of this  
28 act.

29 (5) A covered agency may not take actions or make expenditures  
30 under this section that are inconsistent with or conflict with other  
31 statutes or with conditions or limitations on the agency's  
32 appropriations.

33 (6) If a covered agency, due to the breadth of its programs and  
34 funding opportunities, determines it is not practicable to take the  
35 actions listed in subsection (2) of this section for all applicable  
36 expenditure decisions and budget requests developed, the covered  
37 agency is encouraged to prioritize taking the actions listed in  
38 subsection (2) of this section for those budget requests and  
39 expenditure decisions that are primarily directed at addressing  
40 environmental impacts. By July 1, 2023, each covered agency must

1 publish on its website the types of decision processes for budget  
2 development, making expenditures, and granting or withholding  
3 environmental benefits for which the agency will take the actions  
4 listed in subsection (2) of this section.

5 NEW SECTION. **Sec. 17.** REPORTING REQUIREMENTS. (1) By September  
6 1st of each year, each covered agency must annually update the  
7 council on the development and implementation of environmental  
8 justice in agency strategic plans pursuant to section 12 of this act,  
9 budgeting and funding criteria for making budgeting and funding  
10 decisions pursuant to section 16 of this act, and community  
11 engagement plans pursuant to section 13 of this act.

12 (2) (a) Beginning in 2024, as part of each covered agency's annual  
13 update to the council under subsection (1) of this section, each  
14 covered agency must include updates on the agency's implementation  
15 status with respect to the environmental justice assessments under  
16 section 14 of this act.

17 (b) By September 1st of each year beginning in 2024, each covered  
18 agency must publish or update a dashboard report, in a uniform  
19 dashboard format on the office of financial management's website,  
20 describing the agency's progress on:

21 (i) Incorporating environmental justice in its strategic plan;

22 (ii) The obligations of agencies relating to budgets and funding  
23 under section 16 of this act; and

24 (iii) Its environmental justice assessments of proposed  
25 significant agency actions, including logistical metrics related to  
26 covered agency completion of environmental justice assessments.

27 (3) Each covered agency must file a notice with the office of  
28 financial management of significant agency actions for which the  
29 agency is initiating an environmental justice assessment under  
30 section 14 of this act. The office of financial management must  
31 prepare a list of all filings received from covered agencies each  
32 week and must post the list on its website and make it available to  
33 any interested parties. The list of filings must include a brief  
34 description of the significant agency action and the methods for  
35 providing public comment for agency consideration as part of the  
36 environmental justice assessment.

37 (4) Each covered agency must identify overburdened communities,  
38 as required by section 13 of this act, in such a way that the  
39 performance effectiveness of the duties created by this chapter can

1 be measured, including the effectiveness of environmental justice  
2 assessments required by section 14 of this act. Each covered agency  
3 may identify and prioritize overburdened communities as needed to  
4 accomplish the purposes of this chapter.

5 NEW SECTION. **Sec. 18.** TRIBAL CONSULTATION. (1) Covered agencies  
6 shall develop a consultation framework in coordination with tribal  
7 governments that includes best practices, protocols for  
8 communication, and collaboration with federally recognized tribes.  
9 Consistent with this framework, covered agencies must offer  
10 consultation with federally recognized Indian tribes on:

11 (a) The inclusion or updating of an environmental justice  
12 implementation plan within the covered agency's strategic plan  
13 required under section 12 of this act;

14 (b) The creation and adoption or updating of a community  
15 engagement plan required under section 13 of this act; and

16 (c) Significant agency actions under section 14 of this act that  
17 affect federally recognized Indian tribes' rights and interests in  
18 their tribal lands.

19 (2) The department of health must offer consultation with  
20 federally recognized Indian tribes on the development of the  
21 environmental health disparities map under section 19 of this act.

22 (3) The consultation under subsections (1) and (2) of this  
23 section must be independent of any public participation process  
24 required by state law, or by a state agency, and regardless of  
25 whether the agency receives a request for consultation from an Indian  
26 tribe.

27 (4) Nothing in this chapter is intended to direct, authorize, or  
28 encourage covered agencies to collect, maintain, or provide data  
29 related to sacred sites, traditional cultural properties, burial  
30 grounds, and other tribal sites protected by federal or state law.

31 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.70  
32 RCW to read as follows:

33 ENVIRONMENTAL HEALTH DISPARITIES MAP. (1) In consultation with  
34 the environmental justice council established in section 20 of this  
35 act, the department must continue to develop and maintain an  
36 environmental health disparities map with the most current available  
37 information necessary to identify cumulative environmental health  
38 impacts and overburdened communities. The department may also consult

1 with other interested partners, such as the University of Washington  
2 department of environmental and occupational health sciences, other  
3 academic partners, members of overburdened communities and vulnerable  
4 populations, and other agencies. The environmental health disparities  
5 map must include tools to:

6 (a) Track changes in environmental health disparities over time  
7 in an interactive, regularly updated display; and

8 (b) Measure the link between overall environmental health  
9 disparity map ranks, environmental data, vulnerable populations  
10 characteristics, such as race and income, and human health data.

11 (2) In further developing and maintaining the environmental  
12 health disparities map, the department must:

13 (a) Solicit feedback from representatives from overburdened  
14 communities and vulnerable populations through community engagement  
15 and listening sessions in all regions of the state and provide  
16 opportunities for public comment; and

17 (b) Request assistance from:

18 (i) State universities;

19 (ii) Other academic researchers, such as the Washington state  
20 institute for public policy, to perform modeling and create evidence-  
21 based indicators and to conduct sensitivity analyses to assess the  
22 impact of new indicators on communities and determinations of  
23 overburdened communities; and

24 (iii) Other state agencies to provide applicable statewide  
25 environmental and sampling data for air, water, soil, polluted sites,  
26 toxic waste, pesticides, toxic chemicals, and other applicable media.

27 (3) The department must:

28 (a) Document and publish a summary of the regular updates and  
29 revisions to the environmental health disparities map that happen  
30 over time as the new data becomes available, in order to help the  
31 public understand different versions of the map as they are  
32 published;

33 (b) At least every three years, perform a comprehensive  
34 evaluation of the map to ensure that the most current modeling and  
35 methods available to evaluate cumulative environmental health impacts  
36 are being used to develop and update the environmental health  
37 disparities map's indicators;

38 (c) Develop technical guidance for agencies that includes an  
39 online training video detailing a description of how to use the



1 environmental health disparities map's features, access source data,  
2 and explanation of map and indicator limitations; and

3 (d) Provide support and consultation to agencies on the use of  
4 the environmental health disparities map by Washington tracking  
5 network staff.

6 (4) (a) By November 1, 2022, the Washington state institute for  
7 public policy must conduct a technical review of the measures and  
8 methods used in the environmental health disparities map. The review  
9 must, to the extent possible, address the following:

10 (i) Identify how the measures used in the map compare to measures  
11 used in other similar tools that aim to identify communities that are  
12 disproportionately impacted as a result of environmental justice  
13 issues;

14 (ii) Compare characteristics such as the reliability, validity,  
15 and clinical importance of individual and composite measures included  
16 in the map and other similar tools; and

17 (iii) Compare methodologies used in the map to statistical  
18 methodologies used in other similar tools.

19 (b) The department of health and the University of Washington  
20 must provide technical documentation regarding current methods to the  
21 Washington state institute for public policy and must consult with  
22 the institute as needed to ensure that the institute has adequate  
23 information to complete the technical review.

24 (c) By November 1, 2022, the Washington state institute for  
25 public policy must submit a report on their findings to the office of  
26 the governor, the appropriate committees of the legislature, and the  
27 environmental justice council.

28 NEW SECTION. **Sec. 20.** ENVIRONMENTAL JUSTICE COUNCIL. (1) The  
29 environmental justice council is established to advise covered  
30 agencies on incorporating environmental justice into agency  
31 activities.

32 (2) The council consists of 14 members appointed by the governor.  
33 The councilmembers must be persons who are well-informed regarding  
34 and committed to the principles of environmental justice and who, to  
35 the greatest extent practicable, represent diversity in race,  
36 ethnicity, age, and gender, urban and rural areas, and different  
37 regions of the state. The members of the council shall elect two  
38 members to serve as cochairs for two-year terms. The council must  
39 include:

1 (a) Seven community representatives, including one youth  
2 representative, the nominations of which are based upon applied and  
3 demonstrated work and focus on environmental justice or a related  
4 field, such as racial or economic justice, and accountability to  
5 vulnerable populations and overburdened communities;

6 (i) The youth representative must be between the ages of 18 and  
7 25 at the time of appointment;

8 (ii) The youth representative serves a two-year term. All other  
9 community representatives serve four-year terms, with six  
10 representatives initially being appointed to four-year terms and five  
11 being initially appointed to two-year terms, after which they will be  
12 appointed to four-year terms;

13 (b) Two members representing tribal communities, one from eastern  
14 Washington and one from western Washington, appointed by the  
15 governor. The governor shall solicit and consider nominees from each  
16 of the federally recognized tribes in Washington state. The governor  
17 shall collaborate with federally recognized tribes on the selection  
18 of tribal representatives. The tribal representatives serve four-year  
19 terms. One representative must be initially appointed for a four-year  
20 term. The other representative must be initially appointed for a two-  
21 year term, after which, that representative must be appointed for a  
22 four-year term;

23 (c) Two representatives who are environmental justice  
24 practitioners or academics to serve as environmental justice experts,  
25 the nominations of which are based upon applied and demonstrated work  
26 and focus on environmental justice;

27 (d) (i) One representative of a business that is regulated by a  
28 covered agency and whose ordinary business conditions are  
29 significantly affected by the actions of at least one other covered  
30 agency; and

31 (ii) One representative who is a member or officer of a union  
32 representing workers in the building and construction trades; and

33 (e) One representative at large, the nomination of which is based  
34 upon applied and demonstrated work and focus on environmental  
35 justice.

36 (3) Covered agencies shall serve as nonvoting, ex officio  
37 liaisons to the council. Each covered agency must identify an  
38 executive team level staff person to participate on behalf of the  
39 agency.

1 (4) Nongovernmental members of the council must be compensated  
2 and reimbursed in accordance with RCW 43.03.050, 43.03.060, and  
3 43.03.220.

4 (5) The department of health must:

5 (a) Hire a manager who is responsible for overseeing all staffing  
6 and administrative duties in support of the council; and

7 (b) Provide all administrative and staff support for the council.

8 (6) In collaboration with the office of equity, the office of  
9 financial management, the council, and covered agencies, the  
10 department of health must:

11 (a) Establish standards for the collection, analysis, and  
12 reporting of disaggregated data as it pertains to tracking population  
13 level outcomes of communities;

14 (b) Create statewide and agency-specific process and outcome  
15 measures to show performance:

16 (i) Using outcome-based methodology to determine the  
17 effectiveness of agency programs and services on reducing  
18 environmental disparities; and

19 (ii) Taking into consideration community feedback from the  
20 council on whether the performance measures established accurately  
21 measure the effectiveness of covered agency programs and services in  
22 the communities served; and

23 (c) Create an online performance dashboard to publish performance  
24 measures and outcomes as referenced in section 17 of this act for the  
25 state and each covered agency.

26 (7) The department of health must coordinate with the  
27 consolidated technology services agency to address cybersecurity and  
28 data protection for all data collected by the department.

29 (8)(a) With input and assistance from the council, the department  
30 of health must establish an interagency work group to assist covered  
31 agencies in incorporating environmental justice into agency decision  
32 making. The work group must include staff from each covered agency  
33 directed to implement environmental justice provisions under this  
34 chapter and may include members from the council. The department of  
35 health shall provide assistance to the interagency work group by:

36 (i) Facilitating information sharing among covered agencies on  
37 environmental justice issues and between agencies and the council;

38 (ii) Developing and providing assessment tools for covered  
39 agencies to use in the development and evaluation of agency programs,  
40 services, policies, and budgets;

1 (iii) Providing technical assistance and compiling and creating  
2 resources for covered agencies to use; and

3 (iv) Training covered agency staff on effectively using data and  
4 tools for environmental justice assessments.

5 (b) The duties of the interagency work group include:

6 (i) Providing technical assistance to support agency compliance  
7 with the implementation of environmental justice into their strategic  
8 plans, environmental justice obligations for budgeting and funding  
9 criteria and decisions, environmental justice assessments, and  
10 community engagement plans;

11 (ii) Assisting the council in developing a suggested schedule and  
12 timeline for sequencing the types of: (A) Funding and expenditure  
13 decisions subject to rules; and (B) criteria incorporating  
14 environmental justice principles;

15 (iii) Identifying other policies, priorities, and projects for  
16 the council's review and guidance development;

17 (iv) Identifying goals and metrics that the council may use to  
18 assess agency performance in meeting the requirements of this act for  
19 purposes of communicating progress to the public, the governor, and  
20 the legislature; and

21 (v) Developing the guidance under subsection (9)(c) of this  
22 section in coordination with the council.

23 (9) The council has the following powers and duties:

24 (a) To provide a forum for the public to:

25 (i) Provide written or oral testimony on their environmental  
26 justice concerns;

27 (ii) Assist the council in understanding environmental justice  
28 priorities across the state in order to develop council  
29 recommendations to agencies for issues to prioritize; and

30 (iii) Identify which agencies to contact with their specific  
31 environmental justice concerns and questions;

32 (b)(i) The council shall work in an iterative fashion with the  
33 interagency work group to develop guidance for environmental justice  
34 implementation into covered agency strategic plans pursuant to  
35 section 12 of this act, environmental justice assessments pursuant to  
36 section 14 of this act, budgeting and funding criteria for making  
37 budgeting and funding decisions pursuant to section 16 of this act,  
38 and community engagement plans pursuant to section 13 of this act;

39 (ii) The council and interagency work group shall regularly  
40 update its guidance;

1 (c) In consultation with the interagency work group, the council:  
2 (i) Shall provide guidance to covered agencies on developing  
3 environmental justice assessments pursuant to section 14 of this act  
4 for significant agency actions;  
5 (ii) Shall make recommendations to covered agencies on which  
6 agency actions may cause environmental harm or may affect the  
7 equitable distribution of environmental benefits to an overburdened  
8 community or a vulnerable population and therefore should be  
9 considered significant agency actions that require an environmental  
10 justice assessment under section 14 of this act;  
11 (iii) Shall make recommendations to covered agencies:  
12 (A) On the identification and prioritization of overburdened  
13 communities under this chapter; and  
14 (B) Related to the use by covered agencies of the environmental  
15 and health disparities map in agency efforts to identify and  
16 prioritize overburdened communities;  
17 (iv) May make recommendations to a covered agency on the timing  
18 and sequencing of a covered agencies' efforts to implement sections  
19 12 through 16 of this act; and  
20 (v) May make recommendations to the governor and the legislature  
21 regarding ways to improve agency compliance with the requirements of  
22 this chapter;  
23 (d) By December 1, 2023, and biennially thereafter, and with  
24 consideration of the information shared on September 1st each year in  
25 covered agencies' annual updates to the council required under  
26 section 17 of this act, the council must:  
27 (i) Evaluate the progress of each agency in applying council  
28 guidance, and update guidance as needed; and  
29 (ii) Communicate each covered agency's progress to the public,  
30 the governor, and the legislature. This communication is not required  
31 to be a report and may take the form of a presentation or other  
32 format that communicates the progress of the state and its agencies  
33 in meeting the state's environmental justice goals in compliance with  
34 this act, and summarizing the work of the council pursuant to (a)  
35 through (d) of this subsection, and subsection (11) of this section.  
36 (10) By November 30, 2023, and in compliance with RCW 43.01.036,  
37 the council must submit a report to the governor and the appropriate  
38 committees of the house of representatives and the senate on:  
39 (a) The council's recommendations to covered agencies on the  
40 identification of significant agency actions requiring an

1 environmental justice assessment under subsection (9)(c)(ii) of this  
2 section;

3 (b) The summary of covered agency progress reports provided to  
4 the council under section 17(1) of this act, including the status of  
5 agency plans for performing environmental justice assessments  
6 required by section 14 of this act; and

7 (c) Guidance for environmental justice implementation into  
8 covered agency strategic plans, environmental justice assessments,  
9 budgeting and funding criteria, and community engagement plans under  
10 subsection (9)(c)(i) of this section.

11 (11) The council may:

12 (a) Review incorporation of environmental justice implementation  
13 plans into covered agency strategic plans pursuant to section 12 of  
14 this act, environmental justice assessments pursuant to section 14 of  
15 this act, budgeting and funding criteria for making budgeting and  
16 funding decisions pursuant to section 16 of this act, and community  
17 engagement plans pursuant to section 13 of this act;

18 (b) Make recommendations for amendments to this chapter or other  
19 legislation to promote and achieve the environmental justice goals of  
20 the state;

21 (c) Review existing laws and make recommendations for amendments  
22 that will further environmental justice;

23 (d) Recommend to specific agencies that they create environmental  
24 justice-focused, agency-requested legislation;

25 (e) Provide requested assistance to state agencies other than  
26 covered agencies that wish to incorporate environmental justice  
27 principles into agency activities; and

28 (f) Recommend funding strategies and allocations to build  
29 capacity in vulnerable populations and overburdened communities to  
30 address environmental justice.

31 (12) The role of the council is purely advisory and council  
32 decisions are not binding on an agency, individual, or organization.

33 (13) The department of health must convene the first meeting of  
34 the council by January 1, 2022.

35 (14) All council meetings are subject to the open public meetings  
36 requirements of chapter 42.30 RCW and a public comment period must be  
37 provided at every meeting of the council.

38 NEW SECTION. **Sec. 21.** LEGAL OBLIGATIONS. (1) Nothing in this  
39 act prevents state agencies that are not covered agencies from

1 adopting environmental justice policies and processes consistent with  
2 this act.

3 (2) The head of a covered agency may, on a case-by-case basis,  
4 exempt a significant agency action or decision process from the  
5 requirements of sections 14 and 16 of this act upon determining that:

6 (a) Any delay in the significant agency action poses a  
7 potentially significant threat to human health or the environment, or  
8 is likely to cause serious harm to the public interest;

9 (b) An assessment would delay a significant agency decision  
10 concerning the assessment, collection, or administration of any tax,  
11 tax program, debt, revenue, receipt, a regulated entity's financial  
12 filings, or insurance rate or form filing;

13 (c) The requirements of sections 14 and 16 of this act are in  
14 conflict with:

15 (i) Federal law or federal program requirements;

16 (ii) The requirements for eligibility of employers in this state  
17 for federal unemployment tax credits; or

18 (iii) Constitutional limitations or fiduciary obligations,  
19 including those applicable to the management of state lands and state  
20 forestlands as defined in RCW 79.02.010.

21 (3) A covered agency may not, for the purposes of implementing  
22 any of its responsibilities under this chapter, contract with an  
23 entity that employs a lobbyist registered under RCW 42.17A.600 that  
24 is lobbying on behalf of that entity.

25 NEW SECTION. **Sec. 22.** APPEALS. (1) Except as specified in  
26 subsection (2) of this section, the actions and duties set forth in  
27 this act are not subject to appeal.

28 (2)(a) Only the following agency actions undertaken pursuant to  
29 this act are subject to appeal:

30 (i) Decisions related to the designation of significant agency  
31 actions pursuant to section 14(3)(a) of this act; and

32 (ii) Environmental justice assessments prepared pursuant to  
33 section 14 of this act, only for environmental justice assessments  
34 for which there is an associated agency action that is appealable.

35 (b) Appeals of environmental justice assessments allowed under  
36 (a)(ii) of this subsection must be of the environmental justice  
37 assessment together with the accompanying agency action, as defined  
38 in RCW 34.05.010.

1 (3) Nothing in this act may be construed to create a new private  
2 right of action, other than as described in this section, on the part  
3 of any individual, entity, or agency against any state agency.

4 (4) Nothing in this act may be construed to expand, contract, or  
5 otherwise modify any rights of appeal, or procedures for appeal,  
6 under other laws other than the availability of the appeal process  
7 described in this section.

8 **Sec. 23.** RCW 43.376.020 and 2012 c 122 s 2 are each amended to  
9 read as follows:

10 In establishing a government-to-government relationship with  
11 Indian tribes, state agencies must:

12 (1) Make reasonable efforts to collaborate with Indian tribes in  
13 the development of policies, agreements, and program implementation  
14 that directly affect Indian tribes and develop a consultation process  
15 that is used by the agency for issues involving specific Indian  
16 tribes. Covered agencies, as defined in section 2 of this act,  
17 subject to the requirements of chapter 70A.--- RCW (the new chapter  
18 created in section 25 of this act), must offer consultation with  
19 Indian tribes on the actions specified in section 18 of this act;

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

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

25 (4) Submit an annual report to the governor on activities of the  
26 state agency involving Indian tribes and on implementation of this  
27 chapter.

28 **Sec. 24.** RCW 34.05.030 and 2015 3rd sp.s. c 1 s 309 are each  
29 amended to read as follows:

30 (1) This chapter shall not apply to:

31 (a) The state militia, or

32 (b) The board of clemency and pardons, or

33 (c) The department of corrections or the indeterminate sentencing  
34 review board with respect to persons who are in their custody or are  
35 subject to the jurisdiction of those agencies.

36 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
37 apply:



1 (a) To adjudicative proceedings of the board of industrial  
2 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

3 (b) Except for actions pursuant to chapter 46.29 RCW, to the  
4 denial, suspension, or revocation of a driver's license by the  
5 department of licensing;

6 (c) To the department of labor and industries where another  
7 statute expressly provides for review of adjudicative proceedings of  
8 a department action, order, decision, or award before the board of  
9 industrial insurance appeals;

10 (d) To actions of the Washington personnel resources board, the  
11 director of financial management, and the department of enterprise  
12 services when carrying out their duties under chapter 41.06 RCW;

13 (e) To adjustments by the department of revenue of the amount of  
14 the surcharge imposed under RCW 82.04.261; (~~(e)~~)

15 (f) To actions to implement the provisions of chapter 70A.--- RCW  
16 (the new chapter created in section 25 of this act), except as  
17 specified in section 22 of this act; or

18 (g) To the extent they are inconsistent with any provisions of  
19 chapter 43.43 RCW.

20 (3) Unless a party makes an election for a formal hearing  
21 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through  
22 34.05.598 do not apply to a review hearing conducted by the board of  
23 tax appeals.

24 (4) The rule-making provisions of this chapter do not apply to:

25 (a) Reimbursement unit values, fee schedules, arithmetic  
26 conversion factors, and similar arithmetic factors used to determine  
27 payment rates that apply to goods and services purchased under  
28 contract for clients eligible under chapter 74.09 RCW; and

29 (b) Adjustments by the department of revenue of the amount of the  
30 surcharge imposed under RCW 82.04.261.

31 (5) All other agencies, whether or not formerly specifically  
32 excluded from the provisions of all or any part of the administrative  
33 procedure act, shall be subject to the entire act.

34 NEW SECTION. Sec. 25. Sections 1 through 3, 11 through 18, and  
35 20 through 22 of this act constitute a new chapter in Title 70A RCW.

36 NEW SECTION. Sec. 26. If any provision of this act or its  
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 27.** If any part of this act is found to be in  
4 conflict with federal requirements that are a prescribed condition to  
5 the allocation of federal funds to the state, the conflicting part of  
6 this act is inoperative solely to the extent of the conflict and with  
7 respect to the agencies directly affected, and this finding does not  
8 affect the operation of the remainder of this act in its application  
9 to the agencies concerned. Rules adopted under this act must meet  
10 federal requirements that are a necessary condition to the receipt of  
11 federal funds by the state."

12 Correct the title.

--- END ---