
HOUSE BILL 1169

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Shea, Taylor, Overstreet, Short, and Haler

Read first time 01/17/13. Referred to Committee on Environment.

1 AN ACT Relating to reevaluating the delegation of authority to
2 state agencies in regards to programs that address greenhouse gas
3 emissions; amending RCW 70.235.020, 70.235.040, 70.235.050, 70.235.060,
4 70.235.070, 70.120A.010, 70.120A.050, 70.94.151, 70.94.161, 80.80.040,
5 80.80.080, 47.01.440, 47.01.440, 19.27A.020, and 19.27A.150; adding a
6 new chapter to Title 70 RCW; and repealing RCW 70.235.030 and
7 80.80.030.

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

9 NEW SECTION. **Sec. 1.** (1) The legislature finds that state,
10 regional, or federal programs designed to propose or implement a cap
11 and trade system, regulate motor vehicle fuel economy, or otherwise
12 address greenhouse gas emissions would have a substantial effect on the
13 economy of the state of Washington and the livelihood of all
14 Washingtonians.

15 (2) The legislature further finds that proper procedural safeguards
16 to control arbitrary administrative action and the abuse of
17 discretionary power at the administrative level do not currently exist
18 in this area as necessary to protect the interests of the people of
19 Washington. As such, it is the intent of the legislature to expressly

1 limit any delegations to its various administrative agencies in regards
2 to programs designed to implement a cap and trade system, regulate
3 motor vehicle fuel economy, or otherwise address greenhouse gas
4 emissions and to create a mechanism whereby the legislature can
5 adequately fulfill its constitutional duty to ensure oversight of
6 administrative action in this important regulatory area.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
10 sulfur hexafluoride, hydrofluorocarbon, or perfluorocarbon.

11 (2) "Western climate initiative" means the process that was
12 initiated in February 2007 by the governors of Arizona, California, New
13 Mexico, Oregon, and Washington to evaluate and implement ways to reduce
14 their states' emissions of greenhouse gases.

15 NEW SECTION. **Sec. 3.** (1) No state agency may implement a cap and
16 trade system, regulate motor vehicle fuel economy, or otherwise address
17 greenhouse gas emissions without direct and specific legislative
18 authorization to conduct the activity.

19 (2) To qualify as direct and specific legislative authorization,
20 the authorization must take the form of a section of substantive law or
21 provision in a budget included as a session law published by the
22 statute law committee in the year 2013 or later. Sections of
23 legislation vetoed by the governor do not qualify as legislative
24 authorization.

25 (3) To assist the legislature with evaluating agency activity in
26 this area, state agencies may formally request legislation or budget
27 items related to addressing greenhouse gas emissions. Any such request
28 of the legislature from the executive branch must be accompanied by a
29 comprehensive assessment of the fiscal and regulatory impacts of their
30 proposal on Washington's budget, economy, consumers, families, and both
31 large and small businesses.

32 NEW SECTION. **Sec. 4.** (1)(a) Any state agency either in the
33 process of, or planning for, the implementation of a cap and trade
34 system, regulation of motor vehicle fuel economy, or otherwise
35 addressing greenhouse gas emissions as of the effective date of this

1 section must suspend all activities related to those efforts, including
2 the enforcing or administrating of any existing rules, until the
3 conditions of section 3 of this act are satisfied.

4 (b) This section includes, but is not limited to, the
5 implementation of chapter 70.120A RCW and any participation in the
6 western climate initiative or other multijurisdictional partnerships to
7 develop greenhouse gas regulations.

8 (2) Any state agency that must suspend an activity under this
9 section or that has initiated or completed a related rule-making
10 process within three months of either the effective date of this
11 section or the release of any recommendations by the participants in
12 the western climate initiative must provide a written report to the
13 legislature, consistent with RCW 43.01.036, and to the governor, on the
14 related activity. The report must include a detailed description of
15 the affected program, a comprehensive analysis of the fiscal and
16 regulatory impacts of the proposed program on Washington's budget,
17 economy, consumers, families, and both small and large businesses, and
18 the contents of any proposed legislation that could authorize the
19 affected program for consideration under section 3 of this act.

20 NEW SECTION. **Sec. 5.** Any federal law, rule, order, or other act
21 by the federal government violating the provisions of this chapter is
22 declared to be invalid in this state, is not recognized by and is
23 specifically rejected by this state, and is considered as null and void
24 and of no effect in this state.

25 **Sec. 6.** RCW 70.235.020 and 2008 c 14 s 3 are each amended to read
26 as follows:

27 (1)(a) Except as provided in section 4 of this act, the state shall
28 limit emissions of greenhouse gases to achieve the following emission
29 reductions for Washington state:

30 (i) By 2020, reduce overall emissions of greenhouse gases in the
31 state to 1990 levels;

32 (ii) By 2035, reduce overall emissions of greenhouse gases in the
33 state to twenty-five percent below 1990 levels;

34 (iii) By 2050, the state will do its part to reach global climate
35 stabilization levels by reducing overall emissions to fifty percent

1 below 1990 levels, or seventy percent below the state's expected
2 emissions that year.

3 (b) By December 1, 2008, the department shall submit a greenhouse
4 gas reduction plan for review and approval to the legislature,
5 describing those actions necessary to achieve the emission reductions
6 in (a) of this subsection by using existing statutory authority and any
7 additional authority granted by the legislature. Except as provided in
8 section 4 of this act, actions taken using existing statutory authority
9 may proceed prior to approval of the greenhouse gas reduction plan.

10 (c) Except where explicitly stated otherwise, nothing in chapter
11 14, Laws of 2008 limits any state agency authorities as they existed
12 prior to June 12, 2008.

13 (d) Except as provided in section 4 of this act, and consistent
14 with this directive, the department shall take the following actions:

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

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

21 (2) Except as provided in section 4 of this act, by December 31st
22 of each even-numbered year beginning in 2010, the department and the
23 department of (~~community, trade, and economic development~~) commerce
24 shall report to the governor and the appropriate committees of the
25 senate and house of representatives the total emissions of greenhouse
26 gases for the preceding two years, and totals in each major source
27 sector. The department shall ensure the reporting rules adopted under
28 RCW 70.94.151 allow it to develop a comprehensive inventory of
29 emissions of greenhouse gases from all significant sectors of the
30 Washington economy.

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

36 **Sec. 7.** RCW 70.235.040 and 2008 c 14 s 7 are each amended to read
37 as follows:

1 Except as provided in section 4 of this act, within eighteen months
2 of the next and each successive global or national assessment of
3 climate change science, the department shall consult with the climate
4 impacts group at the University of Washington regarding the science on
5 human-caused climate change and provide a report to the legislature
6 summarizing that science and make recommendations regarding whether the
7 greenhouse gas emissions reductions required under RCW 70.235.020 need
8 to be updated.

9 **Sec. 8.** RCW 70.235.050 and 2009 c 519 s 2 are each amended to read
10 as follows:

11 (1) Except as provided in section 4 of this act, all state agencies
12 shall meet the statewide greenhouse gas emission limits established in
13 RCW 70.235.020 to achieve the following, using the estimates and
14 strategy established in subsections (2) and (3) of this section:

15 (a) By July 1, 2020, reduce emissions by fifteen percent from 2005
16 emission levels;

17 (b) By 2035, reduce emissions to thirty-six percent below 2005
18 levels; and

19 (c) By 2050, reduce emissions to the greater reduction of fifty-
20 seven and one-half percent below 2005 levels, or seventy percent below
21 the expected state government emissions that year.

22 (2)(a) By June 30, 2010, all state agencies shall report estimates
23 of emissions for 2005 to the department, including 2009 levels of
24 emissions, and projected emissions through 2035.

25 (b) State agencies required to report under RCW 70.94.151 must
26 estimate emissions from methodologies recommended by the department and
27 must be based on actual operation of those agencies. Agencies not
28 required to report under RCW 70.94.151 shall derive emissions estimates
29 using an emissions calculator provided by the department.

30 (3) By June 30, 2011, each state agency shall submit to the
31 department a strategy to meet the requirements in subsection (1) of
32 this section. The strategy must address employee travel activities,
33 teleconferencing alternatives, and include existing and proposed
34 actions, a timeline for reductions, and recommendations for budgetary
35 and other incentives to reduce emissions, especially from employee
36 business travel.

1 (4) By October 1st of each even-numbered year beginning in 2012,
2 each state agency shall report to the department the actions taken to
3 meet the emission reduction targets under the strategy for the
4 preceding fiscal biennium. The department may authorize the department
5 of (~~general administration~~) enterprise services to report on behalf
6 of any state agency having fewer than five hundred full-time equivalent
7 employees at any time during the reporting period. The department
8 shall cooperate with the department of (~~general administration~~)
9 enterprise services and the department of (~~community, trade, and~~
10 ~~economic development~~) commerce to develop consolidated reporting
11 methodologies that incorporate emission reduction actions taken across
12 all or substantially all state agencies.

13 (5) All state agencies shall cooperate in providing information to
14 the department, the department of (~~general administration~~) enterprise
15 services, and the department of (~~community, trade, and economic~~
16 ~~development~~) commerce for the purposes of this section.

17 (6) The governor shall designate a person as the single point of
18 accountability for all energy and climate change initiatives within
19 state agencies. This position must be funded from current full-time
20 equivalent allocations without increasing budgets or staffing levels.
21 If duties must be shifted within an agency, they must be shifted among
22 current full-time equivalent allocations. All agencies, councils, or
23 work groups with energy or climate change initiatives shall coordinate
24 with this designee.

25 **Sec. 9.** RCW 70.235.060 and 2009 c 519 s 5 are each amended to read
26 as follows:

27 (1) Except as provided in section 4 of this act, the department
28 shall develop an emissions calculator to assist state agencies in
29 estimating aggregate emissions as well as in estimating the relative
30 emissions from different ways in carrying out activities.

31 (2) The department may use data such as totals of building space
32 occupied, energy purchases and generation, motor vehicle fuel purchases
33 and total mileage driven, and other reasonable sources of data to make
34 these estimates. The estimates may be derived from a single
35 methodology using these or other factors, except that for the top ten
36 state agencies in occupied building space and vehicle miles driven, the
37 estimates must be based upon the actual and projected operations of

1 those agencies. The estimates may be adjusted, and reasonable
2 estimates derived, when agencies have been created since 1990 or
3 functions reorganized among state agencies since 1990. The estimates
4 may incorporate projected emissions reductions that also affect state
5 agencies under the program authorized in RCW 70.235.020 and other
6 existing policies that will result in emissions reductions.

7 (3) By December 31st of each even-numbered year beginning in 2010,
8 the department shall report to the governor and to the appropriate
9 committees of the senate and house of representatives the total state
10 agencies' emissions of greenhouse gases for 2005 and the preceding two
11 years and actions taken to meet the emissions reduction targets.

12 **Sec. 10.** RCW 70.235.070 and 2009 c 519 s 9 are each amended to
13 read as follows:

14 Except as provided in section 4 of this act, beginning in 2010,
15 when distributing capital funds through competitive programs for
16 infrastructure and economic development projects, all state agencies
17 must consider whether the entity receiving the funds has adopted
18 policies to reduce greenhouse gas emissions. Agencies also must
19 consider whether the project is consistent with:

20 (1) The state's limits on the emissions of greenhouse gases
21 established in RCW 70.235.020;

22 (2) Statewide goals to reduce annual per capita vehicle miles
23 traveled by 2050, in accordance with RCW 47.01.440, except that the
24 agency shall consider whether project locations in rural counties, as
25 defined in RCW 43.160.020, will maximize the reduction of vehicle miles
26 traveled; and

27 (3) Applicable federal emissions reduction requirements.

28 **Sec. 11.** RCW 70.120A.010 and 2010 c 76 s 1 are each amended to
29 read as follows:

30 (1) Except as provided in section 4 of this act, pursuant to the
31 federal clean air act, the legislature adopts the California motor
32 vehicle emission standards in Title 13 of the California Code of
33 Regulations, effective January 1, 2005, except as provided in this
34 chapter. The department of ecology shall adopt rules to implement the
35 emission standards of the state of California for passenger cars, light
36 duty trucks, and medium duty passenger vehicles, and shall amend the

1 rules from time to time, to maintain consistency with the California
2 motor vehicle emission standards and 42 U.S.C. Sec. 7507 (section 177
3 of the federal clean air act). Notwithstanding other provisions of
4 this chapter, the department of ecology shall not adopt the zero
5 emission vehicle program regulations contained in Title 13 section 1962
6 of the California Code of Regulations effective January 1, 2005.
7 During rule development, the department of ecology shall convene an
8 advisory group composed of industry and consumer group representatives.
9 Any proposed rules or changes to rules shall be subject to review and
10 comment by the advisory group, prior to rule adoption. The order of
11 adoption for the rules required in this section shall include the
12 signature of the governor. The rules shall be effective only for those
13 model years for which the state of Oregon has adopted the California
14 motor vehicle emission standards. This section does not limit the
15 department of ecology's authority to regulate motor vehicle emissions
16 for any other class of vehicle.

17 (2) Motor vehicles with a model year equal to or later than the
18 first model year for which new vehicles sold to Washington state
19 residents are required to comply with California motor vehicle emission
20 standards are exempt from emission inspections under chapter 70.120
21 RCW.

22 (3) The provisions of this chapter do not apply with respect to the
23 use by a resident of this state of a motor vehicle acquired and used
24 while the resident is a member of the armed services and is stationed
25 outside this state pursuant to military orders.

26 **Sec. 12.** RCW 70.120A.050 and 2008 c 32 s 2 are each amended to
27 read as follows:

28 (1) Except as provided in section 4 of this act, no model year 2010
29 or subsequent model year new passenger car, light duty truck, or medium
30 duty passenger vehicle may be sold in Washington unless there is
31 securely and conspicuously affixed in a clearly visible location a
32 label on which the manufacturer clearly discloses comparative
33 greenhouse gas emissions for that new vehicle.

34 (2) The label required by this section should include a greenhouse
35 gas index or rating system that contains quantitative and graphical
36 information presented in a continuous, easy-to-read scale that compares
37 the greenhouse gas emissions from the vehicle with the average

1 projected greenhouse gas emissions from all passenger cars, light duty
2 trucks, and medium duty passenger vehicles of the same model year. For
3 reference purposes, the index or rating system should also identify the
4 greenhouse gas emissions from the vehicle model of that same model year
5 that has the lowest greenhouse gas emissions.

6 (3) The index or rating system included in the label under
7 subsection (2) of this section shall be updated as necessary to ensure
8 that the differences in greenhouse gas emissions among vehicles are
9 readily apparent to the consumer.

10 (4) An automobile manufacturer may apply to the department of
11 ecology for approval of an alternative to the disclosure labeling
12 requirement that is at least as effective in providing notification and
13 disclosure of the vehicle's greenhouse gas emissions as is the labeling
14 required by this section.

15 (5) A label that complies with the requirements of the California
16 greenhouse gas vehicle labeling program shall be deemed to meet the
17 requirements of this section and any rules adopted under this section.

18 (6) The department of ecology may adopt such rules as are necessary
19 to implement this section.

20 (7) The department of ecology shall provide a status report to the
21 appropriate committees of the legislature on or before December 1,
22 2008, (a) outlining its approach and progress toward implementing a
23 greenhouse gas vehicle emissions disclosure labeling program for
24 Washington, (b) providing an update on the status of California's
25 greenhouse gas vehicle labeling program, and (c) making recommendations
26 as necessary for legislation to meet the intent and purpose of chapter
27 32, Laws of 2008 by the 2010 model year.

28 **Sec. 13.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to read
29 as follows:

30 (1) The board of any activated authority or the department, may
31 classify air contaminant sources, by ordinance, resolution, rule or
32 regulation, which in its judgment may cause or contribute to air
33 pollution, according to levels and types of emissions and other
34 characteristics which cause or contribute to air pollution, and may
35 require registration or reporting or both for any such class or
36 classes. Classifications made pursuant to this section may be for
37 application to the area of jurisdiction of such authority, or the state

1 as a whole or to any designated area within the jurisdiction, and shall
2 be made with special reference to effects on health, economic and
3 social factors, and physical effects on property.

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

1 All registration program and reporting fees collected by the
2 department shall be deposited in the air pollution control account.
3 All registration program fees collected by the local air authorities
4 shall be deposited in their respective treasuries.

5 (3) If a registration or report has been filed for a grain
6 warehouse or grain elevator as required under this section,
7 registration, reporting, or a registration program fee shall not, after
8 January 1, 1997, again be required under this section for the warehouse
9 or elevator unless the capacity of the warehouse or elevator as listed
10 as part of the license issued for the facility has been increased since
11 the date the registration or reporting was last made. If the capacity
12 of the warehouse or elevator listed as part of the license is
13 increased, any registration or reporting required for the warehouse or
14 elevator under this section must be made by the date the warehouse or
15 elevator receives grain from the first harvest season that occurs after
16 the increase in its capacity is listed in the license.

17 This subsection does not apply to a grain warehouse or grain
18 elevator if the warehouse or elevator handles more than ten million
19 bushels of grain annually.

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

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

26 (b) A "license" is a license issued by the department of
27 agriculture licensing a facility as a grain warehouse or grain elevator
28 under chapter 22.09 RCW or a license issued by the federal government
29 licensing a facility as a grain warehouse or grain elevator for
30 purposes similar to those of licensure for the facility under chapter
31 22.09 RCW; and

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

33 (5)(a) Except as provided in section 4 of this act, the department
34 shall adopt rules requiring persons to report emissions of greenhouse
35 gases as defined in RCW 70.235.010 where those emissions from a single
36 facility, source, or site, or from fossil fuels sold in Washington by
37 a single supplier meet or exceed ten thousand metric tons of carbon
38 dioxide equivalent annually. The department may phase in the

1 requirement to report greenhouse gas emissions until the reporting
2 threshold in this subsection is met, which must occur by January 1,
3 2012. In addition, the rules must require that:

4 (i) Emissions of greenhouse gases resulting from the combustion of
5 fossil fuels be reported separately from emissions of greenhouse gases
6 resulting from the combustion of biomass;

7 (ii) Reporting will start in 2010 for 2009 emissions. Each annual
8 report must include emissions data for the preceding calendar year and
9 must be submitted to the department by October 31st of the year in
10 which the report is due. However, starting in 2011, a person who is
11 required to report greenhouse gas emissions to the United States
12 environmental protection agency under 40 C.F.R. Part 98, as adopted on
13 September 22, 2009, must submit the report required under this section
14 to the department concurrent with the submission to the United States
15 environmental protection agency. Except as otherwise provided in this
16 section, the data for emissions in Washington and any corrections
17 thereto that are reported to the United States environmental protection
18 agency must be the emissions data reported to the department; and

19 (iii) Emissions of carbon dioxide associated with the complete
20 combustion or oxidation of liquid motor vehicle fuel, special fuel, or
21 aircraft fuel that is sold in Washington where the annual emissions
22 associated with that combustion or oxidation equal or exceed ten
23 thousand metric tons be reported to the department. Each person who is
24 required to file periodic tax reports of motor vehicle fuel sales under
25 RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each
26 distributor of aircraft fuel required to file periodic tax reports
27 under RCW 82.42.040 must report to the department the annual emissions
28 of carbon dioxide from the complete combustion or oxidation of the
29 fuels listed in those reports as sold in the state of Washington. The
30 department shall not require suppliers to use additional data to
31 calculate greenhouse gas emissions other than the data the suppliers
32 report to the department of licensing. The rules may allow this
33 information to be aggregated when reported to the department. The
34 department and the department of licensing shall enter into an
35 interagency agreement to ensure proprietary and confidential
36 information is protected if the departments share reported information.
37 Any proprietary or confidential information exempt from disclosure when

1 reported to the department of licensing is exempt from disclosure when
2 shared by the department of licensing with the department under this
3 provision.

4 (b)(i) Except as otherwise provided in this subsection, the rules
5 adopted by the department under (a) of this subsection must be
6 consistent with the regulations adopted by the United States
7 environmental protection agency in 40 C.F.R. Part 98 on September 22,
8 2009.

9 (ii) The department may by rule include additional gases to the
10 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has
11 been designated as a greenhouse gas by the United States congress or by
12 the United States environmental protection agency. Prior to including
13 additional gases to the definition of "greenhouse gas" in RCW
14 70.235.010, the department shall notify the appropriate committees of
15 the legislature. Decisions to amend the rule to include additional
16 gases must be made prior to December 1st of any year and the amended
17 rule may not take effect before the end of the regular legislative
18 session in the next year.

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

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

26 (c) The department shall review and if necessary update its rules
27 whenever the United States environmental protection agency adopts final
28 amendments to 40 C.F.R. Part 98 to ensure consistency with federal
29 reporting requirements for emissions of greenhouse gases. However, the
30 department shall not amend its rules in a manner that conflicts with
31 (a) of this subsection.

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

35 (e) The fee provisions in subsection (2) of this section apply to
36 reporting of emissions of greenhouse gases. Persons required to report
37 under (a) of this subsection who fail to report or pay the fee required
38 in subsection (2) of this section are subject to enforcement penalties

1 under this chapter. The department shall enforce the reporting rule
2 requirements unless it approves a local air authority's request to
3 enforce the requirements for persons operating within the authority's
4 jurisdiction. However, neither the department nor a local air
5 authority approved under this section are authorized to assess
6 enforcement penalties on persons required to report under (a) of this
7 subsection until six months after the department adopts its reporting
8 rule in 2010.

9 (f) The energy facility site evaluation council shall, except as
10 provided in section 4 of this act, simultaneously with the department,
11 adopt rules that impose greenhouse gas reporting requirements in site
12 certifications on owners or operators of a facility permitted by the
13 energy facility site evaluation council. The greenhouse gas reporting
14 requirements imposed by the energy facility site evaluation council
15 must be the same as the greenhouse gas reporting requirements imposed
16 by the department. The department shall share any information reported
17 to it from facilities permitted by the energy facility site evaluation
18 council with the council, including notice of a facility that has
19 failed to report as required. The energy facility site evaluation
20 council shall contract with the department to monitor the reporting
21 requirements adopted under this section.

22 (g) The inclusion or failure to include any person, source, classes
23 of persons or sources, or types of emissions of greenhouse gases into
24 the department's rules for reporting under this section does not
25 indicate whether such a person, source, or category is appropriate for
26 inclusion in state, regional, or national greenhouse gas reduction
27 programs or strategies. Furthermore, aircraft fuel purchased in the
28 state may not be considered equivalent to aircraft fuel combusted in
29 the state.

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

32 (ii) For the purpose of this subsection (5), the term "supplier"
33 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel
34 importer, as those terms are defined in RCW 82.36.010; (B) a special
35 fuel supplier or a special fuel importer, as those terms are defined in
36 RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms
37 are defined in RCW 82.42.010.

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

6 **Sec. 14.** RCW 70.94.161 and 2008 c 14 s 6 are each amended to read
7 as follows:

8 The department of ecology, or board of an authority, shall require
9 renewable permits for the operation of air contaminant sources subject
10 to the following conditions and limitations:

11 (1) Permits shall be issued for a term of five years. A permit may
12 be modified or amended during its term at the request of the permittee,
13 or for any reason allowed by the federal clean air act. The rules
14 adopted pursuant to subsection (2) of this section shall include rules
15 for permit amendments and modifications. The terms and conditions of
16 a permit shall remain in effect after the permit itself expires if the
17 permittee submits a timely and complete application for permit renewal.

18 (2)(a) Rules establishing the elements for a statewide operating
19 permit program and the process for permit application and renewal
20 consistent with federal requirements shall be established by the
21 department by January 1, 1993. The rules shall provide that every
22 proposed permit must be reviewed prior to issuance by a professional
23 engineer or staff under the direct supervision of a professional
24 engineer in the employ of the permitting authority. The permit program
25 established by these rules shall be administered by the department and
26 delegated local air authorities. Rules developed under this subsection
27 shall not preclude a delegated local air authority from including in a
28 permit its own more stringent emission standards and operating
29 restrictions.

30 (b) The board of any local air pollution control authority may
31 apply to the department of ecology for a delegation order authorizing
32 the local authority to administer the operating permit program for
33 sources under that authority's jurisdiction. The department shall, by
34 order, approve such delegation, if the department finds that the local
35 authority has the technical and financial resources, to discharge the
36 responsibilities of a permitting authority under the federal clean air
37 act. A delegation request shall include adequate information about the

1 local authority's resources to enable the department to make the
2 findings required by this subsection. However, any delegation order
3 issued under this subsection shall take effect ninety days after the
4 environmental protection agency authorizes the local authority to issue
5 operating permits under the federal clean air act.

6 (c) Except for the authority granted the energy facility site
7 evaluation council to issue permits for the new construction,
8 reconstruction, or enlargement or operation of new energy facilities
9 under chapter 80.50 RCW, the department may exercise the authority, as
10 delegated by the environmental protection agency, to administer Title
11 IV of the federal clean air act as amended and to delegate such
12 administration to local authorities as applicable pursuant to (b) of
13 this subsection.

14 (3) In establishing technical standards, defined in RCW 70.94.030,
15 the permitting authority shall consider and, if found to be
16 appropriate, give credit for waste reduction within the process.

17 (4) Operating permits shall apply to all sources (a) where required
18 by the federal clean air act, and (b) for any source that may cause or
19 contribute to air pollution in such quantity as to create a threat to
20 the public health or welfare. Subsection (b) of this subsection is not
21 intended to apply to small businesses except when both of the following
22 limitations are satisfied: (i) The source is in an area exceeding or
23 threatening to exceed federal or state air quality standards; and (ii)
24 the department provides a reasonable justification that requiring a
25 source to have a permit is necessary to meet a federal or state air
26 quality standard, or to prevent exceeding a standard in an area
27 threatening to exceed the standard. For purposes of this subsection
28 "areas threatening to exceed air quality standards" shall mean areas
29 projected by the department to exceed such standards within five years.
30 Prior to identifying threatened areas the department shall hold a
31 public hearing or hearings within the proposed areas.

32 (5) Sources operated by government agencies are not exempt under
33 this section.

34 (6) Within one hundred eighty days after the United States
35 environmental protection agency approves the state operating permit
36 program, a person required to have a permit shall submit to the
37 permitting authority a compliance plan and permit application, signed
38 by a responsible official, certifying the accuracy of the information

1 submitted. Until permits are issued, existing sources shall be allowed
2 to operate under presently applicable standards and conditions provided
3 that such sources submit complete and timely permit applications.

4 (7) All draft permits shall be subject to public notice and
5 comment. The rules adopted pursuant to subsection (2) of this section
6 shall specify procedures for public notice and comment. Such
7 procedures shall provide the permitting agency with an opportunity to
8 respond to comments received from interested parties prior to the time
9 that the proposed permit is submitted to the environmental protection
10 agency for review pursuant to section 505(a) of the federal clean air
11 act. In the event that the environmental protection agency objects to
12 a proposed permit pursuant to section 505(b) of the federal clean air
13 act, the permitting authority shall not issue the permit, unless the
14 permittee consents to the changes required by the environmental
15 protection agency.

16 (8) The procedures contained in chapter 43.21B RCW shall apply to
17 permit appeals. The pollution control hearings board may stay the
18 effectiveness of any permit issued under this section during the
19 pendency of an appeal filed by the permittee, if the permittee
20 demonstrates that compliance with the permit during the pendency of the
21 appeal would require significant expenditures that would not be
22 necessary in the event that the permittee prevailed on the merits of
23 the appeal.

24 (9) After the effective date of any permit program promulgated
25 under this section, it shall be unlawful for any person to: (a)
26 Operate a permitted source in violation of any requirement of a permit
27 issued under this section; or (b) fail to submit a permit application
28 at the time required by rules adopted under subsection (2) of this
29 section.

30 (10) Each air operating permit shall state the origin of and
31 specific legal authority for each requirement included therein. Every
32 requirement in an operating permit shall be based upon the most
33 stringent of the following requirements:

34 (a) The federal clean air act and rules implementing that act,
35 including provision of the approved state implementation plan;

36 (b) This chapter and rules adopted thereunder;

37 (c) In permits issued by a local air pollution control authority,
38 the requirements of any order or regulation adopted by that authority;

1 (d) Chapter 70.98 RCW and rules adopted thereunder; and

2 (e) Chapter 80.50 RCW and rules adopted thereunder.

3 (11) Consistent with the provisions of the federal clean air act,
4 the permitting authority may issue general permits covering categories
5 of permitted sources, and temporary permits authorizing emissions from
6 similar operations at multiple temporary locations.

7 (12) Permit program sources within the territorial jurisdiction of
8 an authority delegated the operating permit program shall file their
9 permit applications with that authority, except that permit
10 applications for sources regulated on a statewide basis pursuant to RCW
11 70.94.395 shall be filed with the department. Permit program sources
12 outside the territorial jurisdiction of a delegated authority shall
13 file their applications with the department. Permit program sources
14 subject to chapter 80.50 RCW shall, irrespective of their location,
15 file their applications with the energy facility site evaluation
16 council.

17 (13) When issuing operating permits to coal-fired electric
18 generating plants, the permitting authority shall establish
19 requirements consistent with Title IV of the federal clean air act.

20 (14)(a) The department and the local air authorities are authorized
21 to assess and to collect, and each source emitting one hundred tons or
22 more per year of a regulated pollutant shall pay an interim assessment
23 to fund the development of the operating permit program during fiscal
24 year 1994.

25 (b) The department shall conduct a workload analysis and prepare an
26 operating permit program development budget for fiscal year 1994. The
27 department shall allocate among all sources emitting one hundred tons
28 or more per year of a regulated pollutant during calendar year 1992 the
29 costs identified in its program development budget according to a
30 three-tiered model, with each of the three tiers being equally
31 weighted, based upon:

32 (i) The number of sources;

33 (ii) The complexity of sources; and

34 (iii) The size of sources, as measured by the quantity of each
35 regulated pollutant emitted by the source.

36 (c) Each local authority and the department shall collect from
37 sources under their respective jurisdictions the interim fee determined
38 by the department and shall remit the fee to the department.

1 (d) Each local authority may, in addition, allocate its fiscal year
2 1994 operating permit program development costs among the sources under
3 its jurisdiction emitting one hundred tons or more per year of a
4 regulated pollutant during calendar year 1992 and may collect an
5 interim fee from these sources. A fee assessed pursuant to this
6 subsection (14)(d) shall be collected at the same time as the fee
7 assessed pursuant to (c) of this subsection.

8 (e) The fees assessed to a source under this subsection shall be
9 limited to the first seven thousand five hundred tons for each
10 regulated pollutant per year.

11 (15)(a) The department shall determine the persons liable for the
12 fee imposed by subsection (14) of this section, compute the fee, and
13 provide by November 1, 1993, the identity of the fee payer with the
14 computation of the fee to each local authority and to the department of
15 revenue for collection. The department of revenue shall collect the
16 fee computed by the department from the fee payers under the
17 jurisdiction of the department. The administrative, collection, and
18 penalty provisions of chapter 82.32 RCW shall apply to the collection
19 of the fee by the department of revenue. The department shall provide
20 technical assistance to the department of revenue for decisions made by
21 the department of revenue pursuant to RCW 82.32.160 and 82.32.170. All
22 interim fees collected by the department of revenue on behalf of the
23 department and all interim fees collected by local authorities on
24 behalf of the department shall be deposited in the air operating permit
25 account. The interim fees collected by the local air authorities to
26 cover their permit program development costs under subsection (14)(d)
27 of this section shall be deposited in the dedicated accounts of their
28 respective treasuries.

29 (b) All fees identified in this section shall be due and payable on
30 March 1, 1994, except that the local air pollution control authorities
31 may adopt by rule an earlier date on which fees are to be due and
32 payable. The section 5, chapter 252, Laws of 1993 amendments to RCW
33 70.94.161 do not have the effect of terminating, or in any way
34 modifying, any liability, civil or criminal, incurred pursuant to the
35 provisions of RCW 70.94.161 (15) and (17) as they existed prior to July
36 25, 1993.

37 (16) For sources or source categories not required to obtain
38 permits under subsection (4) of this section, the department or local

1 authority may establish by rule control technology requirements. If
2 control technology rule revisions are made by the department or local
3 authority under this subsection, the department or local authority
4 shall consider the remaining useful life of control equipment
5 previously installed on existing sources before requiring technology
6 changes. The department or any local air authority may issue a general
7 permit, as authorized under the federal clean air act, for such
8 sources.

9 (17) Except as provided in section 4 of this act, emissions of
10 greenhouse gases as defined in RCW 70.235.010 must be reported as
11 required by RCW 70.94.151. The reporting provisions of RCW 70.94.151
12 shall not apply to any other emissions from any permit program source
13 after the effective date of United States environmental protection
14 agency approval of the state operating permit program.

15 **Sec. 15.** RCW 80.80.040 and 2011 c 180 s 103 are each amended to
16 read as follows:

17 (1) Except as provided in section 4 of this act, beginning July 1,
18 2008, the greenhouse gas emissions performance standard for all
19 baseload electric generation for which electric utilities enter into
20 long-term financial commitments on or after such date is the lower of:

21 (a) One thousand one hundred pounds of greenhouse gases per
22 megawatt-hour; or

23 (b) The average available greenhouse gas emissions output as
24 determined under RCW 80.80.050.

25 (2) This chapter does not apply to long-term financial commitments
26 with the Bonneville power administration.

27 (3)(a) Except as provided in (c) of this subsection, all baseload
28 electric generation facilities in operation as of June 30, 2008, are
29 deemed to be in compliance with the greenhouse gas emissions
30 performance standard established under this section until the
31 facilities are the subject of long-term financial commitments.

32 (b) All baseload electric generation that commences operation after
33 June 30, 2008, and is located in Washington, must comply with the
34 greenhouse gas emissions performance standard established in subsection
35 (1) of this section.

36 (c)(i) A coal-fired baseload electric generation facility in
37 Washington that emitted more than one million tons of greenhouse gases

1 in any calendar year prior to 2008 must comply with the lower of the
2 following greenhouse gas emissions performance standard such that one
3 generating boiler is in compliance by December 31, 2020, and any other
4 generating boiler is in compliance by December 31, 2025:

5 (A) One thousand one hundred pounds of greenhouse gases per
6 megawatt-hour; or

7 (B) The average available greenhouse gas emissions output as
8 determined under RCW 80.80.050.

9 (ii) This subsection (3)(c) does not apply to a coal-fired baseload
10 electric (~~(generating [generation])~~) generation facility in the event
11 the department determines as a requirement of state or federal law or
12 regulation that selective catalytic reduction technology must be
13 installed on any of its boilers.

14 (4) All electric generation facilities or power plants powered
15 exclusively by renewable resources, as defined in RCW 19.280.020, are
16 deemed to be in compliance with the greenhouse gas emissions
17 performance standard established under this section.

18 (5) All cogeneration facilities in the state that are fueled by
19 natural gas or waste gas or a combination of the two fuels, and that
20 are in operation as of June 30, 2008, are deemed to be in compliance
21 with the greenhouse gas emissions performance standard established
22 under this section until the facilities are the subject of a new
23 ownership interest or are upgraded.

24 (6) In determining the rate of emissions of greenhouse gases for
25 baseload electric generation, the total emissions associated with
26 producing electricity shall be included.

27 (7) In no case shall a long-term financial commitment be determined
28 to be in compliance with the greenhouse gas emissions performance
29 standard if the commitment includes more than twelve percent of
30 electricity from unspecified sources.

31 (8) For a long-term financial commitment with multiple power
32 plants, each specified power plant must be treated individually for the
33 purpose of determining the annualized plant capacity factor and net
34 emissions, and each power plant must comply with subsection (1) of this
35 section, except as provided in subsections (3) through (5) of this
36 section.

37 (9) The department shall establish an output-based methodology to
38 ensure that the calculation of emissions of greenhouse gases for a

1 cogeneration facility recognizes the total usable energy output of the
2 process, and includes all greenhouse gases emitted by the facility in
3 the production of both electrical and thermal energy. In developing
4 and implementing the greenhouse gas emissions performance standard, the
5 department shall consider and act in a manner consistent with any rules
6 adopted pursuant to the public utilities regulatory policy act of 1978
7 (16 U.S.C. Sec. 824a-3), as amended.

8 (10) The following greenhouse gas emissions produced by baseload
9 electric generation owned or contracted through a long-term financial
10 commitment shall not be counted as emissions of the power plant in
11 determining compliance with the greenhouse gas emissions performance
12 standard:

13 (a) Those emissions that are injected permanently in geological
14 formations;

15 (b) Those emissions that are permanently sequestered by other means
16 approved by the department; and

17 (c) Those emissions sequestered or mitigated as approved under
18 subsection (16) of this section.

19 (11) In adopting and implementing the greenhouse gas emissions
20 performance standard, the department of commerce energy policy
21 division, in consultation with the commission, the department, the
22 Bonneville power administration, the western electricity coordinating
23 council, the energy facility site evaluation council, electric
24 utilities, public interest representatives, and consumer
25 representatives, shall consider the effects of the greenhouse gas
26 emissions performance standard on system reliability and overall costs
27 to electricity customers.

28 (12) In developing and implementing the greenhouse gas emissions
29 performance standard, the department shall, with assistance of the
30 commission, the department of commerce energy policy division, and
31 electric utilities, and to the extent practicable, address long-term
32 purchases of electricity from unspecified sources in a manner
33 consistent with this chapter.

34 (13) The directors of the energy facility site evaluation council
35 and the department shall each adopt rules under chapter 34.05 RCW in
36 coordination with each other to implement and enforce the greenhouse
37 gas emissions performance standard. The rules necessary to implement
38 this section shall be adopted by June 30, 2008.

1 (14) In adopting the rules for implementing this section, the
2 energy facility site evaluation council and the department shall
3 include criteria to be applied in evaluating the carbon sequestration
4 plan, for baseload electric generation that will rely on subsection
5 (10) of this section to demonstrate compliance, but that will commence
6 sequestration after the date that electricity is first produced. The
7 rules shall include but not be limited to:

8 (a) Provisions for financial assurances, as a condition of plant
9 operation, sufficient to ensure successful implementation of the carbon
10 sequestration plan, including construction and operation of necessary
11 equipment, and any other significant costs;

12 (b) Provisions for geological or other approved sequestration
13 commencing within five years of plant operation, including full and
14 sufficient technical documentation to support the planned
15 sequestration;

16 (c) Provisions for monitoring the effectiveness of the
17 implementation of the sequestration plan;

18 (d) Penalties for failure to achieve implementation of the plan on
19 schedule;

20 (e) Provisions for an owner to purchase emissions reductions in the
21 event of the failure of a sequestration plan under subsection (16) of
22 this section; and

23 (f) Provisions for public notice and comment on the carbon
24 sequestration plan.

25 (15)(a) Except as provided in (b) of this subsection, as part of
26 its role enforcing the greenhouse gas emissions performance standard,
27 the department shall determine whether sequestration or a plan for
28 sequestration will provide safe, reliable, and permanent protection
29 against the greenhouse gases entering the atmosphere from the power
30 plant and all ancillary facilities.

31 (b) For facilities under its jurisdiction, the energy facility site
32 evaluation council shall contract for review of sequestration or the
33 carbon sequestration plan with the department consistent with the
34 conditions under (a) of this subsection, consider the adequacy of
35 sequestration or the plan in its adjudicative proceedings conducted
36 under RCW 80.50.090(3), and incorporate specific findings regarding
37 adequacy in its recommendation to the governor under RCW 80.50.100.

1 (16) A project under consideration by the energy facility site
2 evaluation council by July 22, 2007, is required to include all of the
3 requirements of subsection (14) of this section in its carbon
4 sequestration plan submitted as part of the energy facility site
5 evaluation council process. A project under consideration by the
6 energy facility site evaluation council by July 22, 2007, that receives
7 final site certification agreement approval under chapter 80.50 RCW
8 shall make a good faith effort to implement the sequestration plan. If
9 the project owner determines that implementation is not feasible, the
10 project owner shall submit documentation of that determination to the
11 energy facility site evaluation council. The documentation shall
12 demonstrate the steps taken to implement the sequestration plan and
13 evidence of the technological and economic barriers to successful
14 implementation. The project owner shall then provide to the energy
15 facility site evaluation council notification that they shall implement
16 the plan that requires the project owner to meet the greenhouse gas
17 emissions performance standard by purchasing verifiable greenhouse gas
18 emissions reductions from an electric generation facility located
19 within the western interconnection, where the reduction would not have
20 occurred otherwise or absent this contractual agreement, such that the
21 sum of the emissions reductions purchased and the facility's emissions
22 meets the standard for the life of the facility.

23 **Sec. 16.** RCW 80.80.080 and 2007 c 307 s 10 are each amended to
24 read as follows:

25 Except as provided in section 4 of this act, for the purposes of
26 RCW 80.80.040 through 80.80.080 and 80.70.020, the department, in
27 consultation with the department of (~~community, trade, and economic~~
28 ~~development~~) commerce energy policy division, the energy facility site
29 evaluation council, the commission, and the governing boards of
30 consumer-owned utilities, shall review the greenhouse (~~gases~~) gas
31 emissions performance standard established in this chapter to determine
32 need, applicability, and effectiveness no less than every five years
33 following July 22, 2007, or upon implementation of a federal or state
34 law or rule regulating carbon dioxide emissions of electric utilities,
35 and report to the legislature.

1 **Sec. 17.** RCW 47.01.440 and 2011 c 171 s 103 are each amended to
2 read as follows:

3 To support the implementation of RCW 47.04.280 and 47.01.078(4),
4 the department shall adopt broad statewide goals to reduce annual per
5 capita vehicle miles traveled by 2050 consistent with the stated goals
6 of executive order 07-02. Consistent with these goals, the department
7 shall:

8 (1) Establish the following benchmarks using a statewide baseline
9 of seventy-five billion vehicle miles traveled less the vehicle miles
10 traveled attributable to vehicles licensed under RCW 46.16A.455 and
11 weighing ten thousand pounds or more, which are exempt from this
12 section:

13 (a) Decrease the annual per capita vehicle miles traveled by
14 eighteen percent by 2020;

15 (b) Decrease the annual per capita vehicle miles traveled by thirty
16 percent by 2035; and

17 (c) Decrease the annual per capita vehicle miles traveled by fifty
18 percent by 2050;

19 (2) By July 1, 2008, establish and convene a collaborative process
20 to develop a set of tools and best practices to assist state, regional,
21 and local entities in making progress towards the benchmarks
22 established in subsection (1) of this section. The collaborative
23 process must provide an opportunity for public review and comment and
24 must:

25 (a) Be jointly facilitated by the department, the department of
26 ecology, and the department of (~~community, trade, and economic~~
27 ~~development~~) commerce;

28 (b) Provide for participation from regional transportation planning
29 organizations, the Washington state transit association, the Puget
30 Sound clean air agency, a statewide business organization representing
31 the sale of motor vehicles, at least one major private employer that
32 participates in the commute trip reduction program, and other
33 interested parties, including but not limited to parties representing
34 diverse perspectives on issues relating to growth, development, and
35 transportation;

36 (c) Identify current strategies to reduce vehicle miles traveled in
37 the state as well as successful strategies in other jurisdictions that
38 may be applicable in the state;

1 (d) Identify potential new revenue options for local and regional
2 governments to authorize to finance vehicle miles traveled reduction
3 efforts;

4 (e) Provide for the development of measurement tools that can, with
5 a high level of confidence, measure annual progress toward the
6 benchmarks at the local, regional, and state levels, measure the
7 effects of strategies implemented to reduce vehicle miles traveled and
8 adequately distinguish between common travel purposes, such as moving
9 freight or commuting to work, and measure trends of vehicle miles
10 traveled per capita on a five-year basis;

11 (f) Establish a process for the department to periodically evaluate
12 progress toward the vehicle miles traveled benchmarks, measure achieved
13 and projected emissions reductions, and, except as provided in section
14 4 of this act, recommend whether the benchmarks should be adjusted to
15 meet the state's overall goals for the reduction of greenhouse gas
16 emissions;

17 (g) Estimate, except as provided in section 4 of this act, the
18 projected reductions in greenhouse gas emissions if the benchmarks are
19 achieved, taking into account the expected implementation of existing
20 state and federal mandates for vehicle technology and fuels, as well as
21 expected growth in population and vehicle travel;

22 (h) Examine access to public transportation for people living in
23 areas with affordable housing to and from employment centers, and make
24 recommendations for steps necessary to ensure that areas with
25 affordable housing are served by adequate levels of public
26 transportation; and

27 (i) By December 1, 2008, provide a report to the transportation
28 committees of the legislature on the collaborative process and
29 resulting recommended tools and best practices to achieve the reduction
30 in annual per capita vehicle miles traveled goals.

31 (3) Included in the December 1, 2008, report to the transportation
32 committees of the legislature, the department shall identify strategies
33 to reduce vehicle miles traveled in the state as well as successful
34 strategies in other jurisdictions that may be applicable in the state
35 that recognize the differing urban and rural transportation
36 requirements.

37 (4) Prior to implementation of the goals in this section, the
38 department, in consultation with the department of (~~community, trade,~~

1 ~~and economic development))~~ commerce, cities, counties, local economic
2 development organizations, and local and regional chambers of commerce,
3 shall provide a report to the appropriate committees of the legislature
4 on the anticipated impacts of the goals established in this section on
5 the following:

6 (a) The economic hardship on small businesses as it relates to the
7 ability to hire and retain workers who do not reside in the county in
8 which they are employed;

9 (b) Impacts on low-income residents;

10 (c) Impacts on agricultural employers and their employees,
11 especially on the migrant farmworker community;

12 (d) Impacts on distressed rural counties; and

13 (e) Impacts in counties with more than fifty percent of the land
14 base of the county in public or tribal lands.

15 **Sec. 18.** RCW 47.01.440 and 2011 c 171 s 103 are each amended to
16 read as follows:

17 To support the implementation of RCW 47.04.280 and 47.01.078(4),
18 the department shall adopt broad statewide goals to reduce annual per
19 capita vehicle miles traveled by 2050 consistent with the stated goals
20 of executive order 07-02. Consistent with these goals, the department
21 shall:

22 (1) Establish the following benchmarks using a statewide baseline
23 of seventy-five billion vehicle miles traveled less the vehicle miles
24 traveled attributable to vehicles licensed under RCW 46.16A.455 and
25 weighing ten thousand pounds or more, which are exempt from this
26 section:

27 (a) Decrease the annual per capita vehicle miles traveled by
28 eighteen percent by 2020;

29 (b) Decrease the annual per capita vehicle miles traveled by thirty
30 percent by 2035; and

31 (c) Decrease the annual per capita vehicle miles traveled by fifty
32 percent by 2050;

33 (2) By July 1, 2008, establish and convene a collaborative process
34 to develop a set of tools and best practices to assist state, regional,
35 and local entities in making progress towards the benchmarks
36 established in subsection (1) of this section. The collaborative

1 process must provide an opportunity for public review and comment and
2 must:

3 (a) Be jointly facilitated by the department, the department of
4 ecology, and the department of (~~community, trade, and economic~~
5 ~~development~~)) commerce;

6 (b) Provide for participation from regional transportation planning
7 organizations, the Washington state transit association, the Puget
8 Sound clean air agency, a statewide business organization representing
9 the sale of motor vehicles, at least one major private employer that
10 participates in the commute trip reduction program, and other
11 interested parties, including but not limited to parties representing
12 diverse perspectives on issues relating to growth, development, and
13 transportation;

14 (c) Identify current strategies to reduce vehicle miles traveled in
15 the state as well as successful strategies in other jurisdictions that
16 may be applicable in the state;

17 (d) Identify potential new revenue options for local and regional
18 governments to authorize to finance vehicle miles traveled reduction
19 efforts;

20 (e) Provide for the development of measurement tools that can, with
21 a high level of confidence, measure annual progress toward the
22 benchmarks at the local, regional, and state levels, measure the
23 effects of strategies implemented to reduce vehicle miles traveled and
24 adequately distinguish between common travel purposes, such as moving
25 freight or commuting to work, and measure trends of vehicle miles
26 traveled per capita on a five-year basis;

27 (f) Establish a process for the department to periodically evaluate
28 progress toward the vehicle miles traveled benchmarks, measure achieved
29 and projected emissions reductions, and recommend whether the
30 benchmarks should be adjusted to meet the state's overall goals for the
31 reduction of greenhouse gas emissions;

32 (g) Estimate, except as provided in section 4 of this act, the
33 projected reductions in greenhouse gas emissions if the benchmarks are
34 achieved, taking into account the expected implementation of existing
35 state and federal mandates for vehicle technology and fuels, as well as
36 expected growth in population and vehicle travel;

37 (h) Examine access to public transportation for people living in
38 areas with affordable housing to and from employment centers, and make

1 recommendations for steps necessary to ensure that areas with
2 affordable housing are served by adequate levels of public
3 transportation; and

4 (i) By December 1, 2008, provide a report to the transportation
5 committees of the legislature on the collaborative process and
6 resulting recommended tools and best practices to achieve the reduction
7 in annual per capita vehicle miles traveled goals.

8 (3) Included in the December 1, 2008, report to the transportation
9 committees of the legislature, the department shall identify strategies
10 to reduce vehicle miles traveled in the state as well as successful
11 strategies in other jurisdictions that may be applicable in the state
12 that recognize the differing urban and rural transportation
13 requirements.

14 (4) Prior to implementation of the goals in this section, the
15 department, in consultation with the department of (~~community, trade,~~
16 ~~and economic development~~) commerce, cities, counties, local economic
17 development organizations, and local and regional chambers of commerce,
18 shall provide a report to the appropriate committees of the legislature
19 on the anticipated impacts of the goals established in this section on
20 the following:

21 (a) The economic hardship on small businesses as it relates to the
22 ability to hire and retain workers who do not reside in the county in
23 which they are employed;

24 (b) Impacts on low-income residents;

25 (c) Impacts on agricultural employers and their employees,
26 especially on the migrant farmworker community;

27 (d) Impacts on distressed rural counties; and

28 (e) Impacts in counties with more than fifty percent of the land
29 base of the county in public or tribal lands.

30 **Sec. 19.** RCW 19.27A.020 and 2010 c 271 s 304 are each amended to
31 read as follows:

32 (1) The state building code council shall adopt rules to be known
33 as the Washington state energy code as part of the state building code.

34 (2) The council shall follow the legislature's standards set forth
35 in this section to adopt rules to be known as the Washington state
36 energy code. The Washington state energy code shall, except as
37 provided in section 4 of this act, be designed to:

1 (a) Construct increasingly energy efficient homes and buildings
2 that help achieve the broader goal of building zero fossil-fuel
3 greenhouse gas emission homes and buildings by the year 2031;

4 (b) Require new buildings to meet a certain level of energy
5 efficiency, but allow flexibility in building design, construction, and
6 heating equipment efficiencies within that framework; and

7 (c) Allow space heating equipment efficiency to offset or
8 substitute for building envelope thermal performance.

9 (3) The Washington state energy code shall take into account
10 regional climatic conditions. Climate zone 1 shall include all
11 counties not included in climate zone 2. Climate zone 2 includes:
12 Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend
13 Oreille, Spokane, Stevens, and Whitman counties.

14 (4) The Washington state energy code for residential buildings
15 shall be the 2006 edition of the Washington state energy code, or as
16 amended by rule by the council.

17 (5) The minimum state energy code for new nonresidential buildings
18 shall be the Washington state energy code, 2006 edition, or as amended
19 by the council by rule.

20 (6)(a) Except as provided in (b) of this subsection, the Washington
21 state energy code for residential structures shall preempt the
22 residential energy code of each city, town, and county in the state of
23 Washington.

24 (b) The state energy code for residential structures does not
25 preempt a city, town, or county's energy code for residential
26 structures which exceeds the requirements of the state energy code and
27 which was adopted by the city, town, or county prior to March 1, 1990.
28 Such cities, towns, or counties may not subsequently amend their energy
29 code for residential structures to exceed the requirements adopted
30 prior to March 1, 1990.

31 (7) The state building code council shall consult with the
32 department of ((~~general administration~~)) enterprise services as
33 provided in RCW 34.05.310 prior to publication of proposed rules. The
34 director of the department of ((~~general administration~~)) enterprise
35 services shall recommend to the state building code council any changes
36 necessary to conform the proposed rules to the requirements of this
37 section.

1 (8) The state building code council shall evaluate and consider
2 adoption of the international energy conservation code in Washington
3 state in place of the existing state energy code.

4 (9) The definitions in RCW 19.27A.140 apply throughout this
5 section.

6 **Sec. 20.** RCW 19.27A.150 and 2010 c 271 s 306 are each amended to
7 read as follows:

8 (1) To the extent that funding is appropriated specifically for the
9 purposes of this section, the department of commerce shall, except as
10 provided in section 4 of this act, develop and implement a strategic
11 plan for enhancing energy efficiency in and reducing greenhouse gas
12 emissions from homes, buildings, districts, and neighborhoods. The
13 strategic plan must be used to help direct the future code increases in
14 RCW 19.27A.020, with targets for new buildings consistent with RCW
15 19.27A.160. The strategic plan will identify barriers to achieving net
16 zero energy use in homes and buildings and identify how to overcome
17 these barriers in future energy code updates and through complementary
18 policies.

19 (2) The department of commerce must complete and release the
20 strategic plan to the legislature and the council by December 31, 2010,
21 and update the plan every three years.

22 (3) The strategic plan must include recommendations to the council
23 on energy code upgrades. At a minimum, the strategic plan must:

24 (a) Consider development of aspirational codes separate from the
25 state energy code that contain economically and technically feasible
26 optional standards that could achieve higher energy efficiency for
27 those builders that elected to follow the aspirational codes in lieu of
28 or in addition to complying with the standards set forth in the state
29 energy code;

30 (b) Determine the appropriate methodology to measure achievement of
31 state energy code targets using the United States environmental
32 protection agency's target finder program or equivalent methodology;

33 (c) Address the need for enhanced code training and enforcement;

34 (d) Include state strategies to support research, demonstration,
35 and education programs designed to achieve a seventy percent reduction
36 in annual net energy consumption as specified in RCW 19.27A.160 and

1 enhance energy efficiency and on-site renewable energy production in
2 buildings;

3 (e) Recommend incentives, education, training programs and
4 certifications, particularly state-approved training or certification
5 programs, joint apprenticeship programs, or labor-management
6 partnership programs that train workers for energy-efficiency projects
7 to ensure proposed programs are designed to increase building
8 professionals' ability to design, construct, and operate buildings that
9 will meet the seventy percent reduction in annual net energy
10 consumption as specified in RCW 19.27A.160;

11 (f) Address barriers for utilities to serve net zero energy homes
12 and buildings and policies to overcome those barriers;

13 (g) Address the limits of a prescriptive code in achieving net zero
14 energy use homes and buildings and propose a transition to performance-
15 based codes;

16 (h) Identify financial mechanisms such as tax incentives, rebates,
17 and innovative financing to motivate energy consumers to take action to
18 increase energy efficiency and their use of on-site renewable energy.
19 Such incentives, rebates, or financing options may consider the role of
20 government programs as well as utility-sponsored programs;

21 (i) Address the adequacy of education and technical assistance,
22 including school curricula, technical training, and peer-to-peer
23 exchanges for professional and trade audiences;

24 (j) Develop strategies to develop and install district and
25 neighborhood-wide energy systems that help meet net zero energy use in
26 homes and buildings;

27 (k) Identify costs and benefits of energy efficiency measures on
28 residential and nonresidential construction; and

29 (l) Investigate methodologies and standards for the measurement of
30 the amount of embodied energy used in building materials.

31 (4) The department of commerce and the council shall convene a work
32 group with the affected parties to inform the initial development of
33 the strategic plan.

34 NEW SECTION. **Sec. 21.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the
36 remainder of the act or the application of the provision to other
37 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 70.235.030 (Development of a design for a regional
4 multisector market-based system to limit and reduce emissions of
5 greenhouse gas--Information required to be submitted to the
6 legislature) and 2008 c 14 s 4; and

7 (2) RCW 80.80.030 (Achieving greenhouse gases emissions reduction
8 goals--Submission of policy recommendations to legislature by governor)
9 and 2007 c 307 s 4.

10 NEW SECTION. **Sec. 23.** This act may be known and cited as the
11 Washington state energy freedom act.

12 NEW SECTION. **Sec. 24.** Sections 1 through 5 and 23 of this act
13 constitute a new chapter in Title 70 RCW.

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