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HOUSE BILL 1325

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State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Shea, Scott, Taylor, G. Hunt, Condotta, and McCaslin

Read first time 01/19/15. 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,  
4 70.235.060, 70.235.070, 70.120A.010, 70.120A.050, 70.94.151,  
5 70.94.161, 80.80.040, 80.80.080, 47.01.440, 19.27A.020, and  
6 19.27A.150; adding a new chapter to Title 70 RCW; and repealing RCW  
7 70.235.030 and 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  
13 the economy of the state of Washington and the livelihood of all  
14 Washingtonians.

15            (2) The legislature further finds that proper procedural  
16 safeguards to control arbitrary administrative action and the abuse  
17 of discretionary power at the administrative level do not currently  
18 exist in this area as necessary to protect the interests of the  
19 people of Washington. As such, it is the intent of the legislature to  
20 expressly limit any delegations to its various administrative  
21 agencies in regards to programs designed to implement a cap and trade

1 system, regulate motor vehicle fuel economy, or otherwise address  
2 greenhouse gas emissions and to create a mechanism whereby the  
3 legislature can adequately fulfill its constitutional duty to ensure  
4 oversight of administrative action in this important regulatory area.

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

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

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

14 NEW SECTION. **Sec. 3.** (1) No state agency may implement a cap  
15 and trade system, regulate motor vehicle fuel economy, regulate the  
16 carbon content of transportation fuels, take actions related to the  
17 implementation of a carbon tax, or otherwise address greenhouse gas  
18 emissions without direct and specific legislative authorization to  
19 conduct the activity.

20 (2) To qualify as direct and specific legislative authorization,  
21 the authorization must take the form of a section of substantive law  
22 or provision in a budget included as a session law published by the  
23 statute law committee in the year 2015 or later. Sections of  
24 legislation vetoed by the governor do not qualify as legislative  
25 authorization.

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

33 NEW SECTION. **Sec. 4.** (1)(a) Any state agency either in the  
34 process of, or planning for, the implementation of a cap and trade  
35 system, regulation of motor vehicle fuel economy, regulation of the  
36 carbon content of transportation fuels, administration of a tax on  
37 greenhouse gases, or otherwise addressing greenhouse gas emissions as

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

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

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

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

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

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

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

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

35 (iii) By 2050, the state will do its part to reach global climate  
36 stabilization levels by reducing overall emissions to fifty percent  
37 below 1990 levels, or seventy percent below the state's expected  
38 emissions that year.

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

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

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

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

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

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

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

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

37 Except as provided in section 4 of this act, within eighteen  
38 months of the next and each successive global or national assessment  
39 of climate change science, the department shall consult with the

1 climate impacts group at the University of Washington regarding the  
2 science on human-caused climate change and provide a report to the  
3 legislature summarizing that science and make recommendations  
4 regarding whether the greenhouse gas emissions reductions required  
5 under RCW 70.235.020 need to be updated.

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

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

13 (a) By July 1, 2020, reduce emissions by fifteen percent from  
14 2005 emission levels;

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

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

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

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

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

35 (4) By October 1st of each even-numbered year beginning in 2012,  
36 each state agency shall report to the department the actions taken to  
37 meet the emission reduction targets under the strategy for the  
38 preceding fiscal biennium. The department may authorize the  
39 department of (~~general administration~~) enterprise services to

1 report on behalf of any state agency having fewer than five hundred  
2 full-time equivalent employees at any time during the reporting  
3 period. The department shall cooperate with the department of  
4 (~~general administration~~) enterprise services and the department of  
5 (~~community, trade, and economic development~~) commerce to develop  
6 consolidated reporting methodologies that incorporate emission  
7 reduction actions taken across all or substantially all state  
8 agencies.

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

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

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

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

27 (2) The department may use data such as totals of building space  
28 occupied, energy purchases and generation, motor vehicle fuel  
29 purchases and total mileage driven, and other reasonable sources of  
30 data to make these estimates. The estimates may be derived from a  
31 single methodology using these or other factors, except that for the  
32 top ten state agencies in occupied building space and vehicle miles  
33 driven, the estimates must be based upon the actual and projected  
34 operations of those agencies. The estimates may be adjusted, and  
35 reasonable estimates derived, when agencies have been created since  
36 1990 or functions reorganized among state agencies since 1990. The  
37 estimates may incorporate projected emissions reductions that also  
38 affect state agencies under the program authorized in RCW 70.235.020  
39 and other existing policies that will result in emissions reductions.

1 (3) By December 31st of each even-numbered year beginning in  
2 2010, the department shall report to the governor and to the  
3 appropriate committees of the senate and house of representatives the  
4 total state agencies' emissions of greenhouse gases for 2005 and the  
5 preceding two years and actions taken to meet the emissions reduction  
6 targets.

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

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

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

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

22 (3) Applicable federal emissions reduction requirements.

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

25 (1) Except as provided in section 4 of this act, pursuant to the  
26 federal clean air act, the legislature adopts the California motor  
27 vehicle emission standards in Title 13 of the California Code of  
28 Regulations, effective January 1, 2005, except as provided in this  
29 chapter. The department of ecology shall adopt rules to implement the  
30 emission standards of the state of California for passenger cars,  
31 light duty trucks, and medium duty passenger vehicles, and shall  
32 amend the rules from time to time, to maintain consistency with the  
33 California motor vehicle emission standards and 42 U.S.C. Sec. 7507  
34 (section 177 of the federal clean air act). Notwithstanding other  
35 provisions of this chapter, the department of ecology shall not adopt  
36 the zero emission vehicle program regulations contained in Title 13  
37 section 1962 of the California Code of Regulations effective January  
38 1, 2005. During rule development, the department of ecology shall

1 convene an advisory group composed of industry and consumer group  
2 representatives. Any proposed rules or changes to rules shall be  
3 subject to review and comment by the advisory group, prior to rule  
4 adoption. The order of adoption for the rules required in this  
5 section shall include the signature of the governor. The rules shall  
6 be effective only for those model years for which the state of Oregon  
7 has adopted the California motor vehicle emission standards. This  
8 section does not limit the department of ecology's authority to  
9 regulate motor vehicle emissions for any other class of vehicle.

10 (2) Motor vehicles with a model year equal to or later than the  
11 first model year for which new vehicles sold to Washington state  
12 residents are required to comply with California motor vehicle  
13 emission standards are exempt from emission inspections under chapter  
14 70.120 RCW.

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

19 **Sec. 12.** RCW 70.120A.050 and 2014 c 76 s 8 are each amended to  
20 read as follows:

21 (1) Except as provided in section 4 of this act, no model year  
22 2010 or subsequent model year new passenger car, light duty truck, or  
23 medium duty passenger vehicle may be sold in Washington unless there  
24 is securely and conspicuously affixed in a clearly visible location a  
25 label on which the manufacturer clearly discloses comparative  
26 greenhouse gas emissions for that new vehicle.

27 (2) The label required by this section should include a  
28 greenhouse gas index or rating system that contains quantitative and  
29 graphical information presented in a continuous, easy-to-read scale  
30 that compares the greenhouse gas emissions from the vehicle with the  
31 average projected greenhouse gas emissions from all passenger cars,  
32 light duty trucks, and medium duty passenger vehicles of the same  
33 model year. For reference purposes, the index or rating system should  
34 also identify the greenhouse gas emissions from the vehicle model of  
35 that same model year that has the lowest greenhouse gas emissions.

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

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

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

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

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

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

25 (2) Except as provided in subsection (3) of this section, any  
26 person operating or responsible for the operation of air contaminant  
27 sources of any class for which the ordinances, resolutions, rules or  
28 regulations of the department or board of the authority, require  
29 registration or reporting shall register therewith and make reports  
30 containing information as may be required by such department or board  
31 concerning location, size and height of contaminant outlets,  
32 processes employed, nature of the contaminant emission and such other  
33 information as is relevant to air pollution and available or  
34 reasonably capable of being assembled. In the case of emissions of  
35 greenhouse gases as defined in RCW 70.235.010 the department shall,  
36 except as provided in section 4 of this act, adopt rules requiring  
37 reporting of those emissions. The department or board may require  
38 that such registration or reporting be accompanied by a fee, and may  
39 determine the amount of such fee for such class or classes: PROVIDED,

1 That the amount of the fee shall only be to compensate for the costs  
2 of administering such registration or reporting program which shall  
3 be defined as initial registration and annual or other periodic  
4 reports from the source owner providing information directly related  
5 to air pollution registration, on-site inspections necessary to  
6 verify compliance with registration requirements, data storage and  
7 retrieval systems necessary for support of the registration program,  
8 emission inventory reports and emission reduction credits computed  
9 from information provided by sources pursuant to registration program  
10 requirements, staff review, including engineering or other reliable  
11 analysis for accuracy and currentness, of information provided by  
12 sources pursuant to registration program requirements, clerical and  
13 other office support provided in direct furtherance of the  
14 registration program, and administrative support provided in directly  
15 carrying out the registration program: PROVIDED FURTHER, That any  
16 such registration made with either the board or the department shall  
17 preclude a further registration and reporting with any other board or  
18 the department, except that emissions of greenhouse gases as defined  
19 in RCW 70.235.010 must be reported as required under subsection (5)  
20 of this section.

21 All registration program and reporting fees collected by the  
22 department shall be deposited in the air pollution control account.  
23 All registration program fees collected by the local air authorities  
24 shall be deposited in their respective treasuries.

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

38 This subsection does not apply to a grain warehouse or grain  
39 elevator if the warehouse or elevator handles more than ten million  
40 bushels of grain annually.

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

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

7 (b) A "license" is a license issued by the department of  
8 agriculture licensing a facility as a grain warehouse or grain  
9 elevator under chapter 22.09 RCW or a license issued by the federal  
10 government licensing a facility as a grain warehouse or grain  
11 elevator for purposes similar to those of licensure for the facility  
12 under chapter 22.09 RCW; and

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

14 (5)(a) Except as provided in section 4 of this act, the  
15 department shall adopt rules requiring persons to report emissions of  
16 greenhouse gases as defined in RCW 70.235.010 where those emissions  
17 from a single facility, source, or site, or from fossil fuels sold in  
18 Washington by a single supplier meet or exceed ten thousand metric  
19 tons of carbon dioxide equivalent annually. The department may phase  
20 in the requirement to report greenhouse gas emissions until the  
21 reporting threshold in this subsection is met, which must occur by  
22 January 1, 2012. In addition, the rules must require that:

23 (i) Emissions of greenhouse gases resulting from the combustion  
24 of fossil fuels be reported separately from emissions of greenhouse  
25 gases resulting from the combustion of biomass;

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

39 (iii) Emissions of carbon dioxide associated with the complete  
40 combustion or oxidation of liquid motor vehicle fuel, special fuel,

1 or aircraft fuel that is sold in Washington where the annual  
2 emissions associated with that combustion or oxidation equal or  
3 exceed ten thousand metric tons be reported to the department. Each  
4 person who is required to file periodic tax reports of motor vehicle  
5 fuel sales under RCW 82.36.031 or special fuel sales under RCW  
6 82.38.150, or each distributor of aircraft fuel required to file  
7 periodic tax reports under RCW 82.42.040 must report to the  
8 department the annual emissions of carbon dioxide from the complete  
9 combustion or oxidation of the fuels listed in those reports as sold  
10 in the state of Washington. The department shall not require  
11 suppliers to use additional data to calculate greenhouse gas  
12 emissions other than the data the suppliers report to the department  
13 of licensing. The rules may allow this information to be aggregated  
14 when reported to the department. The department and the department of  
15 licensing shall enter into an interagency agreement to ensure  
16 proprietary and confidential information is protected if the  
17 departments share reported information. Any proprietary or  
18 confidential information exempt from disclosure when reported to the  
19 department of licensing is exempt from disclosure when shared by the  
20 department of licensing with the department under this provision.

21 (b)(i) Except as otherwise provided in this subsection, the rules  
22 adopted by the department under (a) of this subsection must be  
23 consistent with the regulations adopted by the United States  
24 environmental protection agency in 40 C.F.R. Part 98 on September 22,  
25 2009.

26 (ii) The department may by rule include additional gases to the  
27 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has  
28 been designated as a greenhouse gas by the United States congress or  
29 by the United States environmental protection agency. Prior to  
30 including additional gases to the definition of "greenhouse gas" in  
31 RCW 70.235.010, the department shall notify the appropriate  
32 committees of the legislature. Decisions to amend the rule to include  
33 additional gases must be made prior to December 1st of any year and  
34 the amended rule may not take effect before the end of the regular  
35 legislative session in the next year.

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

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

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

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

13 (e) The fee provisions in subsection (2) of this section apply to  
14 reporting of emissions of greenhouse gases. Persons required to  
15 report under (a) of this subsection who fail to report or pay the fee  
16 required in subsection (2) of this section are subject to enforcement  
17 penalties under this chapter. The department shall enforce the  
18 reporting rule requirements unless it approves a local air  
19 authority's request to enforce the requirements for persons operating  
20 within the authority's jurisdiction. However, neither the department  
21 nor a local air authority approved under this section are authorized  
22 to assess enforcement penalties on persons required to report under  
23 (a) of this subsection until six months after the department adopts  
24 its reporting rule in 2010.

25 (f) The energy facility site evaluation council shall, except as  
26 provided in section 4 of this act, simultaneously with the  
27 department, adopt rules that impose greenhouse gas reporting  
28 requirements in site certifications on owners or operators of a  
29 facility permitted by the energy facility site evaluation council.  
30 The greenhouse gas reporting requirements imposed by the energy  
31 facility site evaluation council must be the same as the greenhouse  
32 gas reporting requirements imposed by the department. The department  
33 shall share any information reported to it from facilities permitted  
34 by the energy facility site evaluation council with the council,  
35 including notice of a facility that has failed to report as required.  
36 The energy facility site evaluation council shall contract with the  
37 department to monitor the reporting requirements adopted under this  
38 section.

39 (g) The inclusion or failure to include any person, source,  
40 classes of persons or sources, or types of emissions of greenhouse

1 gases into the department's rules for reporting under this section  
2 does not indicate whether such a person, source, or category is  
3 appropriate for inclusion in state, regional, or national greenhouse  
4 gas reduction programs or strategies. Furthermore, aircraft fuel  
5 purchased in the state may not be considered equivalent to aircraft  
6 fuel combusted in the state.

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

9 (ii) For the purpose of this subsection (5), the term "supplier"  
10 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel  
11 importer, as those terms are defined in RCW 82.36.010; (B) a special  
12 fuel supplier or a special fuel importer, as those terms are defined  
13 in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those  
14 terms are defined in RCW 82.42.010.

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

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

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

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

33 (2)(a) Rules establishing the elements for a statewide operating  
34 permit program and the process for permit application and renewal  
35 consistent with federal requirements shall be established by the  
36 department by January 1, 1993. The rules shall provide that every  
37 proposed permit must be reviewed prior to issuance by a professional  
38 engineer or staff under the direct supervision of a professional  
39 engineer in the employ of the permitting authority. The permit

1 program established by these rules shall be administered by the  
2 department and delegated local air authorities. Rules developed under  
3 this subsection shall not preclude a delegated local air authority  
4 from including in a permit its own more stringent emission standards  
5 and operating restrictions.

6 (b) The board of any local air pollution control authority may  
7 apply to the department of ecology for a delegation order authorizing  
8 the local authority to administer the operating permit program for  
9 sources under that authority's jurisdiction. The department shall, by  
10 order, approve such delegation, if the department finds that the  
11 local authority has the technical and financial resources, to  
12 discharge the responsibilities of a permitting authority under the  
13 federal clean air act. A delegation request shall include adequate  
14 information about the local authority's resources to enable the  
15 department to make the findings required by this subsection. However,  
16 any delegation order issued under this subsection shall take effect  
17 ninety days after the environmental protection agency authorizes the  
18 local authority to issue operating permits under the federal clean  
19 air act.

20 (c) Except for the authority granted the energy facility site  
21 evaluation council to issue permits for the new construction,  
22 reconstruction, or enlargement or operation of new energy facilities  
23 under chapter 80.50 RCW, the department may exercise the authority,  
24 as delegated by the environmental protection agency, to administer  
25 Title IV of the federal clean air act as amended and to delegate such  
26 administration to local authorities as applicable pursuant to (b) of  
27 this subsection.

28 (3) In establishing technical standards, defined in RCW  
29 70.94.030, the permitting authority shall consider and, if found to  
30 be appropriate, give credit for waste reduction within the process.

31 (4) Operating permits shall apply to all sources (a) where  
32 required by the federal clean air act, and (b) for any source that  
33 may cause or contribute to air pollution in such quantity as to  
34 create a threat to the public health or welfare. Subsection (b) of  
35 this subsection is not intended to apply to small businesses except  
36 when both of the following limitations are satisfied: (i) The source  
37 is in an area exceeding or threatening to exceed federal or state air  
38 quality standards; and (ii) the department provides a reasonable  
39 justification that requiring a source to have a permit is necessary  
40 to meet a federal or state air quality standard, or to prevent

1 exceeding a standard in an area threatening to exceed the standard.  
2 For purposes of this subsection "areas threatening to exceed air  
3 quality standards" shall mean areas projected by the department to  
4 exceed such standards within five years. Prior to identifying  
5 threatened areas the department shall hold a public hearing or  
6 hearings within the proposed areas.

7 (5) Sources operated by government agencies are not exempt under  
8 this section.

9 (6) Within one hundred eighty days after the United States  
10 environmental protection agency approves the state operating permit  
11 program, a person required to have a permit shall submit to the  
12 permitting authority a compliance plan and permit application, signed  
13 by a responsible official, certifying the accuracy of the information  
14 submitted. Until permits are issued, existing sources shall be  
15 allowed to operate under presently applicable standards and  
16 conditions provided that such sources submit complete and timely  
17 permit applications.

18 (7) All draft permits shall be subject to public notice and  
19 comment. The rules adopted pursuant to subsection (2) of this section  
20 shall specify procedures for public notice and comment. Such  
21 procedures shall provide the permitting agency with an opportunity to  
22 respond to comments received from interested parties prior to the  
23 time that the proposed permit is submitted to the environmental  
24 protection agency for review pursuant to section 505(a) of the  
25 federal clean air act. In the event that the environmental protection  
26 agency objects to a proposed permit pursuant to section 505(b) of the  
27 federal clean air act, the permitting authority shall not issue the  
28 permit, unless the permittee consents to the changes required by the  
29 environmental protection agency.

30 (8) The procedures contained in chapter 43.21B RCW shall apply to  
31 permit appeals. The pollution control hearings board may stay the  
32 effectiveness of any permit issued under this section during the  
33 pendency of an appeal filed by the permittee, if the permittee  
34 demonstrates that compliance with the permit during the pendency of  
35 the appeal would require significant expenditures that would not be  
36 necessary in the event that the permittee prevailed on the merits of  
37 the appeal.

38 (9) After the effective date of any permit program promulgated  
39 under this section, it shall be unlawful for any person to: (a)  
40 Operate a permitted source in violation of any requirement of a

1 permit issued under this section; or (b) fail to submit a permit  
2 application at the time required by rules adopted under subsection  
3 (2) of this section.

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

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

10 (b) This chapter and rules adopted thereunder;

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

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

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

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

20 (12) Permit program sources within the territorial jurisdiction  
21 of an authority delegated the operating permit program shall file  
22 their permit applications with that authority, except that permit  
23 applications for sources regulated on a statewide basis pursuant to  
24 RCW 70.94.395 shall be filed with the department. Permit program  
25 sources outside the territorial jurisdiction of a delegated authority  
26 shall file their applications with the department. Permit program  
27 sources subject to chapter 80.50 RCW shall, irrespective of their  
28 location, file their applications with the energy facility site  
29 evaluation council.

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

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

38 (b) The department shall conduct a workload analysis and prepare  
39 an operating permit program development budget for fiscal year 1994.  
40 The department shall allocate among all sources emitting one hundred

1 tons or more per year of a regulated pollutant during calendar year  
2 1992 the costs identified in its program development budget according  
3 to a three-tiered model, with each of the three tiers being equally  
4 weighted, based upon:

5 (i) The number of sources;

6 (ii) The complexity of sources; and

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

9 (c) Each local authority and the department shall collect from  
10 sources under their respective jurisdictions the interim fee  
11 determined by the department and shall remit the fee to the  
12 department.

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

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

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

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

9 (16) For sources or source categories not required to obtain  
10 permits under subsection (4) of this section, the department or local  
11 authority may establish by rule control technology requirements. If  
12 control technology rule revisions are made by the department or local  
13 authority under this subsection, the department or local authority  
14 shall consider the remaining useful life of control equipment  
15 previously installed on existing sources before requiring technology  
16 changes. The department or any local air authority may issue a  
17 general permit, as authorized under the federal clean air act, for  
18 such sources.

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

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

27 (1) Except as provided in section 4 of this act, beginning July  
28 1, 2008, the greenhouse gas emissions performance standard for all  
29 baseload electric generation for which electric utilities enter into  
30 long-term financial commitments on or after such date is the lower  
31 of:

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

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

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

38 (3)(a) Except as provided in (c) of this subsection, all baseload  
39 electric generation facilities in operation as of June 30, 2008, are

1 deemed to be in compliance with the greenhouse gas emissions  
2 performance standard established under this section until the  
3 facilities are the subject of long-term financial commitments.

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

8 (c)(i) A coal-fired baseload electric generation facility in  
9 Washington that emitted more than one million tons of greenhouse  
10 gases in any calendar year prior to 2008 must comply with the lower  
11 of the following greenhouse gas emissions performance standard such  
12 that one generating boiler is in compliance by December 31, 2020, and  
13 any other generating boiler is in compliance by December 31, 2025:

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

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

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

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

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

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

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

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

7 (9) The department shall establish an output-based methodology to  
8 ensure that the calculation of emissions of greenhouse gases for a  
9 cogeneration facility recognizes the total usable energy output of  
10 the process, and includes all greenhouse gases emitted by the  
11 facility in the production of both electrical and thermal energy. In  
12 developing and implementing the greenhouse gas emissions performance  
13 standard, the department shall consider and act in a manner  
14 consistent with any rules adopted pursuant to the public utilities  
15 regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

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

21 (a) Those emissions that are injected permanently in geological  
22 formations;

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

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

27 (11) In adopting and implementing the greenhouse gas emissions  
28 performance standard, the department of commerce energy policy  
29 division, in consultation with the commission, the department, the  
30 Bonneville power administration, the western electricity coordinating  
31 council, the energy facility site evaluation council, electric  
32 utilities, public interest representatives, and consumer  
33 representatives, shall consider the effects of the greenhouse gas  
34 emissions performance standard on system reliability and overall  
35 costs to electricity customers.

36 (12) In developing and implementing the greenhouse gas emissions  
37 performance standard, the department shall, with assistance of the  
38 commission, the department of commerce energy policy division, and  
39 electric utilities, and to the extent practicable, address long-term

1 purchases of electricity from unspecified sources in a manner  
2 consistent with this chapter.

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

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

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

19 (b) Provisions for geological or other approved sequestration  
20 commencing within five years of plant operation, including full and  
21 sufficient technical documentation to support the planned  
22 sequestration;

23 (c) Provisions for monitoring the effectiveness of the  
24 implementation of the sequestration plan;

25 (d) Penalties for failure to achieve implementation of the plan  
26 on schedule;

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

30 (f) Provisions for public notice and comment on the carbon  
31 sequestration plan.

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

38 (b) For facilities under its jurisdiction, the energy facility  
39 site evaluation council shall contract for review of sequestration or  
40 the carbon sequestration plan with the department consistent with the

1 conditions under (a) of this subsection, consider the adequacy of  
2 sequestration or the plan in its adjudicative proceedings conducted  
3 under RCW 80.50.090(3), and incorporate specific findings regarding  
4 adequacy in its recommendation to the governor under RCW 80.50.100.

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

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

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

1 federal or state law or rule regulating carbon dioxide emissions of  
2 electric utilities, and report to the legislature.

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

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

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

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

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

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

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

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

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

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

4 (d) Identify potential new revenue options for local and regional  
5 governments to authorize to finance vehicle miles traveled reduction  
6 efforts;

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

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

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

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

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

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

1 (4) Prior to implementation of the goals in this section, the  
2 department, in consultation with the department of (~~community,~~  
3 ~~trade, and economic development~~) commerce, cities, counties, local  
4 economic development organizations, and local and regional chambers  
5 of commerce, shall provide a report to the appropriate committees of  
6 the legislature on the anticipated impacts of the goals established  
7 in this section on the following:

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

11 (b) Impacts on low-income residents;

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

14 (d) Impacts on distressed rural counties; and

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

17 **Sec. 18.** RCW 19.27A.020 and 2010 c 271 s 304 are each amended to  
18 read as follows:

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

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

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

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

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

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

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

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

7 (6)(a) Except as provided in (b) of this subsection, the  
8 Washington state energy code for residential structures shall preempt  
9 the residential energy code of each city, town, and county in the  
10 state of Washington.

11 (b) The state energy code for residential structures does not  
12 preempt a city, town, or county's energy code for residential  
13 structures which exceeds the requirements of the state energy code  
14 and which was adopted by the city, town, or county prior to March 1,  
15 1990. Such cities, towns, or counties may not subsequently amend  
16 their energy code for residential structures to exceed the  
17 requirements adopted prior to March 1, 1990.

18 (7) The state building code council shall consult with the  
19 department of (~~general administration~~) enterprise services as  
20 provided in RCW 34.05.310 prior to publication of proposed rules. The  
21 director of the department of (~~general administration~~) enterprise  
22 services shall recommend to the state building code council any  
23 changes necessary to conform the proposed rules to the requirements  
24 of this section.

25 (8) The state building code council shall evaluate and consider  
26 adoption of the international energy conservation code in Washington  
27 state in place of the existing state energy code.

28 (9) The definitions in RCW 19.27A.140 apply throughout this  
29 section.

30 **Sec. 19.** RCW 19.27A.150 and 2010 c 271 s 306 are each amended to  
31 read as follows:

32 (1) To the extent that funding is appropriated specifically for  
33 the purposes of this section, the department of commerce shall,  
34 except as provided in section 4 of this act, develop and implement a  
35 strategic plan for enhancing energy efficiency in and reducing  
36 greenhouse gas emissions from homes, buildings, districts, and  
37 neighborhoods. The strategic plan must be used to help direct the  
38 future code increases in RCW 19.27A.020, with targets for new  
39 buildings consistent with RCW 19.27A.160. The strategic plan will

1 identify barriers to achieving net zero energy use in homes and  
2 buildings and identify how to overcome these barriers in future  
3 energy code updates and through complementary policies.

4 (2) The department of commerce must complete and release the  
5 strategic plan to the legislature and the council by December 31,  
6 2010, and update the plan every three years.

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

10 (a) Consider development of aspirational codes separate from the  
11 state energy code that contain economically and technically feasible  
12 optional standards that could achieve higher energy efficiency for  
13 those builders that elected to follow the aspirational codes in lieu  
14 of or in addition to complying with the standards set forth in the  
15 state energy code;

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

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

20 (d) Include state strategies to support research, demonstration,  
21 and education programs designed to achieve a seventy percent  
22 reduction in annual net energy consumption as specified in RCW  
23 19.27A.160 and enhance energy efficiency and on-site renewable energy  
24 production in buildings;

25 (e) Recommend incentives, education, training programs and  
26 certifications, particularly state-approved training or certification  
27 programs, joint apprenticeship programs, or labor-management  
28 partnership programs that train workers for energy-efficiency  
29 projects to ensure proposed programs are designed to increase  
30 building professionals' ability to design, construct, and operate  
31 buildings that will meet the seventy percent reduction in annual net  
32 energy consumption as specified in RCW 19.27A.160;

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

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

38 (h) Identify financial mechanisms such as tax incentives,  
39 rebates, and innovative financing to motivate energy consumers to  
40 take action to increase energy efficiency and their use of on-site

1 renewable energy. Such incentives, rebates, or financing options may  
2 consider the role of government programs as well as utility-sponsored  
3 programs;

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

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

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

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

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

17 NEW SECTION. **Sec. 20.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 21.** The following acts or parts of acts are  
22 each repealed:

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

27 (2) RCW 80.80.030 (Achieving greenhouse gases emissions  
28 reduction goals—Submission of policy recommendations to legislature  
29 by governor) and 2007 c 307 s 4.

30 NEW SECTION. **Sec. 22.** This act may be known and cited as the  
31 Washington state energy freedom act.

32 NEW SECTION. **Sec. 23.** Sections 1 through 5 and 22 of this act  
33 constitute a new chapter in Title 70 RCW.

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