H-2685.2

HOUSE BILL 2251

State of Washington 69th Legislature 2026 Regular Session

By Representatives Fitzgibbon and Gregerson

Prefiled 01/05/26.

AN ACT Relating to climate commitment act accounts; amending RCW 70A.65.100, 70A.65.230, 70A.65.280, 70A.65.300, 70A.65.040, 70A.65.060, 70A.65.200, 70A.65.305, 76.04.196, and 76.13.120; reenacting and amending RCW 43.21B.300 and 70A.65.030; adding new sections to chapter 70A.65 RCW; creating a new section; repealing RCW 70A.65.250, 70A.65.260, and 70A.65.270; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 70A.65 RCW to read as follows:

(1) The climate commitment act operating account is created in the state treasury. Receipts from the auction of allowances authorized in this chapter must be deposited into the account as provided in RCW 70A.65.100. Moneys in the account may be spent only after appropriation. The legislature intends expenditures from the account to supplement, not supplant, existing expenditures for similar purposes. Expenditures from the account may be used only for the following purposes:

(a) The department's costs to administer the program under this chapter, in an amount not to exceed $25,000,000 per fiscal year

adjusted by the fiscal growth factor as defined in RCW 43.135.025, as described in RCW 70A.65.100(7)(b);

(b) Programs, activities, and projects in the operating budget that reduce greenhouse gas emissions, increase resilience to the impacts of climate change, result in long-term environmental benefits, or otherwise achieve the purposes of this chapter;

(c) Tribal capacity grants for tribal consultation under RCW 70A.65.305 or tribal projects and activities related to climate resilience and adaptation, clean energy, state or federal grant funding applications, or other related work;

(d) The working families' tax credit in RCW 82.08.0206;

(e) The same authorized uses as the growth management planning and environmental review fund established in RCW 36.70A.490;

(f) Reduction and mitigation of impacts from greenhouse gases and copollutants in overburdened communities, including strengthening the air quality monitoring network required in RCW 70A.65.020;

(g) Projects or activities to promote electrification or reduce the greenhouse gas emissions associated with electricity production, distribution, or consumption, including (i) renewable energy resources, such as solar and wind power, (ii) distributed generation, (iii) energy storage, (iv) demand-side technologies and strategies, and (v) grid modernization projects;

(h) Increased energy efficiency or reduced greenhouse gas emissions for industrial facilities including, but not limited to, combined heat and power, district energy, on-site renewables such as solar and wind power, and less emissions-intensive fuel sources;

(i) Increased energy efficiency or reduced greenhouse gas emissions for the agricultural sector including, but not limited to, fertilizer management, soil management, bioenergy, biofuels, grants and other financial incentives for agricultural equipment or food processing, renewable energy projects, farmworker housing weatherization programs, dairy digester research and development, alternative manure management, and the sustainable farms and fields grant program under RCW 89.08.615;

(j) Increased energy efficiency or reduced greenhouse gas emissions in new and existing residential, commercial, and industrial buildings, including low carbon architecture, alternative building materials that result in a lower carbon footprint over the life cycle of the building and component building materials, electric appliances, and equipment for space and water heating;

(k) The expansion of clean manufacturing capacity in communities across Washington, including related community investments such as transportation, municipal service delivery, and technology investments, with an emphasis on communities in greatest need of job creation and economic development and potential for commute reduction;

(l) Improved energy affordability and reduced energy burden for people with lower incomes, including bill assistance, energy efficiency and weatherization programs, and community renewable energy projects that allow qualifying participants to own or receive the benefits of those projects at reduced or no cost;

(m) Assistance for affected fossil fuel workers during the transition to a clean energy economy, including (i) full wage replacement, health benefits, and pension contributions for every worker within five years of retirement; (ii) full wage replacement, health benefits, and pension contributions for every worker with at least one year of service for each year of service up to five years of service; (iii) wage insurance for up to five years for workers reemployed who have more than five years of service; (iv) up to two years of retraining costs, including tuition and related costs, based on in-state community and technical college costs; (v) peer counseling services during transition; (vi) employment placement services, prioritizing employment in the clean energy sector; (vii) relocation expenses; and (viii) workforce development, including forest health workforce initiatives under RCW 76.04.521 and education or jobs related to the clean energy economy;

(n) Reduced emissions from landfills and waste-to-energy facilities through diversion of organic materials, methane capture or conversion strategies, installation of gas collection devices and gas control systems, monitoring and reporting of methane emissions, or other means, prioritizing funding needed for any activities by local governments to comply with chapter 70A.540 RCW;

(o) Carbon dioxide removal;

(p) Activities to support efforts to mitigate and adapt to the effects of climate change affecting Indian tribes;

(q) Environmental justice activities, including implementation of chapter 70A.02 RCW;

(r) Electric vehicles and related costs, such as equipment and infrastructure, and alternative fuel;

(s) Clean water investments that improve resilience from climate impacts. Funding under this subsection (1)(s) must be used to:

(i) Restore and protect estuaries, fisheries, and marine shoreline habitats and prepare for sea level rise;

(ii) Increase carbon storage in the ocean or aquatic and coastal ecosystems;

(iii) Increase the ability to remediate and adapt to the impacts of ocean acidification;

(iv) Reduce flood risk and restore natural floodplain ecological function;

(v) Increase the sustainable supply of water and improve aquatic habitat, including groundwater mapping and modeling;

(vi) Improve infrastructure treating stormwater from previously developed areas within an urban growth boundary designated under chapter 36.70A RCW, with a preference given to projects that use green stormwater infrastructure;

(vii) Either preserve or increase, or both, greenhouse gas sequestration and storage benefits in forests, forested wetlands, agricultural soils, tidally influenced agricultural or grazing lands, or freshwater, saltwater, or brackish aquatic lands; or

(viii) Either preserve or establish, or both, greenhouse gas sequestration by protecting or planting trees in marine shorelines and freshwater riparian areas sufficient to promote climate resilience, protect cold water fisheries, and achieve water quality standards; and

(t) Healthy forest investments to improve resilience from climate impacts, including but not limited to: (i) Increased forest and community resilience to wildfire; and (ii) improved forest health, including reduced vulnerability to changes in hydrology, insect infestation, and other impacts of climate change.

(2) The legislature intends that at least 25 percent of the total appropriations each biennium from this account and the climate commitment act capital account created in section 2 of this act are made for the purposes of the clean water and healthy forest investments in subsection (1)(s) and (t) of this section or section 2(1) (m) and (n) of this act.

(3) Moneys in the account may not be used for projects or activities that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions.

(4) Projects or activities funded from the account must meet high labor standards, including: (a) Employer-paid sick leave programs and other health care benefits; (b) employer-contributed retirement plans; (c) pay practices in relation to living wage indicators, such as the federal poverty level; (d) efforts to evaluate pay equity based on gender identity, race, and other protected status under Washington law; (e) career development opportunities, such as apprenticeship programs, internships, job-shadowing, and on-the-job training; and (f) employment assistance and employment barriers for justice-affected individuals.

(5) Projects or activities funded from the account must maximize access to economic benefits from such projects for local workers and diverse businesses.

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

(1) The climate commitment act capital account is created in the state treasury. Receipts from the auction of allowances authorized in this chapter must be deposited into the account as provided in RCW 70A.65.100. Moneys in the account may be spent only after appropriation. The legislature intends expenditures from the account to supplement, not supplant, existing expenditures for similar purposes. Expenditures from the account may be used only for the following purposes:

(a) Programs, activities, and projects in the capital budget that reduce greenhouse gas emissions, increase resilience to the impacts of climate change, result in long-term environmental benefits, or otherwise achieve the purposes of this chapter;

(b) Reduction and mitigation of impacts from greenhouse gases and copollutants in overburdened communities, including strengthening the air quality monitoring network required in RCW 70A.65.020;

(c) Projects or activities to promote electrification or reduce the greenhouse gas emissions associated with electricity production, distribution, or consumption, including (i) renewable energy resources, such as solar and wind power, (ii) distributed generation, (iii) energy storage, (iv) demand-side technologies and strategies, and (v) grid modernization projects;

(d) Increased energy efficiency or reduced greenhouse gas emissions for industrial facilities including, but not limited to,

combined heat and power, district energy, on-site renewables such as solar and wind power, and less emissions-intensive fuel sources;

(e) Increased energy efficiency or reduced greenhouse gas emissions for the agricultural sector including, but not limited to, fertilizer management, soil management, bioenergy, biofuels, grants and other financial incentives for agricultural equipment or food processing, renewable energy projects, farmworker housing weatherization programs, dairy digester research and development, and alternative manure management;

(f) Increased energy efficiency or reduced greenhouse gas emissions in new and existing residential, commercial, and industrial buildings, including low carbon architecture, alternative building materials that result in a lower carbon footprint over the life cycle of the building and component building materials, electric appliances, and equipment for space and water heating;

(g) The expansion of clean manufacturing capacity in communities across Washington, including related community investments such as transportation, municipal service delivery, and technology investments, with an emphasis on communities in greatest need of job creation and economic development and potential for commute reduction;

(h) Improved energy affordability and reduced energy burden for people with lower incomes, including energy efficiency and weatherization programs, and community renewable energy projects that allow qualifying participants to own or receive the benefits of those projects at reduced or no cost;

(i) Reduced emissions from landfills and waste-to-energy facilities through diversion of organic materials, methane capture or conversion strategies, installation of gas collection devices and gas control systems, monitoring and reporting of methane emissions, or other means, prioritizing funding needed for any activities by local governments to comply with chapter 70A.540 RCW;

(j) Carbon dioxide removal;

(k) Activities to support efforts to mitigate and adapt to the effects of climate change affecting Indian tribes, including capital investments in support of the relocation of Indian tribes located in areas at heightened risk due to anticipated sea level rise, flooding, or other disturbances caused by climate change. The legislature intends to dedicate at least $50,000,000 per biennium from the account for purposes of this subsection when the department's most

recent baseline climate commitment act forecast projects $1,000,000,000 or more for the biennium in total revenue to the state. When the department's most recent baseline climate commitment act forecast projects less than $1,000,000,000 for the biennium, the legislature intends to dedicate at least five percent of total projected revenue to the state for the biennium for the purposes of this subsection;

(l) Electric vehicle infrastructure, including infrastructure in buildings;

(m) Clean water investments that improve resilience from climate impacts. Funding under this subsection (1)(m) must be used to:

(i) Restore and protect estuaries, fisheries, and marine shoreline habitats and prepare for sea level rise;

(ii) Make fish passage correction investments, such as those identified in the cost-share barrier removal program for small forestland owners created in RCW 76.13.150 and those that are considered by the fish passage barrier removal board created in RCW 77.95.160;

(iii) Increase carbon storage in the ocean or aquatic and coastal ecosystems;

(iv) Increase the ability to mitigate, remediate, and adapt to the impacts of ocean acidification;

(v) Reduce flood risk and restore natural floodplain ecological function;

(vi) Increase the sustainable supply of water and improve aquatic habitat, including groundwater mapping and modeling;

(vii) Improve infrastructure treating stormwater from previously developed areas within an urban growth boundary designated under chapter 36.70A RCW, with a preference given to projects that use green stormwater infrastructure;

(viii) Either preserve or increase, or both, greenhouse gas sequestration and storage benefits in forests, forested wetlands, agricultural soils, tidally influenced agricultural or grazing lands, or freshwater, saltwater, or brackish aquatic lands; or

(ix) Either preserve or establish, or both, greenhouse gas sequestration by protecting or planting trees in marine shorelines and freshwater riparian areas sufficient to promote climate resilience, protect cold water fisheries, and achieve water quality standards;

(n) Healthy forest investments to improve resilience from climate impacts. Funding under this subsection (1)(n) must be used for projects that will:

(i) Increase forest and community resilience to wildfire in the face of increased seasonal temperatures and drought;

(ii) Improve forest health and reduce vulnerability to changes in hydrology, insect infestation, and other impacts of climate change; or

(iii) Prevent emissions by preserving natural and working lands from the threat of conversion to development or loss of critical habitat, through actions that include, but are not limited to, the creation of new conservation lands, community forests, or increased support to small forestland owners through assistance programs including, but not limited to, the forest riparian easement program and the family forest fish passage program. It is the intent of the legislature that not less than $10,000,000 be expended each biennium for the forestry riparian easement program created in chapter 76.13 RCW or for riparian easement projects funded under the agricultural conservation easements program established under RCW 89.08.530, or similar riparian enhancement programs when the department's most recent baseline climate commitment act forecast projects $1,000,000,000 or more for that biennium in total revenue to the state. When the department's most recent baseline climate commitment act forecast projects less than $1,000,000,000 for that biennium, the legislature intends to dedicate at least one percent of total projected revenue to the state for the biennium for the purposes of the forestry riparian easement program and similar programs; and

(o) Housing that reduces commute times and distances for low-income households.

(2) The legislature intends that at least 25 percent of the total appropriations each biennium from this account and the climate commitment act operating account created in section 1 of this act are made for the purposes of the clean water and healthy forest investments in subsection (1)(m) and (n) of this section and section 1(1) (s) and (t) of this act.

(3) Moneys in the account may not be used for projects or activities that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions.

(4) Moneys in the account must be spent in a manner that is consistent with scientific assessment of current and future climate risks such as those encompassed in the state's current climate resilience strategy developed under chapter 70A.05 RCW.

Sec. 3. RCW 70A.65.100 and 2024 c 352 s 5 are each amended to read as follows:

(1) Except as provided in RCW 70A.65.110, 70A.65.120, and 70A.65.130, the department shall distribute allowances through auctions as provided in this section and in rules adopted by the department to implement these sections. An allowance is not a property right.

(2)(a) The department shall hold a maximum of four auctions annually, plus any necessary reserve auctions. An auction may include allowances from the annual allowance budget of the current year and allowances from the annual allowance budgets from prior years that remain to be distributed. The department must transmit to the environmental justice council an auction notice at least 60 days prior to each auction, as well as a summary results report and a postauction public proceeds report within 60 days after each auction. The department must communicate the results of the previous calendar year's auctions to the environmental justice council on an annual basis beginning in 2024.

(b) The department must make future vintage allowances available through parallel auctions at least twice annually in addition to the auctions through which current vintage allowances are exclusively offered under (a) of this subsection.

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

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

(a) Registered entities intending to participate in an auction must submit an application to participate at least 30 days prior to the auction. The application must include the documentation required for review and approval by the department. A registered entity is

eligible to participate only after receiving a notice of approval by the department.

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

(5) The department may require a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the registered entity.

(6) To protect the integrity of the auctions, a registered entity or group of registered entities with a direct corporate association are subject to auction purchase and holding limits. The department may impose additional limits if it deems necessary to protect the integrity and functioning of the auctions:

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

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

(c) Until Washington links with a jurisdiction that does not have this requirement, a general market participant may not in aggregate own more than 10 percent of total allowances to be issued in a calendar year;

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

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

(7)((~~(a) For fiscal year 2023, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) $127,341,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.~~

~~(b) For fiscal year 2024, upon completion and verification of the auction results, the financial services administrator shall notify~~

~~winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) $356,697,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240, except during fiscal year 2024, the deposit as provided in this subsection (7)(b)(i) may be prorated equally across each of the auctions occurring in fiscal year 2024; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280, which may be prorated equally across each of the auctions occurring in fiscal year 2024.~~

~~(c) For fiscal year 2025, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) $366,558,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240, except that during fiscal year 2025, the deposit as provided in this subsection (7)(c)(i) may be prorated equally across each of the auctions occurring in fiscal year 2025; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280, which may be prorated equally across each of the auctions occurring in fiscal year 2025.~~

~~(d) For fiscal years 2026 through 2037, upon~~)) Upon completion and verification of the results of each auction ((~~results~~)), the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows:

(a) During a fiscal year in which, as of the first auction of that fiscal year, the department's most recent baseline climate commitment act forecast projects total revenue to the state for that fiscal year of $513,117,000 or more: (i) $359,117,000 per year must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; ((~~and~~)) (ii) ((~~the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.~~

~~(e) The deposits into the carbon emissions reduction account pursuant to (a) through (d) of this subsection must not exceed $5,200,000,000 over the first 16 fiscal years and any remaining auction proceeds must be deposited into the climate investment~~

~~account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.~~

~~(f) For fiscal year 2038 and each year thereafter, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows:~~)) $144,000,000 per year must then be deposited in the climate commitment act operating account created in section 1 of this act; (iii) $10,000,000 per year must then be deposited in the air quality and health disparities improvement account created in RCW 70A.65.280; and (iv) the remaining auction proceeds for each fiscal year must be deposited into the climate commitment act capital account created in section 2 of this act.

(b) During a fiscal year in which, as of the first auction of that fiscal year, the department's most recent baseline climate commitment act forecast projects total revenue to the state for that fiscal year of less than $513,117,000: (i) First, an amount must be deposited in the climate commitment act operating account created in section 1 of this act as follows: $25,000,000 for fiscal year 2028, increased each subsequent fiscal year by the fiscal growth factor as defined in RCW 43.135.025 for that fiscal year. The department must calculate this amount for every fiscal year and communicate it to the state treasurer as needed, though it is only to be used for a transfer amount when the criteria in this subsection (7)(b) are met; and (ii) for the remaining auction proceeds in that fiscal year, the proceeds of each auction must be distributed 50 percent ((~~of the auction proceeds~~)) to the carbon emissions reduction account created in RCW 70A.65.240((~~; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280~~)), 32 percent to the climate commitment act capital account created in section 2 of this act, 17 percent to the climate commitment act operating account created in section 1 of this act, and one percent to the air quality and health disparities improvement account created in RCW 70A.65.280.

(8) The department shall adopt by rule provisions to guard against bidder collusion and minimize the potential for market manipulation. A registered entity may not release or disclose any bidding information including: Intent to participate or refrain from participation; auction approval status; intent to bid; bidding

strategy; bid price or bid quantity; or information on the bid guarantee provided to the financial services administrator. The department may cancel or restrict a previously approved auction participation application or reject a new application if the department determines that a registered entity has:

(a) Provided false or misleading facts;

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

(c) Violated any part of the auction rules;

(d) Violated registration requirements; or

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

(9) Records containing the following information are confidential and are exempt from public disclosure in their entirety:

(a) Bidding information as identified in subsection (8) of this section;

(b) Information contained in the secure, online electronic tracking system established by the department pursuant to RCW 70A.65.090(6);

(c) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to the department pursuant to this chapter;

(d) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to the independent contractor or the financial services administrator engaged by the department pursuant to subsection (3) of this section; and

(e) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to a jurisdiction with which the department has entered into a linkage agreement pursuant to RCW 70A.65.210, and which is shared with the department, the independent contractor, or the financial services administrator pursuant to a linkage agreement.

(10) Any cancellation or restriction approved by the department under subsection (8) of this section may be permanent or for a specified number of auctions and the cancellation or restriction imposed is not exclusive and is in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other state or federal laws, if applicable.

(11) The department shall design allowance auctions so as to allow, to the maximum extent practicable, linking with external greenhouse gas emissions trading programs in other jurisdictions and to facilitate the transfer of allowances when the state's program has entered into a linkage agreement with other external greenhouse gas emissions trading programs. The department may conduct auctions jointly with linked jurisdictions.

(12) In setting the number of allowances offered at each auction, the department shall consider the allowances in the marketplace due to the marketing of allowances issued as required under RCW 70A.65.110, 70A.65.120, and 70A.65.130 in the department's determination of the number of allowances to be offered at auction. The department shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the goals of RCW 70A.45.020.

Sec. 4. RCW 70A.65.230 and 2025 c 417 s 806 are each amended to read as follows:

(1) It is the intent of the legislature that each ((~~year~~)) biennium the total investments made through the carbon emissions reduction account created in RCW 70A.65.240, the ((~~climate commitment account created in RCW 70A.65.260, the natural climate solutions account created in RCW 70A.65.270~~)) climate commitment act operating account created in section 1 of this act, the climate commitment act capital account created in section 2 of this act, and the air quality and health disparities improvement account created in RCW 70A.65.280, achieve the following:

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

(b) In addition to the requirements of (a) of this subsection, a minimum of not less than 10 percent of total investments that are used for programs, activities, or projects ((~~formally~~)) supported by ((~~a resolution of~~)) an Indian tribe, with priority given to otherwise qualifying projects directly administered or proposed by an Indian tribe. Investments that meet the requirement of this subsection (1)(b) may include a letter of support from an Indian tribe, funding provided to or requested by an Indian tribe, a formal resolution of an Indian tribe, or similar expressions of support from an Indian

tribe. An investment that meets the requirements of both this subsection (1)(b) and (a) of this subsection may count toward the minimum percentage targets for both subsections.

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

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

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

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

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

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

Sec. 5. RCW 70A.65.280 and 2021 c 316 s 31 are each amended to read as follows:

(1) The air quality and health disparities improvement account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account are intended to:

(a) Improve air quality through the reduction of criteria pollutants, including through effective air quality monitoring and the establishment of adequate baseline emissions data; and

(b) Reduce health disparities in overburdened communities by improving health outcomes through the reduction or elimination of environmental harms and the promotion of environmental benefits.

(2) Moneys in the account may be used for ((~~either~~)) operating budget, capital budget, or transportation budget purposes((~~, or both~~)). Moneys in the account may not be used for projects that would violate tribal treaty rights or result in significant long-term

damage to critical habitat or ecological functions. Investments from the account must result in long-term environmental benefits and increased resilience to the impacts of climate change.

((~~(3) It is the intent of the legislature that not less than $20,000,000 per biennium be dedicated to the account for the purposes of the account.~~))

Sec. 6. RCW 70A.65.300 and 2025 c 424 s 975 are each amended to read as follows:

(1) The department shall prepare, post on the department website, and submit to the appropriate committees of the legislature ((~~an annual~~)) a report that identifies all distributions of moneys from the accounts created in RCW 70A.65.240 ((~~through~~)), 70A.65.280, section 1 of this act, and section 2 of this act.

(2) The report must identify, at a minimum((~~, the~~)):

(a) The recipient of the funding, the amount of the funding, the purpose of the funding, the actual end result or use of the funding, whether the project that received the funding produced any verifiable reduction in greenhouse gas emissions or other long-term impact to emissions, and if so, the quantity of reduced greenhouse gas emissions, the cost per carbon dioxide equivalent metric ton of reduced greenhouse gas emissions, and a comparison to other greenhouse gas emissions reduction projects in order to facilitate the development of cost-benefit ratios for greenhouse gas emissions reduction projects; and

(b) The expenditures that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities as described in RCW 70A.65.030 and 70A.65.230, and the expenditures that are supported by an Indian tribe as described in RCW 70A.65.230, including:

(i) The amount of each expenditure that provides direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities;

(ii) An explanation of how the expenditure provides such benefits;

(iii) The methods by which overburdened communities and vulnerable populations were identified by the agency and an explanation of the outcomes of those identification processes, including the geographic location impacted by the expenditure where

relevant, and the geographic boundaries of overburdened communities identified by the agency; and

(iv) The amount of each expenditure used for programs, activities, or projects supported by an Indian tribe.

(3) The department shall require by rule that recipients of funds from the accounts created in RCW 70A.65.240 through 70A.65.280, section 1 of this act, and section 2 of this act report to the department, in a form and manner prescribed by the department, the information required for the department to carry out the department's duties established in this section.

(4) ((~~The department shall update its website with the information described in subsection (2) of this section as appropriate but no less frequently than once per calendar year.~~

~~(5) The~~)) After the conclusion of each fiscal year through fiscal year 2027, the department shall submit ((~~its~~)) the report under this section to the appropriate committees of the legislature ((~~with the information described in subsection (2) of this section~~)) and update its website no later than ((~~September 30~~)) December 31st of each year. ((~~For fiscal year 2025, the report must be submitted no later than November 30, 2024. During the 2025-2027 fiscal biennium, the report must be submitted no later than November 30 of each fiscal year.~~)) Beginning with the 2027-2029 biennium, after the conclusion of each biennium the department shall submit the report on a biennial basis by December 31st of each odd-numbered year.

NEW SECTION. **Sec. 7.** Following the fiscal closure of the 2025-2027 biennium, the state treasurer must transfer the remaining balance of the climate investment account created in RCW 70A.65.250, the climate commitment account created in RCW 70A.65.260, and the natural climate solutions account created in RCW 70A.65.270 as follows: (1) 80 percent into the climate commitment act capital account created in section 2 of this act; and (2) 20 percent to the carbon emissions reduction account created in RCW 70A.65.240, to be used for infrastructure and incentives that support transportation electrification.

Sec. 8. RCW 43.21B.300 and 2025 c 316 s 302 and 2025 c 58 s 3008 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,

70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, ((~~70A.505.110,~~)) 70A.555.110, 70A.560.020, 70A.208.230, 70A.565.030, 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) 30 days after receipt of the notice imposing the penalty;

(b) 30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) 30 days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the

authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except the following:

(a) Penalties imposed pursuant to RCW 18.104.155 must be credited to the reclamation account as provided in RCW 18.104.155(7);

(b) Penalties imposed pursuant to RCW 70A.15.3160 must be disposed of pursuant to RCW 70A.15.3160;

(c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090, 70A.430.070, 70A.555.110, 70A.560.020, and 70A.565.030 must be credited to the model toxics control operating account created in RCW 70A.305.180;

(d) Penalties imposed pursuant to RCW 70A.245.040, 70A.245.050, and chapter 70A.208 RCW must be credited to the recycling enhancement account created in RCW 70A.245.100;

(e) Penalties imposed pursuant to RCW 70A.500.260 must be deposited into the electronic products recycling account created in RCW 70A.500.130;

(f) Penalties imposed pursuant to RCW 70A.65.200 must be credited to the climate ((~~investment~~)) commitment act operating account created in ((~~RCW 70A.65.250~~)) section 1 of this act;

(g) Penalties imposed pursuant to RCW 90.56.330 must be credited to the coastal protection fund established in RCW 90.48.390; and

(h) Penalties imposed pursuant to RCW 70A.355.070 must be credited to the underground storage tank account created in RCW 70A.355.090.

Sec. 9. RCW 70A.65.030 and 2025 c 424 s 972, 2025 c 417 s 804, and 2025 c 58 s 3011 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (4) of this section, each year or biennium, as appropriate, when allocating funds from the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment act operating account created in ((~~RCW 70A.65.260~~)) section 1 of this act, the ((~~natural climate solutions~~)) climate commitment act capital account created in ((~~RCW 70A.65.270~~)) section 2 of this act, ((~~the climate investment account created in~~

~~RCW 70A.65.250,~~)) or the air quality and health disparities improvement account created in RCW 70A.65.280, or administering grants or programs funded by the accounts, agencies shall conduct an environmental justice assessment consistent with the requirements of RCW 70A.02.060 and establish a minimum of not less than 35 percent and a goal of 40 percent of total investments that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities through: (a) The direct reduction of environmental burdens in overburdened communities; (b) the reduction of disproportionate, cumulative risk from environmental burdens, including those associated with climate change; (c) the support of community led project development, planning, and participation costs; or (d) meeting a community need identified by the community that is consistent with the intent of this chapter or RCW 70A.02.010.

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

(3) Except as provided in subsection (4) of this section, state agencies allocating funds or administering grants or programs from the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment act operating account created in ((~~RCW 70A.65.260~~)) section 1 of this act, the ((~~natural climate solutions~~)) climate commitment act capital account created in ((~~RCW 70A.65.270~~)) section 2 of this act, ((~~the climate investment account created in RCW 70A.65.250,~~)) or the air quality and health disparities improvement account created in RCW 70A.65.280, must:

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

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

(c)(i) If the agency is not a covered agency subject to the requirements of chapter 70A.02 RCW, create and adopt a community engagement plan to describe how it will engage with overburdened communities and vulnerable populations in allocating funds or administering grants or programs from the climate investment account.

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

(4) ((~~During the 2023-2025 and 2025-2027 fiscal biennia:~~))

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

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

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

Sec. 10. RCW 70A.65.040 and 2025 c 417 s 805 are each amended to read as follows:

(1) The environmental justice council created in RCW 70A.02.110 must provide recommendations to the legislature, agencies, and the governor in the development and implementation of the program established in RCW 70A.65.060 through 70A.65.210, and the programs

funded from the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment act operating account created in ((~~RCW 70A.65.260~~)) section 1 of this act, and the ((~~natural climate solutions~~)) climate commitment act capital account created in ((~~RCW 70A.65.270, and the climate investment account created in RCW 70A.65.250~~)) section 2 of this act.

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

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

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

(ii) Investment plans and funding proposals for the programs funded from the climate ((~~investment~~)) commitment act operating account created in ((~~RCW 70A.65.250~~)) section 1 of this act for the purpose of providing environmental benefits and reducing environmental health disparities within overburdened communities;

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

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

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

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

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

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

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

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

Sec. 11. RCW 70A.65.060 and 2024 c 352 s 2 are each amended to read as follows:

(1) In order to ensure that greenhouse gas emissions are reduced by covered entities consistent with the limits established in RCW 70A.45.020, the department must implement a cap on greenhouse gas emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments.

(2) The program must consist of:

(a) Annual allowance budgets that limit emissions from covered entities, as provided in this section and RCW 70A.65.070 and 70A.65.080;

(b) Defining those entities covered by the program, and those entities that may voluntarily opt into coverage under the program, as provided in this section and RCW 70A.65.070 and 70A.65.080;

(c) Distribution of emission allowances, as provided in RCW 70A.65.100, and through the allowance price containment provisions under RCW 70A.65.140 and 70A.65.150;

(d) Providing for offset credits as a method for meeting a compliance obligation, pursuant to RCW 70A.65.170;

(e) Defining the compliance obligations of covered entities, as provided in chapter 316, Laws of 2021;

(f) Establishing the authority of the department to enforce the program requirements, as provided in RCW 70A.65.200;

(g) ((~~Creating a climate investment account for the deposit of receipts from the distribution of emission allowances, as provided in RCW 70A.65.250;~~

~~(h)~~)) Providing for the transfer of allowances and recognition of compliance instruments, including those issued by jurisdictions with which Washington has linkage agreements;

((~~(i)~~)) (h) Providing monitoring and oversight of the sale and transfer of allowances by the department;

((~~(j)~~)) (i) Creating a price ceiling and associated mechanisms as provided in RCW 70A.65.160; and

((~~(k)~~)) (j) Providing for the allocation of allowances to emissions-intensive, trade-exposed industries pursuant to RCW 70A.65.110.

(3) The department shall consider opportunities to implement the program in a manner that allows linking the state's program with those of other jurisdictions. The department must evaluate whether such linkage will provide for a more cost-effective means for covered entities to meet their compliance obligations in Washington while recognizing the special characteristics of the state's economy, communities, and industries. The department is authorized to enter into a linkage agreement with another jurisdiction after conducting an environmental justice assessment and after formal notice and opportunity for a public hearing, and when consistent with the requirements of RCW 70A.65.210. The department is authorized to withdraw from a linkage agreement and every linkage agreement must provide that the department reserves the right to withdraw from the agreement.

(4) During the 2022 regular legislative session, the department must bring forth agency request legislation developed in consultation with emissions-intensive, trade-exposed businesses, covered entities, environmental advocates, and overburdened communities that outlines a compliance pathway specific to emissions-intensive, trade-exposed businesses for achieving their proportionate share of the state's emissions reduction limits through 2050.

(5) By December 1, 2027, and by December 1st of each year that is one year after the end of a compliance period, and in compliance with RCW 43.01.036, the department must submit a report to the legislature that includes a comprehensive review of the implementation of the program to date, including but not limited to outcomes relative to the state's emissions reduction limits, overburdened communities, covered entities, and emissions-intensive, trade-exposed businesses. The department must transmit the report to the environmental justice council at the same time it is submitted to the legislature.

(6) The department must bring forth agency request legislation if the department finds that any provision of this chapter prevents linking Washington's cap and invest program with that of any other jurisdiction.

Sec. 12. RCW 70A.65.200 and 2024 c 352 s 8 are each amended to read as follows:

(1) All covered and opt-in entities are required to submit compliance instruments in a timely manner to meet the entities' compliance obligations and shall comply with all requirements for monitoring, reporting, holding, and transferring emission allowances and other provisions of this chapter.

(2) If a covered or opt-in entity does not submit sufficient compliance instruments to meet its compliance obligation by the specified transfer dates, a penalty of four allowances for every one compliance instrument that is missing must be submitted to the department within six months. When a covered entity or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity shall immediately notify the department. Upon receiving notification, the department shall issue an order requiring the entity to submit the penalty allowances.

(3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (2) of this section, the department must issue an order or issue a penalty of up to $10,000 per day per violation, or both, for failure to submit penalty allowances as required by subsection (2) of the section. The order may include a plan and schedule for coming into compliance.

(4) The department may issue a penalty of up to $50,000 per day per violation for violations of RCW 70A.65.100(8) (a) through (e).

(5) Except as provided in subsections (3) and (4) of this section, any person that violates the terms of this chapter or an order issued under this chapter incurs a penalty of up to $10,000 per day per violation for each day that the person does not comply. All penalties under subsections (3) and (4) of this section and this subsection must be deposited into the climate ((~~investment~~)) commitment act operating account created in ((~~RCW 70A.65.250~~)) section 1 of this act.

(6) Orders and penalties issued under this chapter are appealable to the pollution control hearings board under chapter 43.21B RCW.

(7) Until the department enters into a linkage agreement or until the end of the first compliance period, whichever is sooner, the department may reduce the amount of the penalty by adjusting the monetary amount or the number of penalty allowances described in subsections (2) and (3) of this section.

(8) An electric utility or natural gas utility must notify its retail customers and the environmental justice council in published

form within three months of paying a monetary penalty under this section.

(9)(a) No city, town, county, township, or other subdivision or municipal corporation of the state may implement a charge or tax based exclusively upon the quantity of greenhouse gas emissions.

(b) No state agency may adopt or enforce a greenhouse gas pricing or market-based emissions cap and reduce program for stationary sources, or adopt or enforce emission limitations on greenhouse gas emissions from stationary sources except as:

(i) Provided in this chapter;

(ii) Authorized or directed by a state statute in effect as of July 1, 2022; or

(iii) Required to implement a federal statute, rule, or program.

(c) This chapter preempts the provisions of chapter 173-442 WAC, and the department shall repeal chapter 173-442 WAC.

(10)(a) By December 1, 2023, the office of financial management must submit a report to the appropriate committees of the legislature that summarizes two categories of state laws other than this chapter:

(i) Laws that regulate greenhouse gas emissions from stationary sources, and the greenhouse gas emission reductions attributable to each chapter, relative to a baseline in which this chapter and all other state laws that regulate greenhouse gas emissions are presumed to remain in effect; and

(ii) Laws whose implementation may effectuate reductions in greenhouse gas emissions from stationary sources.

(b) The state laws that the office of financial management may address in completing the report required in this subsection include, but are not limited to:

(i) Chapter 19.27A RCW;

(ii) Chapter 19.280 RCW;

(iii) Chapter 19.405 RCW;

(iv) Chapter 36.165 RCW;

(v) Chapter 43.21F RCW;

(vi) Chapter 70.30 RCW;

(vii) Chapter 70A.15 RCW;

(viii) Chapter 70A.45 RCW;

(ix) Chapter 70A.60 RCW;

(x) Chapter 70A.535 RCW;

(xi) Chapter 80.04 RCW;

(xii) Chapter 80.28 RCW;

(xiii) Chapter 80.70 RCW;

(xiv) Chapter 80.80 RCW; and

(xv) Chapter 81.88 RCW.

(c) The office of financial management may contract for all or part of the work product required under this subsection.

Sec. 13. RCW 70A.65.305 and 2024 c 375 s 8004 are each amended to read as follows:

(1) Agencies that allocate funding or administer grant programs appropriated from the climate ((~~investment~~)) commitment act operating account created in ((~~RCW 70A.65.250,~~)) section 1 of this act and the climate commitment act capital account created in ((~~RCW 70A.65.260, and the natural climate solutions account created in RCW 70A.65.270~~)) section 2 of this act must offer early, meaningful, and individual consultation with any affected federally recognized tribe on all funding decisions and funding programs that may impact tribal resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which a tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by federal or state law, or by a federal or state agency, including the requirements of Executive Order 21-02 related to archaeological and cultural resources, and regardless of whether the agency receives a request for consultation from a federally recognized tribe. The goal of the consultation process is to identify tribal resources or rights potentially affected by the funding decisions and funding programs, assess their effects, and seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights.

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

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

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

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

(d) The notification and offer to initiate discussion must be documented with the application when it is filed, and a copy of the application must be delivered to the department of archaeology and historic preservation, the department of fish and wildlife, and to the affected federally recognized tribe or tribes. If the discussions pursuant to (b) of this subsection do not occur, the applicant must document the reason why the discussion or discussions did not occur.

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

(3) If any funding decision, program, project, or activity that may impact tribal resources, including tribal cultural resources,

archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which a tribe or tribes possess rights reserved by federal treaty, statute, or executive order is funded from the accounts created in ((~~RCW 70A.65.250, 70A.65.260, and 70A.65.270~~)) sections 1 and 2 of this act without such a consultation with an affected federally recognized tribe, the affected federally recognized tribe may request that all further action on the decision, program, project, or activity cease until meaningful consultation is completed. Upon receipt of such a request by an agency or agencies with the authority to allocate funding or administer grant programs from the accounts listed in subsection (1) of this section in support of the proposed project, further action by the agency or agencies on any decision, program, project, or activity that would result in significant physical disturbance of the tribal resource or resources described in this subsection must cease until the consultation has been completed.

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

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

(6) After the meeting identified in subsection (5) of this section has occurred, the governor or an elected tribal leader of a federally recognized tribe may call for the state and tribe or tribes to enter into formal mediation, except that a federally recognized

tribe may choose to opt out of the mediation. If entered into, the mediation must be conducted as a government-to-government proceeding, with each sovereign government retaining their right to a final decision that meets their separate obligations and interests. Mediators must be jointly selected by the parties to the mediation. An agreement between the governor and a tribal leader or leaders resulting from the mediation is formally recognized and binding on the signatory parties. Absent an agreement, participation in mediation does not preclude any additional steps that any party can initiate, including legal review, to resolve a continuing disagreement.

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

(8) By June 30, 2023, the governor's office of Indian affairs, in coordination with the department of archaeology and historic preservation and federally recognized tribes, shall develop a state agency tribal consultation process, including best practices for early, meaningful, and effective consultation, early notification and engagement by applicants with federally recognized tribes as a part of the preapplication process in subsection (2) of this section, and protocols for communication and collaboration with federally recognized tribes. The consultation process developed under this section must be periodically reviewed and updated in coordination with federally recognized tribes. The governor's office of Indian affairs must provide training and other technical assistance to state agencies, as they implement the required consultation. Notwithstanding the governor's office of Indian affairs' ongoing work pursuant to this subsection, the provisions of subsections (1) through (7) and (9) of this section become effective as of June 9, 2022.

(9) The requirements of this section apply to local governments that receive funding from the accounts created in ((~~RCW 70A.65.250, 70A.65.260, and 70A.65.270~~)) sections 1 and 2 of this act, where that funding is disbursed to project and program applicants. Where requested, the governor's office of Indian affairs must provide

training and other technical assistance to local government agencies as they implement the consultation requirements of this section.

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

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

Sec. 14. RCW 76.04.196 and 2025 c 93 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of risk management shall, in consultation with the department, establish a prescribed fire claims fund pilot program for the purposes of:

(a) Supporting coverage for losses from prescribed fires and cultural burning on department protected lands and on tribal lands where an agreement exists between the Indian tribe and the department or where approved by the Indian tribe. The fund would not be utilized when prescribed fires or cultural burning have federal tort claims act coverage under a federally recognized burn plan; and

(b) Supporting nonstate and nonfederal entities that are alleged to have caused damages resulting from appropriately conducted prescribed fires or cultural burning on department protected lands and tribal lands as described in (a) of this subsection.

(2) To be eligible for reimbursement under this section, a claim must meet the criteria in (a) and (b) of this subsection.

(a) The claim results from a prescribed fire or cultural burn conducted on department protected lands and tribal lands as described in subsection (1)(a) of this section:

(i) By a certified burn manager, under an approved burn plan, with applicable permits and in accordance with any other applicable conditions or requirements as determined by the department; or

(ii) By a cultural fire practitioner, in accordance with any applicable burn plan or permit.

(b) The claim is for:

(i) Property or economic damage, as described under RCW 76.04.760(3) (a), (c), and (d), suffered by the claimant as a result of the prescribed fire or cultural burn;

(ii) Reasonable costs authorized for reimbursement by the department under RCW 76.04.475, related to the prescribed fire or cultural burn; or

(iii) Costs of suppression of an escapement for which a person is liable to a third party.

(c) A claim for damage suffered as a result of a prescribed fire or cultural burn started, spread, or otherwise caused by a criminal or negligent act is not eligible for reimbursement under this section.

(3) Upon submission of a claim, the department shall determine and certify to the office of risk management whether the claim meets the criteria in subsection (2) of this section.

(4) The office of risk management may reimburse an eligible claim in an amount equal to or less than the actual losses suffered by the claimant, not to exceed $2,000,000 per claim. The payment of a claim under this section is conditional on the availability of specific funding for this purpose, and nothing in this section shall be construed to create an entitlement to reimbursement or payment of any claim. The total amount paid for claims may not exceed the amounts available in the account established in subsection (7) of this section.

(5)(a) The office of risk management shall collaborate with the department, other relevant state agencies, the Washington prescribed fire council, cultural fire practitioners, and certified burn managers to establish guidelines governing the pilot program and the administration of the account established in subsection (7) of this section, including:

(i) Procedures for the submission of claims;

(ii) Any additional criteria for claim eligibility, as appropriate; and

(iii) A methodology or structure for how the payment of claims will be prioritized in the event that eligible claims exceed the amounts available in the account established in subsection (7) of this section.

(b) The office of risk management and the department may adopt rules to implement this section.

(c) Guidelines and any rules adopted under this section must be made publicly available on the websites of the office of risk management and the department.

(6) This section does not limit the ability of a person to assert a claim for damages arising from a prescribed fire under any other law. A court shall offset any award of damages to a claimant under an action arising from the same set of alleged facts by the amount of reimbursement provided under this section.

(7)(a) The prescribed fire claims account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for the reimbursement of claims under this section.

(b) Upon the expiration of this section, any remaining amounts in the account must be deposited in the ((~~natural climate solutions~~)) climate commitment act capital account created in section 2 of this act.

(8) For the purposes of this section:

(a) "Certified burn manager" means a prescribed burn manager certified under RCW 76.04.183 or a prescribed fire burn boss certified under the national wildfire coordinating group standards.

(b) "Cultural fire practitioner" means a person approved by an Indian tribe as having experience in burning to meet cultural goals or objectives, including subsistence, ceremonial activities, biodiversity, or other benefits.

(c) "Department protected lands" has the same meaning as in RCW 76.04.005.

(d) "Indian tribe" has the same meaning as in RCW 43.376.010.

(9) This section expires June 30, 2033.

Sec. 15. RCW 76.13.120 and 2024 c 158 s 1 are each amended to read as follows:

(1) The legislature finds that the state should acquire easements primarily along riparian and other sensitive aquatic areas from qualifying small forestland owners willing to sell or donate easements to the state provided that the state will not be required to acquire the easements if they are subject to unacceptable liabilities. Therefore the legislature establishes a forestry riparian easement program.

(2) The definitions in this subsection apply throughout this section and RCW 76.13.100, 76.13.110, 76.13.140, and 76.13.160 unless the context clearly requires otherwise.

(a) "Forestry riparian easement" means an easement covering qualifying timber granted voluntarily to the state by a qualifying small forestland owner.

(b) "Qualifying small forestland owner" means a landowner meeting all of the following characteristics as of the date the department offers compensation for a forestry riparian easement:

(i) Is a small forestland owner as defined in (d) of this subsection; and

(ii) Is an individual, partnership, corporation, or other nongovernmental for-profit legal entity.

(c) "Qualifying timber" means those forest trees on land owned by a qualifying small forestland owner for which the small forestland owner is willing to grant the state a forestry riparian easement and meets all of the following:

(i) The forest trees are covered by a forest practices application that the small forestland owner is required to leave unharvested under the rules adopted under RCW 76.09.040, 76.09.055, and 76.09.370 or that is made uneconomic to harvest by those rules;

(ii) The forest trees are within or bordering a commercially reasonable harvest unit as determined under rules adopted by the forest practices board, or for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(iii) The forest trees are located within, or affected by forest practices rules pertaining to any one, or all, of the following:

(A) Riparian or other sensitive aquatic areas;

(B) Channel migration zones; or

(C) Areas of potentially unstable slopes or landforms, verified by the department, and must meet all of the following:

(I) Are addressed in a forest practices application;

(II) Are adjacent to a commercially reasonable harvest area; and

(III) Have the potential to deliver sediment or debris to a public resource or threaten public safety.

(d) "Small forestland owner" means a landowner meeting all of the following characteristics:

(i) A forestland owner as defined in RCW 76.09.020 whose interest in the land and timber is in fee or who has rights to the timber to be included in the forestry riparian easement that extend at least 40 years from the date the completed forestry riparian easement application associated with the easement is submitted;

(ii) An entity that has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the owner as a small harvester under RCW 84.33.035; and

(iii) An entity that certifies at the time of application that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035 during the 10 years following application. If a landowner's prior three-year average harvest exceeds the limit of RCW 84.33.035, or the landowner expects to exceed this limit during the 10 years following application, and that landowner establishes to the department's reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses, the landowner shall be deemed to be a small forestland owner. For purposes of determining whether a person qualifies as a small forestland owner, the small forestland owner office, created in RCW 76.13.110, shall evaluate the landowner under this definition, pursuant to RCW 76.13.160, as of the date that the forest practices application is submitted and the date that the department offers compensation for the forestry riparian easement. A small forestland owner can include an individual, partnership, corporation, or other nongovernmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forestland owner under this section. If a landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules, the landowner may still qualify as a small forestland owner under this section.

(e) "Completion of harvest" means that the trees have been commercially harvested from an area and that further entry into that area by mechanized logging or slash treating equipment is not expected.

(3) Nothing in the eligibility limit identified in subsection (2)(c)(i) through (iii) of this section precludes inclusion of land in future mitigation programs.

(4) The department is authorized and directed to accept and hold in the name of the state of Washington forestry riparian easements granted by qualifying small forestland owners covering qualifying timber and to pay compensation to the landowners in accordance with

this section. The department may not transfer the easements to any entity other than another state agency.

(5) Forestry riparian easements shall be effective for 40 years from the date of the completed forestry riparian easement application, unless the easement is voluntarily terminated earlier by the department, based on a determination that termination is in the best interest of the state, or under the terms of a termination clause in the easement.

(6) Forestry riparian easements shall be restrictive of the timber only, and shall preserve all lawful uses of the easement premises by the landowner that are consistent with the terms of the easement and the requirement to protect riparian functions during the term of the easement, subject to the restriction that the leave trees required by the rules to be left on the easement premises may not be cut during the term of the easement. No right of public access to or across, or any public use of the easement premises is created by this statute or by the easement. Forestry riparian easements shall not be deemed to trigger the compensating tax of or otherwise disqualify land from being taxed under chapter 84.33 or 84.34 RCW.

(7) The small forestland owner office shall determine what constitutes a completed application for a forestry riparian easement. An application shall, at a minimum, include documentation of the owner's status as a qualifying small forestland owner, identification of location and the types of qualifying timber, and notification of completion of harvest, if applicable.

(8) Upon receipt of the qualifying small forestland owner's forestry riparian easement application, and subject to the availability of amounts appropriated for this specific purpose, the following must occur:

(a) The small forestland owner office must determine the compensation to be offered to the qualifying small forestland owner for qualifying timber after the department accepts the completed forestry riparian easement application and the landowner has completed marking the boundary of the area containing the qualifying timber. The legislature recognizes that there is not readily available market transaction evidence of value for easements of the nature required by this section, and thus establishes the methodology provided in this subsection to ascertain the value for forestry riparian easements. Values so determined may not be considered competent evidence of value for any other purpose.

(b) The small forestland owner office, subject to the availability of amounts appropriated for this specific purpose, is responsible for assessing the volume of qualifying timber. However, no more than 50 percent of the total amounts appropriated for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Based on the volume established by the small forestland owner office and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forestland owner office shall attempt to determine the fair market value of the qualifying timber as of the date of the completed harvest. To the extent reasonably possible, the forestry riparian easement applications should be processed in the order received. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry.

(9)(a) Subject to the availability of amounts appropriated for this specific purpose, the small forestland owner office shall offer compensation for qualifying timber to the qualifying small forestland owner in the amount of 90 percent of the value determined by the small forestland owner office, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. However, compensation for any qualifying small forestland owner for qualifying timber located on potentially unstable slopes or landforms may not exceed a total of $150,000 during any biennial funding period.

(b) If the landowner accepts the offer for qualifying timber, the department shall pay the compensation promptly upon:

(i) Completion of harvest in the area within a commercially reasonable harvest unit with which the forestry riparian easement is associated under an approved forest practices application, unless an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(ii) Verification that the landowner has no outstanding violations under chapter 76.09 RCW or any associated rules; and

(iii) Execution and delivery of the easement to the department.

(c) Upon donation or payment of compensation, the department may record the easement.

(10)(a) The forest practices board shall adopt rules under the administrative procedure act, chapter 34.05 RCW, to implement the forestry riparian easement program, including the following:

(i) A standard version of a forestry riparian easement application as well as all additional documents necessary or advisable to create the forestry riparian easements as provided for in this section;

(ii) Standards for descriptions of the easement premises with a degree of precision that is reasonable in relation to the values involved;

(iii) Methods and standards for cruises and valuation of forestry riparian easements for purposes of establishing the compensation. The department shall perform the timber cruises of forestry riparian easements required under this chapter and chapter 76.09 RCW. Timber cruises are subject to amounts appropriated for this purpose. However, no more than 50 percent of the total appropriated funding for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Any rules concerning the methods and standards for valuations of forestry riparian easements shall apply only to the department, qualifying small forestland owners, and the small forestland owner office;

(iv) A method to determine that a forest practices application involves a commercially reasonable harvest, and adopt criteria for entering into a forestry riparian easement where a commercially reasonable harvest is not possible or a forest practices application that has been submitted cannot be approved because of restrictions under the forest practices rules;

(v) A method to address blowdown of qualified timber falling outside the easement premises;

(vi) A formula for sharing of proceeds in relation to the acquisition of qualified timber covered by an easement through the exercise or threats of eminent domain by a federal or state agency with eminent domain authority, based on the present value of the department's and the landowner's relative interests in the qualified timber;

(vii) A method to determine timber that is qualifying timber because it is rendered uneconomic to harvest by the rules adopted under RCW 76.09.055 and 76.09.370;

(viii) A method for internal department review of small forestland owner office compensation decisions under this section; and

(ix) Consistent with RCW 76.13.180, a method to collect reimbursement from landowners who received compensation for a forestry riparian easement and who, within the first 10 years after receipt of compensation for a forestry riparian easement, sells the land on which an easement is located to a nonqualifying landowner.

(b) At least semiannually, the department shall consult with the small forestland owner advisory committee established in RCW 76.13.110(4) to review landowner complaints, administrative processes, rule recommendations, and related issues where the department is actively seeking the small forestland owner advisory committee's advice on potential improved efficiencies and effectiveness.

(11) The legislature finds that the overall societal benefits of economically viable working forests are multiple, and include the protection of clean, cold water, the provision of wildlife habitat, the sheltering of cultural resources from development, and the natural carbon storage potential of growing trees. As such, working forests and the forestry riparian easement program may be part of the state's overall carbon sequestration strategy. If the state creates a climate strategy, the department must share information regarding the carbon sequestration benefits of the forestry riparian easement program with other state programs using methods and protocols established in the state climate strategy that attempt to quantify carbon storage or account for carbon emissions. The department must promote the expansion of funding for the forestry riparian easement program and the ecosystem services supported by the program based on the findings stated in RCW 76.13.100. Nothing in this subsection allows a landowner to be reimbursed by the state more than once for the same forest riparian easement application.

(12) It is the intent of the legislature that the small forestland owner office complete forestry riparian easement program application transactions within two years of the application receipt consistent with the goals of ((~~RCW 70A.65.270(2)(b)(iii)~~)) section 2(1)(n)(iii) of this act.

NEW SECTION. **Sec. 16.** The following acts or parts of acts are each repealed:

(1) RCW 70A.65.250 (Climate investment account) and 2025 c 424 s 973 & 2024 c 376 s 911;

(2) RCW 70A.65.260 (Climate commitment account) and 2025 c 424 s 974, 2023 c 475 s 939, 2022 c 179 s 17, & 2021 c 316 s 29; and

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

NEW SECTION. **Sec. 17.** This act takes effect July 1, 2027.

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