
HOUSE BILL 1288

State of Washington

69th Legislature

2025 Regular Session

By Representatives Dye, Klicker, and Barkis

Read first time 01/14/25. Referred to Committee on Environment & Energy.

1 AN ACT Relating to environmental leadership through outdoor
2 recreation and climate adaptation investments; amending RCW
3 70A.65.250 and 70A.65.305; reenacting and amending RCW 70A.65.030,
4 70A.65.040, and 70A.65.230; adding a new section to chapter 70A.65
5 RCW; creating a new section; and repealing RCW 70A.65.260 and
6 70A.65.270.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that Washington's
9 changing climate creates increased risk of catastrophic wildfires,
10 drought, severe heat events, and flooding, as well as impacts to
11 agriculture, water supply and water quality, and the health of the
12 forests, watersheds, and wildlife. These risks and impacts will vary
13 by region and can overwhelm the resources and budgets of local
14 governments that must cope with severe climate change-related events.
15 Reducing vulnerability to fire, flood, drought, and other climate
16 change-related events requires statewide investment to increase
17 climate resilience.

18 The legislature finds that when more of Washington's
19 precipitation falls as rain rather than snow, and the diminished
20 snowpack melts earlier in the spring, our rivers and streams will be
21 slower and warmer in the late summer. Therefore, climate change will

1 impact the survival of salmon and impact the irrigation that powers
2 Washington's agricultural economy. These same changes in
3 precipitation will also impact recreation opportunities, like
4 snowmobiling and skiing in the winter and camping, boating, and
5 fishing in the summer. The economies of communities that rely on
6 recreational visitors will be deeply impacted, and the opportunities
7 of our residents to enjoy the scenic and iconic natural beauty of
8 Washington will be diminished.

9 The legislature intends to use climate commitment act revenue to
10 fund real climate resilience solutions. The legislature will fund
11 solutions that: (1) Prevent wildfires and their impacts on the air we
12 breathe by funding forest health initiatives; (2) protect communities
13 from devastating floods by investments in dams, levees, and restored
14 floodplains; (3) provide adequate water supplies for our agricultural
15 producers and instream flows for salmon by investments in new
16 reservoirs and irrigation efficiency; (4) clean up polluted water and
17 outfalls of polluted stormwater runoff with investment in new water
18 treatment facilities; and (5) create more accessible green space and
19 recreational opportunity through investments in new and expanded
20 parks and trails.

21 The legislature intends to change course in its investment
22 priorities for the climate commitment act revenue to prevent
23 devastating wildfires, provide clean water, protect the air we
24 breathe, and protect and enhance access to our iconic lands and
25 recreational opportunities.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.65
27 RCW to read as follows:

28 The outdoor recreation and climate adaptation account is created
29 in the state treasury. The account must receive moneys distributed to
30 the account from the climate investment account created in RCW
31 70A.65.250. Moneys in the account may be spent only after
32 appropriation. Expenditures from the account are intended to enhance
33 outdoor recreation and to contribute to climate change adaptation by
34 investing in forest health, drought resilience, flood risk
35 mitigation, and Puget Sound recovery and water quality. The criteria
36 of RCW 70A.65.250(1)(b) apply to expenditures from the outdoor
37 recreation and climate adaptation account. Moneys in the account must
38 be used for the following purposes:

1 (1) Forest health investments that contribute to climate change
2 adaptation. Funding under this subsection must be used:

3 (a) To address long-term forest health and the reduction of
4 wildfire dangers;

5 (b) For grants and loans to small forestland owners for
6 activities that increase carbon sequestration;

7 (c) For purposes of the forestry riparian easement program. It is
8 the intent of the legislature that not less than \$10,000,000 be
9 expended each biennium for the forestry riparian easement program
10 created in chapter 76.13 RCW or for riparian easement projects funded
11 under the agricultural conservation easements program established
12 under RCW 89.08.530, or similar riparian enhancement programs;

13 (d) For the purposes of the family forest fish passage program,
14 created pursuant to RCW 76.13.150; or

15 (e) To provide grants under a new grant program that invests in
16 the institutions and infrastructure that make timber and farming
17 towns sustainable and vibrant. The new grant program must be
18 administered by the community economic revitalization board;

19 (2) Drought resilience investments that contribute to climate
20 change adaptation. Funding under this subsection must be transferred
21 to the state drought preparedness account established in RCW
22 43.83B.430;

23 (3) Flood risk mitigation investments that contribute to climate
24 change adaptation. Funding under this subsection must be used to:

25 (a) Reduce flood damage and improve aquatic species' habitat in
26 the basins most at risk of catastrophic flooding;

27 (b) Fund established flood control authorities to improve
28 floodplains and flood protection infrastructure; or

29 (c) Fund sustainable water supply projects that will secure the
30 agricultural industry against the risks of a changing climate;

31 (4) Puget Sound water quality investments, including assistance
32 to regulated entities for upgrading pollution controls required by
33 state permits;

34 (5) Outdoor recreation enhancement and amenities, including the
35 support and expansion of state and local outdoor recreation programs,
36 activities, and infrastructure funded through the state parks and
37 recreation commission, department of fish and wildlife, department of
38 natural resources, and the recreation and conservation office;

39 (6) Grants to support marinas in compliance with the environment
40 protecting measures in aquatic lands or water quality permits;

1 (7) Grants for the replacement or addition of buoys at locations
2 that appropriately balance environmental protection and the needs of
3 on-water recreation;

4 (8) Grants to improve equitable access to local trails and
5 connectivity of local trails to parks and regional trail networks;

6 (9) Stormwater investments that are helpful to salmon survival;

7 (10) Activities to support efforts to mitigate and adapt to the
8 effects of climate change affecting Indian tribes, including capital
9 investments in support of the relocation of Indian tribes located in
10 areas at heightened risk due to anticipated sea level rise, flooding,
11 or other disturbances caused by climate change. The legislature
12 intends to dedicate at least \$50,000,000 per biennium from the
13 account created in this section for the purposes of this subsection;
14 and

15 (11) Decarbonization of medium and heavy duty vehicles in a
16 technology-neutral way. The legislature intends to dedicate at least
17 \$50,000,000 per biennium from the account created in this section for
18 the purposes of this subsection.

19 **Sec. 3.** RCW 70A.65.030 and 2023 c 475 s 1902 and 2023 c 475 s
20 936 are each reenacted and amended to read as follows:

21 (1) Except as provided in subsection (4) of this section, each
22 year or biennium, as appropriate, when allocating funds from the
23 carbon emissions reduction account created in RCW 70A.65.240, the
24 (~~climate commitment account created in RCW 70A.65.260, the natural~~
25 ~~climate solutions account created in RCW 70A.65.270)) outdoor
26 recreation and climate adaptation account created in section 2 of
27 this act, the climate investment account created in RCW 70A.65.250,
28 the air quality and health disparities improvement account created in
29 RCW 70A.65.280, the climate transit programs account created in RCW
30 46.68.500, or the climate active transportation account created in
31 RCW 46.68.490, or administering grants or programs funded by the
32 accounts, agencies shall conduct an environmental justice assessment
33 consistent with the requirements of RCW 70A.02.060 and establish a
34 minimum of not less than 35 percent and a goal of 40 percent of total
35 investments that provide direct and meaningful benefits to vulnerable
36 populations within the boundaries of overburdened communities
37 through: (a) The direct reduction of environmental burdens in
38 overburdened communities; (b) the reduction of disproportionate,
39 cumulative risk from environmental burdens, including those~~

1 associated with climate change; (c) the support of community led
2 project development, planning, and participation costs; or (d)
3 meeting a community need identified by the community that is
4 consistent with the intent of this chapter or RCW 70A.02.010.

5 (2) The allocation of funding under subsection (1) of this
6 section must adhere to the following principles, additional to the
7 requirements of RCW 70A.02.080: (a) Benefits and programs should be
8 directed to areas and targeted to vulnerable populations and
9 overburdened communities to reduce statewide disparities; (b)
10 investments and benefits should be made roughly proportional to the
11 health disparities that a specific community experiences, with a goal
12 of eliminating the disparities; (c) investments and programs should
13 focus on creating environmental benefits, including eliminating
14 health burdens, creating community and population resilience, and
15 raising the quality of life of those in the community; and (d)
16 efforts should be made to balance investments and benefits across the
17 state and within counties, local jurisdictions, and unincorporated
18 areas as appropriate to reduce disparities by location and to ensure
19 efforts contribute to a reduction in disparities that exist based on
20 race or ethnicity, socioeconomic status, or other factors.

21 (3) Except as provided in subsection (4) of this section, state
22 agencies allocating funds or administering grants or programs from
23 the carbon emissions reduction account created in RCW 70A.65.240, the
24 ~~((climate commitment account created in RCW 70A.65.260, the natural
25 climate solutions account created in RCW 70A.65.270))~~ outdoor
26 recreation and climate adaptation account created in section 2 of
27 this act, the climate investment account created in RCW 70A.65.250,
28 the air quality and health disparities improvement account created in
29 RCW 70A.65.280, the climate transit programs account created in RCW
30 46.68.500, or the climate active transportation account created in
31 RCW 46.68.490, must:

32 (a) Report annually to the environmental justice council created
33 in RCW 70A.02.110 regarding progress toward meeting environmental
34 justice and environmental health goals;

35 (b) Consider recommendations by the environmental justice
36 council; and

37 (c) (i) If the agency is not a covered agency subject to the
38 requirements of chapter 70A.02 RCW, create and adopt a community
39 engagement plan to describe how it will engage with overburdened

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

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

6 (4) During the 2023-2025 fiscal biennium:

7 (a) The requirement of subsection (1) of this section to conduct
8 an environmental justice assessment applies only to covered agencies
9 as defined in RCW 70A.02.010 and to significant agency actions as
10 defined in RCW 70A.02.010.

11 (b) Agencies shall coordinate with the department and the office
12 of financial management to achieve total statewide spending from the
13 accounts listed in subsection (1) of this section of not less than 35
14 percent and a goal of 40 percent of total investments that provide
15 direct and meaningful benefits to vulnerable populations within the
16 boundaries of overburdened communities as otherwise described in
17 subsection (1)(a) through (d) of this section and in accordance with
18 RCW 70A.65.230.

19 (c) The requirements of subsection (3)(c) of this section for
20 agencies other than covered agencies to create and adopt community
21 engagement plans apply only to executive branch agencies and
22 institutions of higher education, as defined in RCW 28B.10.016,
23 receiving total appropriations of more than \$2,000,000 for the
24 2023-2025 fiscal biennium from the accounts listed in subsection (1)
25 of this section.

26 **Sec. 4.** RCW 70A.65.040 and 2022 c 182 s 105 and 2022 c 181 s 14
27 are each reenacted and amended to read as follows:

28 (1) The environmental justice council created in RCW 70A.02.110
29 must provide recommendations to the legislature, agencies, and the
30 governor in the development and implementation of the program
31 established in RCW 70A.65.060 through 70A.65.210, and the programs
32 funded from the carbon emissions reduction account created in RCW
33 70A.65.240, ~~the ((climate commitment account created in RCW~~
34 ~~70A.65.260, the natural climate solutions account created in RCW~~
35 ~~70A.65.270)) outdoor recreation and climate adaptation account~~
36 created in section 2 of this act, the climate investment account
37 created in RCW 70A.65.250, the climate transit programs account
38 created in RCW 46.68.500, and the climate active transportation
39 account created in RCW 46.68.490.

1 (2) In addition to the duties and authorities granted in chapter
2 70A.02 RCW to the environmental justice council, the environmental
3 justice council must:

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

6 (i) The program established in RCW 70A.65.060 through 70A.65.210
7 including, but not limited to, linkage with other jurisdictions,
8 protocols for establishing offset projects and securing offset
9 credits, designation of emissions-intensive and trade-exposed
10 industries under RCW 70A.65.110, and administration of allowances
11 under the program; and

12 (ii) Investment plans and funding proposals for the programs
13 funded from the climate investment account created in RCW 70A.65.250
14 for the purpose of providing environmental benefits and reducing
15 environmental health disparities within overburdened communities;

16 (b) Provide a forum to analyze policies adopted under this
17 chapter to determine if the policies lead to improvements within
18 overburdened communities;

19 (c) Recommend procedures and criteria for evaluating programs,
20 activities, or projects;

21 (d) Recommend copollutant emissions reduction goals in
22 overburdened communities;

23 (e) Evaluate the level of funding provided to assist vulnerable
24 populations, low-income individuals, and impacted workers and the
25 funding of projects and activities located within or benefiting
26 overburdened communities;

27 (f) Recommend environmental justice and environmental health
28 goals for programs, activities, and projects funded from the climate
29 investment account, and review agency annual reports on outcomes and
30 progress toward meeting these goals;

31 (g) Provide recommendations to implementing agencies for
32 meaningful consultation with vulnerable populations, including
33 community engagement plans under RCW 70A.65.020 and 70A.65.030; and

34 (h) Recommend how to support public participation through
35 capacity grants for participation.

36 (3) For the purpose of performing the duties under subsection (2)
37 of this section, two additional tribal members are added to the
38 council.

1 **Sec. 5.** RCW 70A.65.230 and 2022 c 182 s 426 and 2022 c 181 s 8
2 are each reenacted and amended to read as follows:

3 (1) It is the intent of the legislature that each year the total
4 investments made through the carbon emissions reduction account
5 created in RCW 70A.65.240, the ~~((climate commitment account created
6 in RCW 70A.65.260, the natural climate solutions account created in
7 RCW 70A.65.270))~~ outdoor recreation and climate adaptation account
8 created in section 2 of this act, the air quality and health
9 disparities improvement account created in RCW 70A.65.280, the
10 climate transit programs account created in RCW 46.68.500, and the
11 climate active transportation account created in RCW 46.68.490,
12 achieve the following:

13 (a) A minimum of not less than 35 percent and a goal of 40
14 percent of total investments that provide direct and meaningful
15 benefits to vulnerable populations within the boundaries of
16 overburdened communities identified under chapter 70A.02 RCW; and

17 (b) In addition to the requirements of (a) of this subsection, a
18 minimum of not less than 10 percent of total investments that are
19 used for programs, activities, or projects formally supported by a
20 resolution of an Indian tribe, with priority given to otherwise
21 qualifying projects directly administered or proposed by an Indian
22 tribe. An investment that meets the requirements of both this
23 subsection (1)(b) and (a) of this subsection may count toward the
24 minimum percentage targets for both subsections.

25 (2) The expenditure of moneys under this chapter must be
26 consistent with applicable federal, state, and local laws, and treaty
27 rights including, but not limited to, prohibitions on uses of funds
28 imposed by the state Constitution.

29 (3) For the purposes of this section, "benefits" means
30 investments or activities that:

31 (a) Reduce vulnerable population characteristics, environmental
32 burdens, or associated risks that contribute significantly to the
33 cumulative impact designation of overburdened communities;

34 (b) Meaningfully protect an overburdened community from, or
35 support community response to, the impacts of air pollution or
36 climate change; or

37 (c) Meet a community need identified by vulnerable members of the
38 overburdened community that is consistent with the intent of this
39 chapter.

1 (4) The state must develop a process by which to evaluate the
2 impacts of the investments made under this chapter, work across state
3 agencies to develop and track priorities across the different
4 eligible funding categories, and work with the environmental justice
5 council pursuant to RCW 70A.65.040.

6 **Sec. 6.** RCW 70A.65.250 and 2024 c 376 s 911 are each amended to
7 read as follows:

8 (1)(a) The climate investment account is created in the state
9 treasury. Except as otherwise provided in chapter 316, Laws of 2021,
10 all receipts from the auction of allowances authorized in this
11 chapter must be deposited into the account. Moneys in the account may
12 be spent only after appropriation.

13 (b) Projects or activities funded from the account must meet high
14 labor standards, including family sustaining wages, providing
15 benefits including health care and employer-contributed retirement
16 plans, career development opportunities, and maximize access to
17 economic benefits from such projects for local workers and diverse
18 businesses. Each contracting entity's proposal must be reviewed for
19 equity and opportunity improvement efforts, including: (i) Employer
20 paid sick leave programs; (ii) pay practices in relation to living
21 wage indicators such as the federal poverty level; (iii) efforts to
22 evaluate pay equity based on gender identity, race, and other
23 protected status under Washington law; (iv) facilitating career
24 development opportunities, such as apprenticeship programs,
25 internships, job-shadowing, and on-the-job training; and (v)
26 employment assistance and employment barriers for justice affected
27 individuals.

28 (2) Moneys in the account may be used only for projects and
29 programs that achieve the purposes of the greenhouse gas emissions
30 cap and invest program established under this chapter and for tribal
31 capacity grants under RCW 70A.65.305. During the 2023-2025 fiscal
32 biennium, moneys in the account may also be used for tribal capacity
33 grant activities supporting climate resilience and adaptation,
34 developing tribal clean energy projects, applying for state or
35 federal grant funding, and other related work; and for providing
36 payments to agricultural fuel purchasers. Moneys in the account as
37 described in this subsection must first be appropriated for the
38 administration of the requirements of this chapter, in an amount not
39 to exceed five percent of the total receipt of funds from allowance

1 auction proceeds under this chapter. Beginning July 1, 2023, and
2 annually thereafter, the state treasurer shall distribute funds in
3 the account that exceed the amounts appropriated for the purposes of
4 this subsection (2) (~~as follows:~~

5 ~~(a) Seventy-five percent of the moneys to the climate commitment~~
6 ~~account created in RCW 70A.65.260; and~~

7 ~~(b) Twenty-five percent of the moneys to the natural climate~~
8 ~~solutions account created in RCW 70A.65.270.~~

9 ~~(3) The allocations specified in subsection (2) (a) and (b) of~~
10 ~~this section must be reviewed by the legislature on a biennial basis~~
11 ~~based on the changing needs of the state in meeting its clean economy~~
12 ~~and greenhouse gas reduction goals in a timely, economically~~
13 ~~advantageous, and equitable manner)) to the outdoor recreation and~~
14 ~~climate adaptation account created in section 2 of this act.~~

15 (4) During the 2023-2025 fiscal biennium, the legislature may
16 direct the state treasurer to make transfers of moneys in the climate
17 investment account to the carbon emissions reduction account (~~(, the~~
18 ~~climate commitment account, and the natural climate solutions~~
19 ~~account)).~~

20 **Sec. 7.** RCW 70A.65.305 and 2024 c 375 s 8004 are each amended to
21 read as follows:

22 (1) Agencies that allocate funding or administer grant programs
23 appropriated from the climate investment account created in RCW
24 70A.65.250 (~~(, the climate commitment account created in RCW~~
25 ~~70A.65.260, and the natural climate solutions account created in RCW~~
26 ~~70A.65.270)) and the outdoor recreation and climate adaptation~~
27 ~~account created in section 2 of this act must offer early,~~
28 ~~meaningful, and individual consultation with any affected federally~~
29 ~~recognized tribe on all funding decisions and funding programs that~~
30 ~~may impact tribal resources, including tribal cultural resources,~~
31 ~~archaeological sites, sacred sites, fisheries, or other rights and~~
32 ~~interests in tribal lands and lands within which a tribe or tribes~~
33 ~~possess rights reserved or protected by federal treaty, statute, or~~
34 ~~executive order. The consultation is independent of, and in addition~~
35 ~~to, any public participation process required by federal or state~~
36 ~~law, or by a federal or state agency, including the requirements of~~
37 ~~Executive Order 21-02 related to archaeological and cultural~~
38 ~~resources, and regardless of whether the agency receives a request~~
39 ~~for consultation from a federally recognized tribe. The goal of the~~

1 consultation process is to identify tribal resources or rights
2 potentially affected by the funding decisions and funding programs,
3 assess their effects, and seek ways to avoid, minimize, or mitigate
4 any adverse effects on tribal resources or rights.

5 (2) At the earliest possible date prior to submittal of an
6 application, applicants for funding from the accounts created in RCW
7 70A.65.250 (~~(, 70A.65.260, and 70A.65.270)~~) and section 2 of this act
8 shall engage in a preapplication process with all affected federally
9 recognized tribes within the project area. (~~(During the 2023-2025~~
10 ~~fiscal biennium, salmon habitat and climate resilience projects~~
11 ~~funded from the natural climate solutions account created in RCW~~
12 ~~70A.65.270 that went through the application and prioritization~~
13 ~~process before July 1, 2023, are exempt from the preapplication~~
14 ~~requirements under this subsection.)~~)

15 (a) The preapplication process must include the applicant
16 notifying the department of archaeology and historic preservation,
17 the department of fish and wildlife, and all affected federally
18 recognized tribes within the project area. The notification must
19 include geographical location, detailed scope of the proposed
20 project, preliminary application details available to federal, state,
21 or local governmental jurisdictions, and all publicly available
22 materials, including public funding sources.

23 (b) The applicant must also offer to discuss the project with the
24 department of archaeology and historic preservation, the department
25 of fish and wildlife, and all affected federally recognized tribes
26 within the project area. Discussions may include the project's impact
27 to tribal resources, including tribal cultural resources,
28 archaeological sites, sacred sites, fisheries, or other rights and
29 interests in tribal lands and lands within which a tribe or tribes
30 possess rights reserved or protected by federal treaty, statute, or
31 executive order.

32 (c) All affected federally recognized tribes may submit to the
33 appropriate agency or agencies a summary of tribal issues, questions,
34 concerns, or other statements regarding the project, which must
35 become part of the official application file. The summary does not
36 limit what issues affected federally recognized tribes may raise in
37 the consultation process identified in subsections (1), (3) through
38 (7), and (9) of this section.

39 (d) The notification and offer to initiate discussion must be
40 documented with the application when it is filed, and a copy of the

1 application must be delivered to the department of archaeology and
2 historic preservation, the department of fish and wildlife, and to
3 the affected federally recognized tribe or tribes. If the discussions
4 pursuant to (b) of this subsection do not occur, the applicant must
5 document the reason why the discussion or discussions did not occur.

6 (e) Nothing in this section may be interpreted to require the
7 disclosure of information that is exempt from disclosure pursuant to
8 RCW 42.56.300 or federal law, including section 304 of the national
9 historic preservation act of 1966. Any information that is exempt
10 from disclosure pursuant to RCW 42.56.300 or federal law, including
11 section 304 of the national historic preservation act of 1966, shall
12 not become part of the official application file.

13 (3) If any funding decision, program, project, or activity that
14 may impact tribal resources, including tribal cultural resources,
15 archaeological sites, sacred sites, fisheries, or other rights and
16 interests in tribal lands and lands within which a tribe or tribes
17 possess rights reserved by federal treaty, statute, or executive
18 order is funded from the accounts created in RCW 70A.65.250(~~7~~
19 ~~70A.65.260, and 70A.65.270~~) and section 2 of this act without such a
20 consultation with an affected federally recognized tribe, the
21 affected federally recognized tribe may request that all further
22 action on the decision, program, project, or activity cease until
23 meaningful consultation is completed. Upon receipt of such a request
24 by an agency or agencies with the authority to allocate funding or
25 administer grant programs from the accounts listed in subsection (1)
26 of this section in support of the proposed project, further action by
27 the agency or agencies on any decision, program, project, or activity
28 that would result in significant physical disturbance of the tribal
29 resource or resources described in this subsection must cease until
30 the consultation has been completed.

31 (4) Upon completion of agency and tribal consultation, an
32 affected federally recognized tribe may request a formal review of
33 the consultation by submitting a request to the governor's office of
34 Indian affairs and notifying the appropriate agencies and the
35 department of archaeology and historic preservation. The state
36 agencies and tribe must meet to initiate discussion within no more
37 than 20 days of the request. This consultation must be offered and
38 conducted separately with each affected federally recognized tribe,
39 unless the tribes agree to conduct a joint consultation with the
40 state.

1 (5) After the state agencies and tribe or tribes have conducted a
2 formal review under subsection (4) of this section, an affected
3 federally recognized tribe or state agency may request that the
4 governor and an elected tribal leader or leaders of a federally
5 recognized tribal government meet to formally consider the
6 recommendations from the parties. If requested, this meeting must
7 occur within 30 days of the request, except that a federally
8 recognized tribe may choose to opt out of the meeting. This timeline
9 may be extended by mutual agreement between the governor and the
10 tribal leaders.

11 (6) After the meeting identified in subsection (5) of this
12 section has occurred, the governor or an elected tribal leader of a
13 federally recognized tribe may call for the state and tribe or tribes
14 to enter into formal mediation, except that a federally recognized
15 tribe may choose to opt out of the mediation. If entered into, the
16 mediation must be conducted as a government-to-government proceeding,
17 with each sovereign government retaining their right to a final
18 decision that meets their separate obligations and interests.
19 Mediators must be jointly selected by the parties to the mediation.
20 An agreement between the governor and a tribal leader or leaders
21 resulting from the mediation is formally recognized and binding on
22 the signatory parties. Absent an agreement, participation in
23 mediation does not preclude any additional steps that any party can
24 initiate, including legal review, to resolve a continuing
25 disagreement.

26 (7) During the proceedings outlined in subsections (4) through
27 (6) of this section, the agency or agencies with the authority to
28 allocate funding or administer grant programs from the accounts
29 listed in subsection (1) of this section in support of the proposed
30 project may not approve or release funding, or make other formal
31 decisions, including permitting, that advance the proposed project
32 except where required by law.

33 (8) By June 30, 2023, the governor's office of Indian affairs, in
34 coordination with the department of archaeology and historic
35 preservation and federally recognized tribes, shall develop a state
36 agency tribal consultation process, including best practices for
37 early, meaningful, and effective consultation, early notification and
38 engagement by applicants with federally recognized tribes as a part
39 of the preapplication process in subsection (2) of this section, and
40 protocols for communication and collaboration with federally

1 recognized tribes. The consultation process developed under this
2 section must be periodically reviewed and updated in coordination
3 with federally recognized tribes. The governor's office of Indian
4 affairs must provide training and other technical assistance to state
5 agencies, as they implement the required consultation.
6 Notwithstanding the governor's office of Indian affairs' ongoing work
7 pursuant to this subsection, the provisions of subsections (1)
8 through (7) and (9) of this section become effective as of June 9,
9 2022.

10 (9) The requirements of this section apply to local governments
11 that receive funding from the accounts created in RCW 70A.65.250(~~7~~
12 ~~70A.65.260, and 70A.65.270,~~) and section 2 of this act where that
13 funding is disbursed to project and program applicants. Where
14 requested, the governor's office of Indian affairs must provide
15 training and other technical assistance to local government agencies
16 as they implement the consultation requirements of this section.

17 (10) Any agency subject to or implementing this section may adopt
18 rules in furtherance of its duties under this section.

19 (11) Subject to the availability of amounts appropriated for this
20 specific purpose, the department must establish a tribal capacity
21 grant program to provide funding to federally recognized tribes for
22 the costs of implementing this section.

23 NEW SECTION. **Sec. 8.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 70A.65.260 (Climate commitment account) and 2023 c 475 s
26 939, 2022 c 179 s 17, & 2021 c 316 s 29; and

27 (2) RCW 70A.65.270 (Natural climate solutions account) and 2021 c
28 316 s 30.

--- END ---