

**ESSB 6428** - H COMM AMD

By Committee on Natural Resources, Ecology & Parks

NOT CONSIDERED 03/02/2006

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that a convenient,  
4 safe, and environmentally sound system for the collection,  
5 transportation, and recycling of covered electronic products must be  
6 established. The legislature further finds that the system must  
7 encourage the design of electronic products that are less toxic and  
8 more recyclable. The legislature further finds that the responsibility  
9 for this system must be shared among all stakeholders, with  
10 manufacturers financing the collection, transportation, and recycling  
11 system.

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

14 (1) "Authority" means the Washington materials management and  
15 financing authority created under section 28 of this act.

16 (2) "Authorized party" means a manufacturer who submits an  
17 individual independent plan or the entity authorized to submit an  
18 independent plan for more than one manufacturer.

19 (3) "Board" means the board of directors of the Washington  
20 materials management and financing authority created under section 29  
21 of this act.

22 (4) "Collector" means an entity licensed to do business in the  
23 state that gathers unwanted covered electronic products from  
24 households, small businesses, school districts, small governments, and  
25 charities for the purpose of recycling and meets minimum standards that  
26 may be developed by the department.

27 (5) "Contract for services" means an instrument executed by the  
28 authority and one or more persons or entities that delineates

1 collection, transportation, and recycling services, in whole or in  
2 part, that will be provided to the citizens of the state within service  
3 areas as described in the approved standard plan.

4 (6) "Covered electronic product" includes a cathode ray tube or  
5 flat panel computer monitor having a viewable area greater than four  
6 inches when measured diagonally, a desktop computer, a laptop or a  
7 portable computer, or a cathode ray tube or flat panel television  
8 having a viewable area greater than four inches when measured  
9 diagonally that has been used in the state by any covered entity  
10 regardless of original point of purchase. "Covered electronic product"  
11 does not include: (a) A motor vehicle or replacement parts for use in  
12 motor vehicles or aircraft, or any computer, computer monitor, or  
13 television that is contained within, and is not separate from, the  
14 motor vehicle or aircraft; (b) monitoring and control instruments or  
15 systems; (c) medical devices; (d) products including materials intended  
16 for use as ingredients in those products as defined in the federal  
17 food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-  
18 serum-toxin act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations  
19 issued under those acts; (e) equipment used in the delivery of patient  
20 care in a health care setting; (f) a computer, computer monitor, or  
21 television that is contained within a clothes washer, clothes dryer,  
22 refrigerator, refrigerator and freezer, microwave oven, conventional  
23 oven or range, dishwasher, room air conditioner, dehumidifier, or air  
24 purifier; or (g) hand-held portable voice or data devices used for  
25 commercial mobile services as defined in 47 U.S.C. Sec. 332 (d)(1).

26 (7) "Covered entity" means any household, charity, school district,  
27 small business, or small government located in Washington state.

28 (8) "Curbside service" means a collection service providing  
29 regularly scheduled pickup of covered electronic products from  
30 households or other covered entities in quantities generated from  
31 households.

32 (9) "Department" means the department of ecology.

33 (10) "Electronic product" includes a cathode ray tube or flat panel  
34 computer monitor having a viewable area greater than four inches when  
35 measured diagonally; a desktop computer; a laptop or a portable  
36 computer; or a cathode ray tube or flat screen television having a  
37 viewable area greater than four inches when measured diagonally.

1 (11) "Equivalent share" means the weight in pounds of covered  
2 electronic products for which an individual manufacturer is responsible  
3 under this chapter as determined by the department under section 20 of  
4 this act.

5 (12) "Household" means a single detached dwelling unit or a single  
6 unit of a multiple dwelling unit and appurtenant structures.

7 (13) "Independent plan" means a plan for the collection,  
8 transportation, and recycling of unwanted covered electronic products  
9 that is developed, implemented, and financed by an individual  
10 manufacturer or by an authorized party.

11 (14) "Manufacturer" means any person, in business or no longer in  
12 business but having a successor in interest, who, irrespective of the  
13 selling technique used, including by means of distance or remote sale:

14 (a) Manufactures or has manufactured a covered electronic product  
15 under its own brand names for sale in or into this state;

16 (b) Assembles or has assembled a covered electronic product that  
17 uses parts manufactured by others for sale in or into this state under  
18 the assembler's brand names;

19 (c) Resells or has resold in or into this state under its own brand  
20 names a covered electronic product produced by other suppliers,  
21 including retail establishments that sell covered electronic products  
22 under their own brand names;

23 (d) Imports or has imported a covered electronic product into the  
24 United States that is sold in or into this state. However, if a  
25 company from whom an importer purchases or has purchased the  
26 merchandise performs activities conducted under the standards  
27 established for interstate commerce under the commerce clause of the  
28 United States Constitution, that company is deemed to be the  
29 manufacturer; or

30 (e) Manufactures or manufactured a cobranded product for sale in or  
31 into this state that carries the name of both the manufacturer and a  
32 retailer.

33 (15) "New entrant" means: (a) A manufacturer of televisions that  
34 have been sold in the state for less than ten years; or (b) a  
35 manufacturer of desktop computers, laptop and portable computers, or  
36 computer monitors that have been sold in the state for less than five  
37 years. However, a manufacturer of both televisions and computers or a

1 manufacturer of both televisions and computer monitors that is deemed  
2 a new entrant under either only (a) or (b) of this subsection is not  
3 considered a new entrant for purposes of this chapter.

4 (16) "Orphan product" means a covered electronic product that lacks  
5 a manufacturer's brand or for which the manufacturer is no longer in  
6 business and has no successor in interest.

7 (17) "Plan's equivalent share" means the weight in pounds of  
8 covered electronic products for which a plan is responsible. A plan's  
9 equivalent share is equal to the sum of the equivalent shares of each  
10 manufacturer participating in that plan.

11 (18) "Plan's return share" means the sum of the return shares of  
12 each manufacturer participating in that plan.

13 (19) "Premium service" means services such as at-location system  
14 upgrade services provided to covered entities and at-home pickup  
15 services offered to households. "Premium service" does not include  
16 curbside service.

17 (20) "Processor" means an entity engaged in disassembling,  
18 dismantling, or shredding electronic products to recover materials  
19 contained in the electronic products and prepare those materials for  
20 reclaiming or reuse in new products in accordance with processing  
21 standards established by this chapter and by the department. A  
22 processor may also salvage parts to be used in new products.

23 (21) "Product type" means one of the following categories:  
24 Computer monitors; desktop computers; laptop and portable computers;  
25 and televisions.

26 (22) "Program" means the collection, transportation, and recycling  
27 activities conducted to implement an independent plan or the standard  
28 plan.

29 (23) "Program year" means each full calendar year after the program  
30 has been initiated.

31 (24) "Recycling" means transforming or remanufacturing unwanted  
32 electronic products, components, and byproducts into usable or  
33 marketable materials for use other than landfill disposal or  
34 incineration. "Recycling" does not include energy recovery or energy  
35 generation by means of combusting unwanted electronic products,  
36 components, and byproducts with or without other waste. Smelting of  
37 electronic materials to recover metals for reuse in conformance with

1 all applicable laws and regulations is not considered disposal or  
2 energy recovery.

3 (25) "Retailer" means a person who offers covered electronic  
4 products for sale at retail through any means including, but not  
5 limited to, remote offerings such as sales outlets, catalogs, or the  
6 internet, but does not include a sale that is a wholesale transaction  
7 with a distributor or a retailer.

8 (26) "Return share" means the percentage of covered electronic  
9 products by weight identified for an individual manufacturer, as  
10 determined by the department under section 19 of this act.

11 (27) "Reuse" means any operation by which an electronic product or  
12 a component of a covered electronic product changes ownership and is  
13 used for the same purpose for which it was originally purchased.

14 (28) "Small business" means a business employing less than fifty  
15 people.

16 (29) "Small government" means a city in the state with a population  
17 less than fifty thousand, a county in the state with a population less  
18 than one hundred twenty-five thousand, and special purpose districts in  
19 the state.

20 (30) "Standard plan" means the plan for the collection,  
21 transportation, and recycling of unwanted covered electronic products  
22 developed, implemented, and financed by the authority on behalf of  
23 manufacturers participating in the authority.

24 (31) "Transporter" means an entity that transports covered  
25 electronic products from collection sites or services to processors or  
26 other locations for the purpose of recycling, but does not include any  
27 entity or person that hauls their own unwanted electronic products.

28 (32) "Unwanted electronic product" means a covered electronic  
29 product that has been discarded or is intended to be discarded by its  
30 owner.

31 (33) "White box manufacturer" means a person who manufactured  
32 unbranded covered electronic products offered for sale in the state  
33 within ten years prior to a program year for televisions or within five  
34 years prior to a program year for desktop computers, laptop or portable  
35 computers, or computer monitors.

36 NEW SECTION. **Sec. 3.** (1) A manufacturer must participate in an

1 independent plan or the standard plan to implement and finance the  
2 collection, transportation, and recycling of covered electronic  
3 products.

4 (2) An independent plan or the standard plan must be implemented  
5 and fully operational no later than January 1, 2009.

6 (3) The manufacturers participating in an approved plan are  
7 responsible for covering all administrative and operational costs  
8 associated with the collection, transportation, and recycling of their  
9 plan's equivalent share of covered electronic products. If costs are  
10 passed on to consumers, it must be done without any fees at the time  
11 the unwanted electronic product is delivered or collected for  
12 recycling. However, this does not prohibit collectors providing  
13 premium or curbside services from charging customers a fee for the  
14 additional collection cost of providing this service, when funding for  
15 collection provided by an independent plan or the standard plan does  
16 not fully cover the cost of that service.

17 (4) Nothing in this chapter changes or limits the authority of the  
18 Washington utilities and transportation commission to regulate  
19 collection of solid waste in the state of Washington, including  
20 curbside collection of residential recyclable materials, nor does this  
21 chapter change or limit the authority of a city or town to provide such  
22 service itself or by contract pursuant to RCW 81.77.020.

23 (5) Manufacturers are encouraged to collaborate with electronic  
24 product retailers, certificated waste haulers, processors, recyclers,  
25 charities, and local governments within the state in the development  
26 and implementation of their plans.

27 NEW SECTION. **Sec. 4.** (1) By January 1, 2007, and annually  
28 thereafter, each manufacturer must register with the department.

29 (2) A manufacturer must submit to the department with each  
30 registration or annual renewal a fee to cover the administrative costs  
31 of this chapter as determined by the department under section 23 of  
32 this act.

33 (3) The department shall review the registration or renewal  
34 application and notify the manufacturer if their registration does not  
35 meet the requirements of this section. Within thirty days of receipt  
36 of such a notification from the department, the manufacturer must file

1 with the department a revised registration addressing the requirements  
2 noted by the department.

3 (4) The registration must include the following information:

4 (a) The name and contact information of the manufacturer submitting  
5 the registration;

6 (b) The manufacturer's brand names of covered electronic products,  
7 including all brand names sold in the state in the past, all brand  
8 names currently being sold in the state, and all brand names for which  
9 the manufacturer has legal responsibility under section 10 of this act;

10 (c) The method or methods of sale used in the state; and

11 (d) Whether the registrant will be participating in the standard  
12 plan or submitting an independent plan to the department for approval.

13 (5) The registrant shall submit any changes to the information  
14 provided in the registration to the department within fourteen days of  
15 such change.

16 (6) The department shall identify, using all reasonable means,  
17 manufacturers that are in business or that are no longer in business  
18 but that have a successor in interest by examining best available  
19 return share data and other pertinent data. The department shall  
20 notify manufacturers that have been identified and for whom an address  
21 has been found of the requirements of this chapter, including  
22 registration and plan requirements under this section and section 5 of  
23 this act.

24 NEW SECTION. **Sec. 5.** (1) A manufacturer must participate in the  
25 standard plan administered by the authority, unless the manufacturer  
26 obtains department approval for an independent plan for the collection,  
27 transportation, and recycling of unwanted electronic products.

28 (2) An independent plan may be submitted by an individual  
29 manufacturer or by a group of manufacturers, provided that:

30 (a) Each independent plan represents at least a five percent return  
31 share of covered electronic products; and

32 (b) The manufacturer is not a new entrant or a white box  
33 manufacturer.

34 (3) An individual manufacturer submitting an independent plan to  
35 the department is responsible for collecting, transporting, and  
36 recycling its equivalent share of covered electronic products.

1 (4)(a) Manufacturers collectively submitting an independent plan  
2 are responsible for collecting, transporting, and recycling the sum of  
3 the equivalent shares of each participating manufacturer.

4 (b) Each group of manufacturers submitting an independent plan must  
5 designate a party authorized to file the plan with the department on  
6 their behalf. A letter of certification from each of the manufacturers  
7 designating the authorized party must be submitted to the department  
8 together with the plan.

9 (5) Each manufacturer in the standard plan or in an independent  
10 plan retains responsibility and liability under this chapter in the  
11 event that the plan fails to meet the manufacturer's obligations under  
12 this chapter.

13 NEW SECTION. **Sec. 6.** (1) All initial independent plans and the  
14 initial standard plan required under section 5 of this act must be  
15 submitted to the department by February 1, 2008. The department shall  
16 review each independent plan and the standard plan.

17 (2) The authority submitting the standard plan and each authorized  
18 party submitting an independent plan to the department must pay a fee  
19 to the department to cover the costs of administering and implementing  
20 this chapter. The department shall set the fees as described under  
21 section 23 of this act.

22 (3) The fees in subsection (2) of this section apply to the initial  
23 plan submission and plan updates and revisions required in section 7 of  
24 this act.

25 (4) Within ninety days after receipt of a plan, the department  
26 shall determine whether the plan complies with this chapter. If the  
27 plan is approved, the department shall send a letter of approval. If  
28 a plan is rejected, the department shall provide the reasons for  
29 rejecting the plan to the authority or authorized party. The authority  
30 or authorized party must submit a new plan within sixty days after  
31 receipt of the letter of disapproval.

32 (5) An independent plan and the standard plan must contain the  
33 following elements:

34 (a) Contact information for the authority or authorized party and  
35 a comprehensive list of all manufacturers participating in the plan and  
36 their contact information;

1 (b) A description of the collection, transportation, and recycling  
2 systems and service providers used, including a description of how the  
3 authority or authorized party will:

4 (i) Seek to use businesses within the state, including retailers,  
5 charities, processors, and collection and transportation services; and

6 (ii) Fairly compensate collectors for providing collection  
7 services;

8 (c) The method or methods for the reasonably convenient collection  
9 of all product types of covered electronic products in rural and urban  
10 areas throughout the state, including how the plan will provide for  
11 collection services in each county of the state and for a minimum of  
12 one collection site or alternate collection service for each city or  
13 town with a population greater than ten thousand. A collection site  
14 for a county may be the same as a collection site for a city or town in  
15 the county;

16 (d) A description of how the plan will provide service to small  
17 businesses, small governments, charities, and school districts in  
18 Washington;

19 (e) The processes and methods used to recycle covered electronic  
20 products including a description of the processing that will be used  
21 and the facility location;

22 (f) Documentation of audits of each processor used in the plan and  
23 compliance with processing standards established under section 25 of  
24 this act;

25 (g) A description of the accounting and reporting systems that will  
26 be employed to track progress toward the plan's equivalent share;

27 (h) A timeline describing startup, implementation, and progress  
28 towards milestones with anticipated results;

29 (i) A public information campaign to inform consumers about how to  
30 recycle their covered electronic products at the end of the product's  
31 life.

32 (6) The standard plan shall address how it will incorporate and  
33 fairly compensate registered collectors providing curbside or premium  
34 services such that they are not compensated at a lower rate for  
35 collection costs than the compensation offered other collectors  
36 providing drop-off collection sites in that geographic area.

37 (7) All transporters and collectors used to fulfill the

1 requirements of this section must be registered as described in section  
2 24 of this act.

3 NEW SECTION. **Sec. 7.** (1) An independent plan and the standard  
4 plan must be updated at least every five years and as required in (a)  
5 and (b) of this subsection.

6 (a) If the program fails to provide service in each county in the  
7 state or meet other plan requirements, the authority or authorized  
8 party shall submit to the department within sixty days of failing to  
9 provide service an updated plan addressing how the program will be  
10 adjusted to meet the program geographic coverage and collection service  
11 requirements established in section 9 of this act.

12 (b) The authority or authorized party shall notify the department  
13 of any modification to the plan. If the department determines that the  
14 authority or authorized party has significantly modified the program  
15 described in the plan, the authority or authorized party shall submit  
16 a revised plan describing the changes to the department within sixty  
17 days of notification by the department.

18 (2) Within sixty days after receipt of a revised plan, the  
19 department shall determine whether the revised plan complies with this  
20 chapter. If the revised plan is approved, the department shall send a  
21 letter of approval. If the revised plan is rejected, the department  
22 shall provide the reasons for rejecting the plan to the authority or  
23 authorized party. The authority or authorized party must submit a new  
24 plan revision within sixty days after receipt of the letter of  
25 disapproval.

26 (3) The authority or authorized parties may buy and sell collected  
27 covered electronic products with other programs without submitting a  
28 plan revision for review.

29 NEW SECTION. **Sec. 8.** (1) A manufacturer participating in an  
30 independent plan may join the standard plan by notifying the authority  
31 and the department of its intention at least five months prior to the  
32 start of the next program year.

33 (2) Manufacturers may not change from one plan to another plan  
34 during a program year.

35 (3) A manufacturer participating in the standard plan wishing to

1 implement or participate in an independent plan may do so by complying  
2 with rules adopted by the department under section 23 of this act.

3 NEW SECTION. **Sec. 9.** (1) A program must provide collection  
4 services for covered electronic products of all product types that are  
5 reasonably convenient and available to all citizens of the state  
6 residing within its geographic boundaries, including both rural and  
7 urban areas. Each program must provide collection service in every  
8 county of the state. A program may provide collection services jointly  
9 with another plan or plans.

10 (a) For any city or town with a population of greater than ten  
11 thousand, each program shall provide a minimum of one collection site  
12 or alternate collection service described in subsection (3) of this  
13 section or a combination of sites and alternate service that together  
14 provide at least one collection opportunity for all product types. A  
15 collection site for a county may be the same as a collection site for  
16 a city or town in the county.

17 (b) Collection sites may include electronics recyclers and repair  
18 shops, recyclers of other commodities, reuse organizations, charities,  
19 retailers, government recycling sites, or other suitable locations.

20 (c) Collection sites must be staffed, open to the public at a  
21 frequency adequate to meet the needs of the area being served, and on  
22 an on-going basis.

23 (2) A program may limit the number of covered electronic products  
24 or covered electronic products by product type accepted per customer  
25 per day or per delivery at a collection site or service. All covered  
26 entities may use a collection site as long as the covered entities  
27 adhere to any restrictions established in the plans.

28 (3) A program may provide collection services in forms different  
29 than collection sites, such as curbside services, if those alternate  
30 services provide equal or better convenience to citizens and equal or  
31 increased recovery of unwanted covered electronic products.

32 (4) For rural areas without commercial centers or areas with widely  
33 dispersed population, a program may provide collection at the nearest  
34 commercial centers or solid waste sites, collection events, mail-back  
35 systems, or a combination of these options.

36 (5) For small businesses, small governments, charities, and school  
37 districts that may have large quantities of covered electronic products

1 that cannot be handled at collection sites or curbside services, a  
2 program may provide alternate services. At a minimum, a program must  
3 provide for processing of these large quantities of covered electronic  
4 products at no charge to the small businesses, small governments,  
5 charities, and school districts.

6 NEW SECTION. **Sec. 10.** Any person acquiring a manufacturer, or who  
7 has acquired a manufacturer, shall have all responsibility for the  
8 acquired company's covered electronic products, including covered  
9 electronic products manufactured prior to the effective date of this  
10 section, unless that responsibility remains with another entity per the  
11 purchase agreement and the acquiring manufacturer provides the  
12 department with a letter from the other entity accepting responsibility  
13 for the covered electronic products. Cobranding manufacturers may  
14 negotiate with retailers for responsibility for those products and must  
15 notify the department of the results of their negotiations.

16 NEW SECTION. **Sec. 11.** (1) An independent plan and the standard  
17 plan must implement and finance an auditable, statistically significant  
18 sampling of covered electronic products entering its program every  
19 program year. The information collected must include a list of the  
20 brand names of covered electronic products by product type, the number  
21 of covered electronic products by product type, the weight of covered  
22 electronic products that are identified for each brand name or that  
23 lack a manufacturer's brand, the total weight of the sample by product  
24 type, and any additional information needed to assign return share.

25 (2) The sampling must be conducted in the presence of the  
26 department or a third-party organization approved by the department.  
27 The department may, at its discretion, audit the methodology and the  
28 results.

29 (3) After the fifth program year, the department may reassess the  
30 sampling required in this section. The department may adjust the  
31 frequency at which manufacturers must implement the sampling or may  
32 adjust the frequency at which manufacturers must provide certain  
33 information from the sampling. Prior to making any changes, the  
34 department shall notify the public, including all registered  
35 manufacturers, and provide a comment period. The department shall  
36 notify all registered manufacturers of any such changes.

1        NEW SECTION.    **Sec. 12.**    (1) An independent plan and the standard  
2 plan must inform covered entities about where and how to reuse and  
3 recycle their covered electronic products at the end of the product's  
4 life, including providing a web site or a toll-free telephone number  
5 that gives information about the recycling program in sufficient detail  
6 to educate covered entities regarding how to return their covered  
7 electronic products for recycling.

8        (2) The department shall promote covered electronic product  
9 recycling by:

10        (a) Posting information describing where to recycle unwanted  
11 covered electronic products on its web site;

12        (b) Providing information about recycling covered electronic  
13 products through a toll-free telephone service; and

14        (c) Developing and providing artwork for use in flyers and signage  
15 to retailers upon request.

16        (3) Local governments shall promote covered electronic product  
17 recycling, including listings of local collection sites and services,  
18 through existing educational methods typically used by each local  
19 government.

20        (4) A retailer who sells new covered electronic products shall  
21 provide information to consumers describing where and how to recycle  
22 covered electronic products and opportunities and locations for the  
23 convenient collection or return of the products. This requirement can  
24 be fulfilled by providing the department's toll-free telephone number  
25 and web site. Remote sellers may include the information in a visible  
26 location on their web site as fulfillment of this requirement.

27        (5) Manufacturers, state government, local governments, retailers,  
28 and collection sites and services shall collaborate in the development  
29 and implementation of the public information campaign.

30        NEW SECTION.    **Sec. 13.**    (1) The electronic products recycling  
31 account is created in the custody of the state treasurer. All payments  
32 resulting from plans not reaching their equivalent share, as described  
33 in section 22 of this act, shall be deposited into the account. Any  
34 moneys collected for manufacturer registration fees, fees associated  
35 with reviewing and approving plans and plan revisions, and penalties  
36 levied under this chapter shall be deposited into the account.

1 (2) Only the director of the department or the director's designee  
2 may authorize expenditures from the account. The account is subject to  
3 allotment procedures under chapter 43.88 RCW, but an appropriation is  
4 not required for expenditures.

5 (3) Moneys in the account may be used solely by the department for  
6 the purposes of fulfilling department responsibilities specified in  
7 this chapter and for expenditures to the authority and authorized  
8 parties resulting from plans exceeding their equivalent share, as  
9 described in section 22 of this act. Funds in the account may not be  
10 diverted for any purpose or activity other than those specified in this  
11 section.

12 NEW SECTION. **Sec. 14.** (1) By March 1st of the second program year  
13 and each program year thereafter, the authority and each authorized  
14 party shall file with the department an annual report for the preceding  
15 program year.

16 (2) The annual report must include the following information:

17 (a) The total weight in pounds of covered electronic products  
18 collected and recycled, by county, during the preceding program year  
19 including documentation verifying collection and processing of that  
20 material. The total weight in pounds includes orphan products. The  
21 report must also indicate and document the weight in pounds received  
22 from each nonprofit charitable organization primarily engaged in the  
23 business of reuse and resale used by the plan. The report must  
24 document the weight in pounds that were received in large quantities  
25 from small businesses, small governments, charities and school  
26 districts as described in section 9(5) of this act;

27 (b) The collection services provided in each county and for each  
28 city with a population over ten thousand including a list of all  
29 collection sites and services operating in the state in the prior  
30 program year and the parties who operated them;

31 (c) A list of processors used, the weight of covered electronic  
32 products processed by each direct processor, and a description of the  
33 processes and methods used to recycle the covered electronic products  
34 including a description of the processing and facility locations. The  
35 report must also include a list of subcontractors who further processed  
36 or recycled unwanted covered electronic products, electronic

1 components, or electronic scrap described in section 25(1)(b) of this  
2 act, including facility locations;

3 (d) Other documentation as established under section 25(1)(d) of  
4 this act;

5 (e) Educational and promotional efforts that were undertaken;

6 (f) The results of sampling and sorting as required in section 11  
7 of this act, including a list of the brand names of covered electronic  
8 products by product type, the number of covered electronic products by  
9 product type, the weight of covered electronic products that are  
10 identified for each brand name or that lack a manufacturer's brand, and  
11 the total weight of the sample by product type;

12 (g) The list of manufacturers that are participating in the  
13 standard plan; and

14 (h) Any other information deemed necessary by the department.

15 (3) The department shall review each report within ninety days of  
16 its submission and shall notify the authority or authorized party of  
17 any need for additional information or documentation, or any deficiency  
18 in its program.

19 (4) All reports submitted to the department must be available to  
20 the general public through the internet. Proprietary information  
21 submitted to the department under this chapter is exempt from public  
22 disclosure under RCW 42.56.270.

23 NEW SECTION. **Sec. 15.** Nonprofit charitable organizations that  
24 qualify for a taxation exemption under section 501(c)(3) of the  
25 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) that are  
26 primarily engaged in the business of reuse and resale and that are used  
27 by a plan to collect covered electronic products shall file a report  
28 with the department by March 1st of the second program year and each  
29 program year thereafter. The report must indicate and document the  
30 weight of covered electronic products sent for recycling during the  
31 previous program year attributed to each plan that the charitable  
32 organization is participating in.

33 NEW SECTION. **Sec. 16.** (1) Beginning January 1, 2007, no person  
34 may sell or offer for sale an electronic product to any person in the  
35 state unless the electronic product is labeled with the manufacturer's  
36 brand. The label must be permanently affixed and readily visible.

1 (2) In-state retailers in possession of unlabeled products on  
2 January 1, 2007, may exhaust their stock through sales to the public.

3 NEW SECTION. **Sec. 17.** No person may sell or offer for sale a  
4 covered electronic product to any person in this state unless the  
5 manufacturer of the covered electronic product has filed a registration  
6 with the department under section 4 of this act and is participating in  
7 an approved plan under section 5 of this act. A person that sells or  
8 offers for sale a covered electronic product in the state shall consult  
9 the department's web site for lists of manufacturers with registrations  
10 and approved plans prior to selling a covered electronic product in the  
11 state. A person is considered to have complied with this section if on  
12 the date the product was ordered from the manufacturer or its agent,  
13 the manufacturer was listed as having registered and having an approved  
14 plan on the department's web site.

15 NEW SECTION. **Sec. 18.** (1) The department shall maintain on its  
16 web site the following information:

17 (a) The names of the manufacturers and the manufacturer's brands  
18 that are registered with the department under section 4 of this act;

19 (b) The names of the manufacturers and the manufacturer's brands  
20 that are participating in an approved plan under section 5 of this act;

21 (c) The names and addresses of the collectors and transporters that  
22 are listed in registrations filed with the department under section 24  
23 of this act;

24 (d) The names and addresses of the processors used to fulfill the  
25 requirements of the plans;

26 (e) Return and equivalent shares for all manufacturers.

27 (2) The department shall update this web site information promptly  
28 upon receipt of a registration or a report.

29 NEW SECTION. **Sec. 19.** (1) The department shall determine the  
30 return share for each manufacturer in the standard plan or an  
31 independent plan by dividing the weight of covered electronic products  
32 identified for each manufacturer by the total weight of covered  
33 electronic products identified for all manufacturers in the standard  
34 plan or an independent plan, then multiplying the quotient by one  
35 hundred.

1 (2) For the first program year, the department shall determine the  
2 return share for such manufacturers using all reasonable means and  
3 based on best available information regarding return share data from  
4 other states and other pertinent data.

5 (3) For the second and each subsequent program year, the department  
6 shall determine the return share for such manufacturers using all  
7 reasonable means and based on the most recent sampling of covered  
8 electronic products conducted in the state under section 11 of this  
9 act.

10 NEW SECTION. **Sec. 20.** (1) The department shall determine the  
11 total equivalent share for each manufacturer in the standard plan or an  
12 independent plan by dividing the return share percentage for each  
13 manufacturer by one hundred, then multiplying the quotient by the total  
14 weight in pounds of covered electronic products collected for that  
15 program year, allowing as needed for the additional credit authorized  
16 in subsection (3) of this section.

17 (2)(a) By June 1st of each program year, the department shall  
18 notify each manufacturer of the manufacturer's equivalent share of  
19 covered electronic products to be applied to the previous program year.  
20 The department shall also notify each manufacturer of how its  
21 equivalent share was determined.

22 (b) By June 1st of each program year, the department shall bill any  
23 authorized party or authority that has not attained its plan's  
24 equivalent share as determined under section 22 of this act. The  
25 authorized party or authority shall remit payment to the department  
26 within sixty days from the billing date.

27 (c) By September 1st of each program year, the department shall pay  
28 any authorized party or authority that exceeded its plan's equivalent  
29 share.

30 (3) Plans that utilize the collection services of nonprofit  
31 charitable organizations that qualify for a taxation exemption under  
32 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec.  
33 501(c)(3)) that are primarily engaged in the business of reuse and  
34 resale must be given an additional five percent credit to be applied  
35 toward a plan's equivalent share for pounds that are received for  
36 recycling from those organizations. The department may adjust the  
37 percentage of credit annually.

1        NEW SECTION.    **Sec. 21.**    (1) By June 1, 2007, the department shall  
2 notify each manufacturer of its preliminary return share of covered  
3 electronic products for the first program year.

4        (2) Preliminary return share of covered electronic products must be  
5 announced annually by June 1st of each program year for the next  
6 program year.

7        (3) Manufacturers may challenge the preliminary return share by  
8 written petition to the department. The petition must be received by  
9 the department within thirty days of the date of publication of the  
10 preliminary return shares.

11        (4) The petition must contain a detailed explanation of the grounds  
12 for the challenge, an alternative calculation, and the basis for such  
13 a calculation, documentary evidence supporting the challenge, and  
14 complete contact information for requests for additional information or  
15 clarification.

16        (5) Sixty days after the publication of the preliminary return  
17 share, the department shall make a final decision on return share,  
18 having fully taken into consideration any and all challenges to its  
19 preliminary calculations.

20        (6) A written record of challenges received and a summary of the  
21 bases for the challenges, as well as the department's response, must be  
22 published at the same time as the publication of the final return  
23 share.

24        (7) By August 1, 2007, the department shall publish the final  
25 return shares for the first program year. By August 1st of each  
26 program year, the department shall publish the final return shares for  
27 use in the coming program year.

28        NEW SECTION.    **Sec. 22.**    (1) For an independent plan and the  
29 standard plan, if the total weight in pounds of covered electronic  
30 products collected during a program year is less than the plan's  
31 equivalent share of covered electronic products for that year, then the  
32 authority or authorized party shall submit to the department a payment  
33 equal to the weight in pounds of the deficit multiplied by the  
34 reasonable collection, transportation, and recycling cost for covered  
35 electronic products and an administrative fee. Moneys collected by the  
36 department must be deposited in the electronic products recycling  
37 account.

1 (2) For an independent plan and the standard plan, if the total  
2 weight in pounds of covered electronic products collected during a  
3 program year is more than the plan's equivalent share of covered  
4 electronic products for that year, then the department shall submit to  
5 the authority or authorized party, a payment equal to the weight in  
6 pounds of the surplus multiplied by the reasonable collection,  
7 transportation, and recycling cost for covered electronic products.

8 (3) For purposes of this section, the initial reasonable  
9 collection, transportation, and recycling cost for covered electronic  
10 products is forty-five cents per pound and the administrative fee is  
11 five cents per pound.

12 (4) Fees assessed to the authority and manufacturers participating  
13 in the standard plan must include the costs associated with the  
14 department's determination of market share as described in section 30  
15 of this act.

16 (5) The department may annually adjust the reasonable collection,  
17 transportation, and recycling cost for covered electronic products and  
18 the administrative fee described in this section. Prior to making any  
19 changes in the fees described in this section, the department shall  
20 notify the public, including all registered manufacturers, and provide  
21 a comment period. The department shall notify all registered  
22 manufacturers of any changes to the reasonable collection,  
23 transportation, and recycling cost or the administrative fee by January  
24 1st of the program year in which the change is to take place.

25 NEW SECTION. **Sec. 23.** (1) The department shall adopt rules to  
26 determine the process for manufacturers to change plans under section  
27 8 of this act.

28 (2) The department shall establish annual registration and plan  
29 review fees for administering this chapter. An initial fee schedule  
30 must be established by rule and be adjusted no more often than once  
31 every two years. All fees charged must be based on factors relating to  
32 administering this chapter and be based on a sliding scale that is  
33 representative of annual sales of covered electronic products in the  
34 state. Fees must be established in amounts to fully recover and not to  
35 exceed expenses incurred by the department to implement this chapter.

36 (3) The department shall establish an annual process for local

1 governments and local communities to report their satisfaction with the  
2 services provided by plans under this chapter. This information must  
3 be used by the department in reviewing plan updates and revisions.

4 (4) The department may adopt rules as necessary for the purpose of  
5 implementing, administering, and enforcing this chapter.

6 NEW SECTION. **Sec. 24.** Each collector and transporter of covered  
7 electronic products in the state must register annually with the  
8 department. The registration must include all identification  
9 requirements for licensure in the state and the geographic area of the  
10 state that they serve. The department shall develop a single form for  
11 registration of both collectors and transporters.

12 NEW SECTION. **Sec. 25.** (1)(a) The authority and each authorized  
13 party shall ensure that each processor used directly by the authority  
14 or the authorized party to fulfill the requirements of their respective  
15 standard plan or independent plan has provided the authority or the  
16 authorized party a written statement that the processor will comply  
17 with the requirements of this section.

18 (b) The international export of any unwanted covered electronic  
19 products or electronic components or electronic scrap derived from such  
20 products destined for disposal or recycling that are capable of  
21 leaching lead, cadmium, mercury, hexavalent chromium, or selenium or  
22 selenium compounds in concentrations above the limits listed in 40  
23 C.F.R. Sec. 261.24 as of the effective date of this act shall be  
24 prohibited except for exports to:

25 (i) Countries that are members of the organization for economic  
26 cooperation and development;

27 (ii) Countries that are members of the European community; or

28 (iii) Countries that have entered into an agreement with the United  
29 States that allows for such exports.

30 (c) Any unwanted electronic products or electronic components  
31 derived from such products that are capable of leaching lead, cadmium,  
32 mercury, hexavalent chromium, or selenium or selenium compounds in  
33 concentrations exceeding the levels established in 40 C.F.R. Sec.  
34 261.24 as of the effective date of this act and exported to countries  
35 that are not members of the organization for economic cooperation and  
36 development or the European community or with whom the United States

1 has not entered into an agreement for such export for reuse, must be  
2 tested and labeled as fully functional or needing only repairs that do  
3 not result in the replacement of components capable of leaching these  
4 substances in concentrations exceeding the levels established in 40  
5 C.F.R. Sec. 261.24 as of the effective date of this act.

6 (d) The department shall establish rules to implement this section,  
7 including any requirements necessary to ensure that full compliance is  
8 adequately documented.

9 (2) The department shall establish by rule performance standards  
10 for environmentally sound management for processors directly used to  
11 fulfill the requirements of an independent plan or the standard plan.  
12 Performance standards may include financial assurance to ensure proper  
13 closure of facilities consistent with environmental standards.

14 (3) The department shall establish by rule guidelines regarding  
15 nonrecycled residual that may be properly disposed after covered  
16 electronic products have been processed.

17 (4) The department may audit processors that are utilized to  
18 fulfill the requirements of an independent plan or the standard plan.

19 (5) No plan or program required under this chapter may include the  
20 use of federal or state prison labor for processing.

21 NEW SECTION. **Sec. 26.** (1) No manufacturer may sell or offer for  
22 sale a covered electronic product in or into the state unless the  
23 manufacturer of the covered electronic product is participating in an  
24 approved plan. The department shall send a written warning to a  
25 manufacturer that does not have an approved plan or is not  
26 participating in an approved plan as required under section 5 of this  
27 act. The written warning must inform the manufacturer that it must  
28 participate in an approved plan within thirty days of the notice. Any  
29 violation after the initial written warning shall be assessed a penalty  
30 of up to ten thousand dollars for each violation.

31 (2) If the authority or any authorized party fails to implement  
32 their approved plan, the department must assess a penalty of up to five  
33 thousand dollars for the first violation along with notification that  
34 the authority or authorized party must implement its plan within thirty  
35 days of the violation. After thirty days, the authority or any  
36 authorized party failing to implement their approved plan must be

1 assessed a penalty of up to ten thousand dollars for the second and  
2 each subsequent violation.

3 (3) Any person that does not comply with manufacturer registration  
4 requirements under section 4 of this act, education and outreach  
5 requirements under section 12 of this act, reporting requirements under  
6 section 14 of this act, labeling requirements under section 16 of this  
7 act, retailer responsibility requirements under section 17 of this act,  
8 collector or transporter registration requirements under section 24 of  
9 this act, or requirements under section 25 of this act, must first  
10 receive a written warning including a copy of the requirements under  
11 this chapter and thirty days to correct the violation. After thirty  
12 days, a person must be assessed a penalty of up to one thousand dollars  
13 for the first violation and up to two thousand dollars for the second  
14 and each subsequent violation.

15 (4) All penalties levied under this section must be deposited into  
16 the electronic products recycling account created under section 13 of  
17 this act.

18 (5) The department shall enforce this section.

19 NEW SECTION. **Sec. 27.** By December 31, 2012, the department shall  
20 provide a report to the appropriate committees of the legislature that  
21 includes the following information:

22 (1) For each of the preceding program years, the weight of covered  
23 electronic products recycled in the state by plan, by county, and in  
24 total;

25 (2) The performance of each plan in meeting its equivalent share,  
26 and payments received from and disbursed to each plan from the  
27 electronic products recycling account;

28 (3) A description of the various collection programs used to  
29 collect covered electronic products in the state;

30 (4) An evaluation of how the pounds per capita recycled of covered  
31 electronic products in the state compares to programs in other states;

32 (5) Comments received from local governments and local communities  
33 regarding satisfaction with the program, including accessibility and  
34 convenience of services provided by the plans;

35 (6) Recommendations on how to improve the statewide collection,  
36 transportation, and recycling system for convenient, safe, and  
37 environmentally sound recycling of electronic products; and

1 (7) An analysis of whether and in what amounts unwanted electronic  
2 products and electronic components and electronic scrap exported from  
3 Washington have been exported to countries that are not members of the  
4 organization for economic cooperation and development or the European  
5 union, and recommendations for addressing such exports.

6 NEW SECTION. **Sec. 28.** (1) The Washington materials management and  
7 financing authority is established as a public body corporate and  
8 politic, constituting an instrumentality of the state of Washington  
9 exercising essential governmental functions.

10 (2) The authority shall plan and implement a collection,  
11 transportation, and recycling program for manufacturers that have  
12 registered with the department their intent to participate in the  
13 standard program as required under section 4 of this act.

14 (3) Membership in the authority is comprised of registered  
15 participating manufacturers. Any manufacturer who does not qualify or  
16 is not approved to submit an independent plan, or whose independent  
17 plan has not been approved by the department, is a member of the  
18 authority.

19 (4) The authority shall act as a business management organization  
20 on behalf of the citizens of the state to manage financial resources  
21 and contract for services for collection, transportation, and recycling  
22 of covered electronic products.

23 (5) The authority's standard plan is responsible for collecting,  
24 transporting, and recycling the sum of the equivalent shares of each  
25 participating manufacturer. All new entrants and white box  
26 manufacturers must participate in the standard plan.

27 (6) The authority shall accept into the standard program covered  
28 electronic products from any registered collector who meets the  
29 requirements of this chapter. The authority shall compensate  
30 registered collectors for the reasonable costs associated with  
31 collection, but is not required to compensate nor restricted from  
32 compensating the additional collection costs resulting from the  
33 additional convenience offered to customers through premium and  
34 curbside services.

35 (7) Except as specifically allowed in this chapter, the authority  
36 shall operate without using state funds or lending the credit of the  
37 state or local governments.

1 (8) The authority shall develop innovative approaches to improve  
2 materials management efficiency in order to ensure and increase the use  
3 of secondary material resources within the economy.

4 NEW SECTION. **Sec. 29.** (1)(a) The authority is governed by a board  
5 of directors. The board of directors is comprised of eleven  
6 participating manufacturers, appointed by the director of the  
7 department. Five board positions are reserved for representatives of  
8 the top ten brand owners by return share of covered electronic  
9 products, and six board positions are reserved for representatives of  
10 other brands, including at least one board position reserved for a  
11 manufacturer who is also a retailer selling their own private label.  
12 The return share of covered electronic products used to determine the  
13 top ten brand owners for purposes of electing the board must be  
14 determined by the department by January 1, 2007.

15 (b) The board must have representation from both television and  
16 computer manufacturers.

17 (2) The board shall select from its membership the chair of the  
18 board and such other officers as it deems appropriate.

19 (3) A majority of the board constitutes a quorum.

20 (4) The directors of the department of community, trade, and  
21 economic development and the department of ecology, and the state  
22 treasurer serve as ex officio members. The state agency directors and  
23 the state treasurer serving in ex officio capacity may each designate  
24 an employee of their respective departments to act on their behalf in  
25 all respects with regard to any matter to come before the authority.  
26 Ex officio designations must be made in writing and communicated to the  
27 authority director.

28 (5) The board shall create its own bylaws in accordance with the  
29 laws of the state of Washington.

30 (6) Any member of the board may be removed for misfeasance,  
31 malfeasance, or willful neglect of duty after notice and a public  
32 hearing, unless the notice and hearing are expressly waived in writing  
33 by the affected member.

34 (7) The members of the board serve without compensation but are  
35 entitled to reimbursement, solely from the funds of the authority, for  
36 expenses incurred in the discharge of their duties under this chapter.

1        NEW SECTION.    **Sec. 30.**    (1) Manufacturers participating in the  
2 standard plan shall pay the authority to cover all administrative and  
3 operational costs associated with the collection, transportation, and  
4 recycling of covered electronic products within the state of Washington  
5 incurred by the standard program operated by the authority to meet the  
6 standard plan's equivalent share obligation as described in section  
7 28(5) of this act.

8        (2) The authority shall assess charges on each manufacturer  
9 participating in the standard plan and collect funds from each  
10 participating manufacturer for the manufacturer's share of the costs in  
11 subsection (1) of this section. Such shares must be based on current  
12 market share as determined by the department. The department shall use  
13 statistically valid methodologies to determine market share for those  
14 participating in the standard plan. The department shall include the  
15 cost of determining current market share in the fees charged to the  
16 authority and manufacturers participating in the standard plan as  
17 described in section 23(4) of this act. The authority's assignment of  
18 shares to manufacturers participating in the standard plan may not  
19 include nor be based on electronic products imported through the state  
20 and subsequently exported outside the state. Charges assessed under  
21 this section must not be formulated in such a way as to create  
22 incentives to divert imported electronic products to ports or  
23 distribution centers in other states. The authority shall adjust the  
24 charges to manufacturers participating in the standard plan as  
25 necessary in order to ensure that all costs associated with the  
26 identified activities are covered.

27        (3) Any manufacturer participating in the standard plan may appeal  
28 the determination of current market share by written petition to the  
29 director of the department. The petition must be received by the  
30 director of the department within thirty days of the publication of  
31 market share and must contain a detailed explanation and documentary  
32 evidence of the grounds for the appeal. Within sixty days of the  
33 publication of market share, the director of the department or the  
34 director's designee, shall review all appeals and shall make a final  
35 determination of market share having fully taken into consideration any  
36 and all challenges to its initial determination.

37        (4) Nothing in this section authorizes the authority to assess fees

1 or levy taxes directly on the sale or possession of electronic  
2 products.

3 (5) If a manufacturer has not met its financial obligations as  
4 determined by the authority under this section, the authority shall  
5 notify the department that the manufacturer is no longer participating  
6 in the standard plan.

7 (6) The authority shall submit its plan for assessing charges on  
8 manufacturers participating in the standard plan to the department for  
9 review and approval along with the standard plan as provided in section  
10 6 of this act.

11 (7) Any manufacturer participating in the standard plan may appeal  
12 an assessment of charges levied by the authority under this section to  
13 the director of the department. The director of the department or the  
14 director's designee shall review all appeals and shall reverse any  
15 assessments of charges if the director finds that the authority's  
16 determination was an arbitrary administrative decision or an abuse of  
17 administrative discretion. If the director of the department reverses  
18 an assessment of charges, the authority must redetermine the  
19 assessment.

20 NEW SECTION. **Sec. 31.** (1) The authority shall use any funds  
21 legally available to it for any purpose specifically authorized by this  
22 chapter to:

23 (a) Contract and pay for collecting, transporting, and recycling of  
24 covered electronic products and education and other services as  
25 identified in the standard plan;

26 (b) Pay for the expenses of the authority including, but not  
27 limited to, salaries, benefits, operating costs and consumable  
28 supplies, equipment, office space, and other expenses related to the  
29 costs associated with operating the authority;

30 (c) Pay into the electronic products recycling account amounts  
31 billed by the department to the authority for any deficit in reaching  
32 the standard plan's equivalent share as required under section 22 of  
33 this act; and

34 (d) Pay the department for the fees for submitting the standard  
35 plan and any plan revisions.

36 (2) If practicable, the authority shall avoid creating new  
37 infrastructure already available through private industry in the state.

1 (3) The authority may not receive an appropriation of state funds,  
2 other than:

3 (a) Funds that may be provided as a one-time loan to cover  
4 administrative costs associated with start up of the authority, such as  
5 electing the board of directors and conducting the public hearing for  
6 the operating plan, provided that no appropriated funds may be used to  
7 pay for collection, transportation, or recycling services; and

8 (b) Funds received from the department from the electronic products  
9 recycling account for exceeding the standard plan's equivalent share.

10 (4) The authority may receive additional sources of funding that do  
11 not obligate the state to secure debt.

12 (5) All funds collected by the authority under this chapter,  
13 including interest, dividends, and other profits, are and must remain  
14 under the complete control of the authority and its board of directors,  
15 be fully available to achieve the intent of this chapter, and be used  
16 for the sole purpose of achieving the intent of this chapter.

17 NEW SECTION. **Sec. 32.** (1) The board shall adopt a general  
18 operating plan of procedures for the authority. The board shall also  
19 adopt operating procedures for collecting funds from participating  
20 covered electronic manufacturers and for providing funding for  
21 contracted services. These operating procedures must be adopted by  
22 resolution prior to the authority operating the applicable programs.

23 (2) The general operating plan must include, but is not limited to:  
24 (a) Appropriate minimum reserve requirements to secure the authority's  
25 financial stability; and (b) appropriate standards for contracting for  
26 services.

27 (3) The board shall conduct at least one public hearing on the  
28 general operating plan prior to its adoption. The authority shall  
29 provide and make public a written response to all comments received by  
30 the public.

31 (4) The general operating plan must be adopted by resolution of the  
32 board. The board may periodically update the general operating plan as  
33 necessary, but must update the plan no less than once every four years.  
34 The general operating plan or updated plan must include a report on  
35 authority activities conducted since the commencement of authority  
36 operation or since the last reported general operating plan, whichever  
37 is more recent, including a statement of results achieved under the

1 purposes of this chapter and the general operating plan. Upon  
2 adoption, the authority shall conduct its programs in observance of the  
3 objectives established in the general operating plan.

4 NEW SECTION. **Sec. 33.** (1) The authority shall employ a chief  
5 executive officer, appointed by the board, and a chief financial  
6 officer, as well as professional, technical, and support staff,  
7 appointed by the chief executive officer, necessary to carry out its  
8 duties.

9 (2) Employees of the authority are not classified employees of the  
10 state. Employees of the authority are exempt from state service rules  
11 and may receive compensation only from the authority at rates  
12 competitive with state service.

13 (3) The authority may retain its own legal counsel.

14 (4) The departments of ecology and community, trade, and economic  
15 development shall provide staff to assist in the creation of the  
16 authority. If requested by the authority, the departments of ecology  
17 and community, trade, and economic development shall also provide  
18 start-up support staff to the authority for its first twelve months of  
19 operation, or part thereof, to assist in the quick establishment of the  
20 authority. Staff expenses must be paid through funds collected by the  
21 authority and must be reimbursed to the departments from the  
22 authority's financial resources within the first twenty-four months of  
23 operation.

24 (5) In addition to accomplishing the activities specifically  
25 authorized in this chapter, the authority may:

26 (a) Maintain an office or offices;

27 (b) Make and execute all manner of contracts, agreements, and  
28 instruments and financing documents with public and private parties as  
29 the authority deems necessary, useful, or convenient to accomplish its  
30 purposes;

31 (c) Make expenditures as appropriate for paying the administrative  
32 costs and expenses of the authority in carrying out the provisions of  
33 this chapter;

34 (d) Give assistance to private and public bodies contracted to  
35 provide collection, transportation, and recycling services by providing  
36 information, guidelines, forms, and procedures for implementing their  
37 programs;

1 (e) Delegate, through contract, any of its powers and duties if  
2 consistent with the purposes of this chapter; and

3 (f) Exercise any other power the authority deems necessary, useful,  
4 or convenient to accomplish its purposes and exercise the powers  
5 expressly granted in this chapter.

6 NEW SECTION. **Sec. 34.** This chapter is void if a federal law, or  
7 a combination of federal laws, takes effect that establishes a national  
8 program for the collection and recycling of covered electronic products  
9 that substantially meets the intent of this chapter, including the  
10 creation of a financing mechanism for collection, transportation, and  
11 recycling of all covered electronic products from households, small  
12 businesses, school districts, small governments, and charities in the  
13 United States.

14 NEW SECTION. **Sec. 35.** A new section is added to chapter 43.19 RCW  
15 to read as follows:

16 (1) The department of general administration shall establish  
17 purchasing and procurement policies that establish a preference for  
18 electronic products that meet environmental performance standards  
19 relating to the reduction or elimination of hazardous materials.

20 (2) The department of general administration shall ensure that  
21 their surplus electronic products, other than those sold individually  
22 to private citizens, are managed only by registered transporters and by  
23 processors meeting the requirements of section 25 of this act.

24 (3) The department of general administration shall ensure that  
25 their surplus electronic products are directed to legal secondary  
26 materials markets by requiring a chain of custody record that documents  
27 to whom the products were initially delivered through to the end use  
28 manufacturer.

29 **Sec. 36.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to  
30 read as follows:

31 The following financial, commercial, and proprietary information is  
32 exempt from disclosure under this chapter:

33 (1) Valuable formulae, designs, drawings, computer source code or  
34 object code, and research data obtained by any agency within five years

1 of the request for disclosure when disclosure would produce private  
2 gain and public loss;

3 (2) Financial information supplied by or on behalf of a person,  
4 firm, or corporation for the purpose of qualifying to submit a bid or  
5 proposal for (a) a ferry system construction or repair contract as  
6 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
7 or improvement as required by RCW 47.28.070;

8 (3) Financial and commercial information and records supplied by  
9 private persons pertaining to export services provided under chapters  
10 43.163 and 53.31 RCW, and by persons pertaining to export projects  
11 under RCW 43.23.035;

12 (4) Financial and commercial information and records supplied by  
13 businesses or individuals during application for loans or program  
14 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
15 or during application for economic development loans or program  
16 services provided by any local agency;

17 (5) Financial information, business plans, examination reports, and  
18 any information produced or obtained in evaluating or examining a  
19 business and industrial development corporation organized or seeking  
20 certification under chapter 31.24 RCW;

21 (6) Financial and commercial information supplied to the state  
22 investment board by any person when the information relates to the  
23 investment of public trust or retirement funds and when disclosure  
24 would result in loss to such funds or in private loss to the providers  
25 of this information;

26 (7) Financial and valuable trade information under RCW 51.36.120;

27 (8) Financial, commercial, operations, and technical and research  
28 information and data submitted to or obtained by the clean Washington  
29 center in applications for, or delivery of, program services under  
30 chapter 70.95H RCW;

31 (9) Financial and commercial information requested by the public  
32 stadium authority from any person or organization that leases or uses  
33 the stadium and exhibition center as defined in RCW 36.102.010;

34 (10) Financial information, including but not limited to account  
35 numbers and values, and other identification numbers supplied by or on  
36 behalf of a person, firm, corporation, limited liability company,  
37 partnership, or other entity related to an application for a liquor  
38 license, gambling license, or lottery retail license;

1 (11) Proprietary data, trade secrets, or other information that  
2 relates to: (a) A vendor's unique methods of conducting business; (b)  
3 data unique to the product or services of the vendor; or (c)  
4 determining prices or rates to be charged for services, submitted by  
5 any vendor to the department of social and health services for purposes  
6 of the development, acquisition, or implementation of state purchased  
7 health care as defined in RCW 41.05.011; (~~and~~)

8 (12)(a) When supplied to and in the records of the department of  
9 community, trade, and economic development:

10 (i) Financial and proprietary information collected from any person  
11 and provided to the department of community, trade, and economic  
12 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

13 (ii) Financial or proprietary information collected from any person  
14 and provided to the department of community, trade, and economic  
15 development or the office of the governor in connection with the  
16 siting, recruitment, expansion, retention, or relocation of that  
17 person's business and until a siting decision is made, identifying  
18 information of any person supplying information under this subsection  
19 and the locations being considered for siting, relocation, or expansion  
20 of a business;

21 (b) When developed by the department of community, trade, and  
22 economic development based on information as described in (a)(i) of  
23 this subsection, any work product is not exempt from disclosure;

24 (c) For the purposes of this subsection, "siting decision" means  
25 the decision to acquire or not to acquire a site;

26 (d) If there is no written contact for a period of sixty days to  
27 the department of community, trade, and economic development from a  
28 person connected with siting, recruitment, expansion, retention, or  
29 relocation of that person's business, information described in (a)(ii)  
30 of this subsection will be available to the public under this chapter;  
31 and

32 (13) Financial and proprietary information submitted to or obtained  
33 by the department of ecology or the authority created under chapter  
34 70.-- RCW (sections 1 through 34 of this act) to implement chapter  
35 70.-- RCW (sections 1 through 34 of this act).

36 NEW SECTION. Sec. 37. This act must be liberally construed to  
37 carry out its purposes and objectives.

1        NEW SECTION.    **Sec. 38.** If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 39.** This act takes effect July 1, 2006.

6        NEW SECTION.    **Sec. 40.** Sections 1 through 34 of this act  
7 constitute a new chapter in Title 70 RCW."

**ESSB 6428** - H COMM AMD

By Committee on Natural Resources, Ecology & Parks

**NOT CONSIDERED 03/02/2006**

8        On page 1, line 2 of the title, after "opportunities;" strike the  
9 remainder of the title and insert "amending RCW 42.56.270; adding a new  
10 section to chapter 43.19 RCW; adding a new chapter to Title 70 RCW;  
11 creating a new section; prescribing penalties; and providing an  
12 effective date."

--- END ---