
HOUSE BILL 1325

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.

--- END ---